Date

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cc Alexander Schaub
David Wright
Christopher Huhne

Dear Mr Demarigny,

Re: CESR's Advice on possible Level 2 implementing measures for the proposed Prospectus Directive

FEE (Fédération des Experts Comptables Européens, European Federation of Accountants) welcomes the opportunity to respond to your request for comments on the October 2002 Consultation Paper in connection with possible implementing measures for the proposed Prospectus Directive.

We are supportive of the proposals to facilitate the creation of an European capital market through harmonising the regulatory framework across the European Union. In particular, we note that (1) auditors are not given any special role in the proposed Prospectus Directive, according to which public reporting requirements for auditors appear to remain the responsibility of the national regulators, and (2) the Consultation Paper requires auditors' involvement on specific matters only. We feel that enhancing harmonised cross-border confidence in information contained in prospectuses will promote internal market efficiency and that Member State competent authority discretion should be avoided as much as possible. However, following the Lamfalussy approach, the general rules on the level of involvement of the auditor should be laid down in the Prospectus Directive and not only in the implementing measures laid down by using the comitology procedure. In defining the auditor's role with regard to prospectuses it should be born in mind that the auditor could only report on the prospective and pro-forma information contained in the prospectus in restricted terms, noting also that information of this nature cannot be audited in the same way as historical financial information.

We are concerned that the extremely short consultation period does not provide sufficient time for commentators to fully understand, and therefore comment on, the considerable detail in the proposed advice necessary to fulfil your mandate from the European Commission. We would strongly encourage you to continue to work closely with all commentators as well as the European Commission and your members in formulating Prospectus Directive implementation proposals that are workable in all Member States but that also provide a framework for capital market disclosure that will survive the test of time. We have structured our response in two parts. Firstly, to address a number of important themes, which we believe, need to be addressed as part of the Level 2 implementing measures, and secondly, responding to certain of the specific questions posed in the Consultation Paper.

The themes we have identified for particular comment are:

- Profit forecasts;
- Pro forma information;
- Historical financial information;
- The roles of accountants; and
- The need for definitions

There are a number of areas within these themes where we have identified the need for further more detailed guidance to be prepared – these could either be in the form of further annexes to the Level 2 proposals, Level 3 implementing measures or guidance issued by external parties under the auspices of CESR or its members. We would be delighted to support you in developing such material.

Yours sincerely,

David Devlin
President

Encl.

Part 1

Commentary on substantive issues

Profit forecasts

1. We welcome the inclusion of text regarding the presentation of prospective financial information in prospectuses as being particularly important. Clearly, some framework that provides a mechanism for issuers to include prospective financial information is an important element in encouraging proper disclosure of all information that investors might wish to receive.

2. We believe that, in order that investors can have sufficient confidence in any forward looking information in a prospectus, there must be developed guidance covering the preparation and presentation of such information. We note that it appears desirable that this guidance should not be developed solely by securities regulators but primarily by accounting standard setting bodies.

3. In our view, the absence of an agreed framework for preparing and presenting forward looking information is one of the key reasons why issuers are reluctant to publish such information; the expectation gap as to forward looking information disclosure leading to far to great a liability exposure. We do not believe that the alternative of creating a "safe harbour" from litigation is achievable without major change in securities fraud law in each Member State of the European Union.

4. In addition, we are concerned as to the various requirements for auditors or accountants to report on profit forecasts and other forward looking disclosures included in the Annexes:

   - "confirmation … that the forecast has been made after due and careful enquiry" (Annex A IV.D.2 and Annex I IV.B.2);
   - "about the fact that the forecasts included … were prepared on the basis of reasonable assumptions and that such data were consistent with the assumptions adopted" (Annex C IV.D);
   - "confirmation … that it is satisfied that the estimated cash flow has been stated by the company after due and careful enquiry" (Annex F);
   - "any profit forecast should be accompanied by a statement ensuring that said forecast has been properly prepared on the basis stated and that the basis of accounting is consistent with the accounting policies of the company" (Paragraph 79 and Annex A IV.D.3.b), although it is not clear who should issue such statement.

5. We believe that whilst it may be appropriate for auditors or accountants to be required to report on profit forecasts such reporting can only ever be in restricted terms. Noting that information of this nature cannot be audited in the same way as historical financial information the auditor can only report on profit forecasts in terms of the compilation of the forecasts on the basis of information prepared by an issuer's directors or management and on the plausibility of the assumptions and judgements made. Reporting required in Annex C IV.D is a major concern to us:

   - Given the wide range of subjective judgements made, the unavoidable part played by management's intentions used in developing forecasts and, in the case of a start-up company, the absence of historical financial information, the auditors are not in a position to express any kind of assurance on the assumptions; and
   - An auditors' report expressing assurance on assumptions being included in the prospectus would give a false or at least illusory security to the public and would likely be to increase the expectation gap (whatever the cautionary language used, the shareholders and potential investors might not understand the real assurance expressed by the auditor); if such a report is required, it should not be made public.

   Indeed the term "due and careful enquiry" is that required in the UK and Ireland of the sponsor to an issue to whom the accountants report as part of the process by which the bankers acting as sponsor reach their conclusion. Although understood on such markets, it is not defined by

professional standards, has not acquired internationally any clearly understood meaning and is not one that is ever used in public reports by accountants or auditors in their capacities as such.

6. We are also concerned that the liability implications arising in different Member States of requiring accountants to report have not been properly researched. At the very least an appropriate reporting framework, as advocated above, would also provide accountants with a reference against which they could be expected to report.

Pro forma information

7. In our view the primary financial information in any prospectus must be that which is in compliance with the respective Generally Accepted Accounting Principles ("GAAP") of the issuer. To permit non-GAAP information, which purports to present events that have not actually happened, as more important than GAAP information can only mislead investors. However, some presentation that shows the impact of major changes to an issuer's business can assist investors in understanding the impact of those changes on the issuer.

8. We are aware that there is currently considerably divergent practice as to the use of pro forma financial information in prospectuses in Europe. We believe that it is essential that some form of definition of "pro forma financial information" be provided in order to provide investors with the consistency that the objectives of the Financial Services action Plan demand.

9. In our view, such a definition would be consistent with that effectively proposed under your current proposals ie that it should not permit other than the most recently completed and current periods to be presented. It should also restrict pro forma financial information to that prepared from underlying GAAP information as opposed to all sorts of operating measures of a company's performance.

10. We also believe that it is necessary for more detailed guidance to be issued assisting issuers in the interpretation of the detailed rules. In some Member States of the EU, eg Germany and the UK, such guidance was issued by our members, the German Institute der Wirtschaftsprüfer (IDW) and the Institute of Chartered Accountants in England and Wales, in similar circumstances on equivalent national Listing Rules.

11. Without the issuance of such guidance to provide a reporting framework, we believe that it is inappropriate to require independent accountants to report publicly on pro forma financial information as this effectively imposes on the independent accountant the question as to the suitability of the information in question for inclusion in a prospectus. The expectation gap would be impossible to close.

12. We would encourage you to work with FEE and the appropriate reporting standards setting bodies in developing consistent guidance for independent accountants in this regard.

Historical financial information

13. The presentation of historical financial information in a prospectus is one of the fundamental elements of disclosure when a company wishes to offer its securities to the public. Accordingly, it is essential that the rules set out under the Level 2 implementing measures closely refer to IFRS and/or harmonised national GAAP and are sufficiently detailed to avoid divergences in practice.

14. We believe that in addition to the Level 2 disclosure rules as drafted in "Annex A" there should also be more detailed implementing measures as have been partially described for pro forma financial information in "Annex B".

15. Firstly, however, in relation to the current draft text set out in "Annex A", we have a number of detailed concerns that must be addressed before the text is finalised. In particular, the text variously refers to:

- "financial statements" (eg articles IV.A.2, VII.A and VII.G.1);
- "comparative financial statements" (eg article VII.C);
- "consolidated annual accounts" (eg articles VII.D and VII.E);
- "accountants' report" (eg article VII.B); and
- "comparative table" (eg article VII.B).

16. We strongly believe that only one term should be used throughout the text and, specifically in Section VII, and that the term should be "historical financial information". Apart from providing that a prospectus should include historical financial information for three years, we believe that it is essential that the detailed requirements should be set out in a separate annex.

17. To illustrate the complexities that such an annex should cover, we have listed below and expanded on some of the matters that we have identified as being essential if the objectives of the Financial Services Action Plan are to be met:

    - Format of presentation as outlined above – special purpose accounts, auditors' report, comparative table or annual accounts;
    - Presentation, policies and disclosures consistent with the relevant GAAP;
    - Policies and disclosures to be under IFRS;
    - Mandate additional disclosures such as cash flow statement if not addressed by the relevant GAAP;
    - Address question of significant past or planned acquisitions and particularly as to whether separate full historical financial information on any acquisitions is required;
    - Require all historical financial information to be presented on a consistent basis and thus it is necessary to address the question of transition from use of national GAAP before initial admission to trading or offering to the relevant GAAP;
    - Disclosure or otherwise of an issuer's individual financial statements when consolidated historical financial information is prepared;
    - Extent to which interim financial information should be included, its format linked to IAS/IFRS and whether, or not, it should be audited or reviewed by accountants;
    - Age of accounts;
    - Different approaches necessary depending on whether the prospectus is being prepared for initial registration or in connection with a further issue of securities; and
    - Different approaches necessary for non-EU issuers.

18. Such an annex should also avoid duplicating requirements elsewhere such as in IFRS, consistent with the building block approach being followed, otherwise complications may arise should requirements diverge in future. Furthermore, this would minimise the risk of divergent practices being adopted by competent authorities in different Member States.

19. To illustrate the complexity of the challenge we have expanded upon two of the issues identified above, namely the presentation of historical financial information and non-EU issuers. We would be ready to assist you and/or the European Commission in the drafting of such detailed advice.

Presentation of historical financial information

20. One of the key interactions that needs to be addressed when presenting historical financial information is that between the annual accounts of an issuer prepared under the relevant GAAP and the information to be presented in a prospectus such as the fact that accounts only present two year's financial information whereas the prospectus requirement is for three year's information. Ways that this can be addressed are:

    - to require special purpose accounts to be prepared, by an issuer's directors or management, that present three year's information whenever a prospectus is required; or

    - to permit an issuer's "independent accountants" (refer to paragraph 27 below) to prepare a report (an "accountants' report") that presents the required three year's information; or

    - to extract the necessary information from the underlying accounts and present in a table in the prospectus (a "comparative table"); or

    - to require an issuer with securities traded on a regulated market to present three year's information in their accounts facilitating ready inclusion in or incorporation by reference into a prospectus.

21. Our view is that issuers should be permitted to choose the form in which their financial history is presented and that any one of the above is acceptable. The third and fourth options may well be the most appropriate for existing registered companies. However, the first or second options are often needed in order to facilitate an initial registration particularly where an issuer may have been "carved out" of a larger group. Should the last option be supported then, in our view, it should be implemented through the Transparency Obligations Directive.

Non-EU issuers

22. In particular, with regard to non-EU issuers we note that Article 20 of the draft Prospectus Directive would permit the acceptance by EU competent authorities of prospectuses prepared by non-EU issuers where:

    "(a) It has been drawn up according to international standards set out by international securities commission organisations, including the IOSCO Disclosure Standards; and

    (b) The information requirements, including information of a financial nature, are broadly equivalent to the requirements under this Directive."

23. In particular, we are concerned with the interpretation of whether information of a financial nature is broadly equivalent and the consequences if it is not. In addition, FEE holds the view that greater clarity should be obtained on whether differential rules should to apply to debt or equity securities issuers, also in the light of the CESR's current addendum to CESR's level 2 Advice Consultation Paper (Ref.02-286) as of 19 December 2002.

<u>The roles of auditors and accountants</u>

24. The draft text uses a number of different terms to describe the involvement of accountants in a prospectus including (references to "Annex A" unless indicated):

    - "auditors" (eg paragraph 61, I.C, IV.D.2, Annex B paragraph 7, Annex C paragraph IV.D and Annex C paragraph VII)

    - "independent auditor" (eg VII.A and VII.H.2)

    - "official auditors" (eg VII.F.1)

- "outside reviewer" (eg 81)

- "reporting accountants" (eg IV.D.2 and paragraph 61)

- "an accountant acceptable to the competent authority" (Annex F Financial matters paragraph (iii)).

25. In our view there are two roles relevant to investors. Firstly, that of the "statutory auditor" of the issuer and, secondly, that of the "independent accountant" who is reporting on the financial information, historical, pro forma and/or prospective, in the prospectus.

26. As regards the "statutory auditor" the provisions should be as to who it is, whether there have been any changes or disclosures relevant to changes, or they have reported without modification on previously published information.

27. As for the "independent accountants", this should be defined as being someone who is qualified to be appointed as statutory auditor. Consequently, an independent accountant may be the statutory auditor of the issuer but does not have to be. Of course, the independent accountant could not be a director or officer of the company concerned as they would not be "independent". All the auditing, reviewing and corresponding reporting obligations imposed through the disclosure requirements should then refer to the independent accountants.

28. In addition, we are aware that the assurance required of auditors and accountants in relation to their involvement with prospectuses currently varies quite widely across Europe. We feel that enhancing harmonised cross-border confidence in information contained in prospectuses will promote internal market efficiency and that Member State competent authority discretion should be avoided as much as possible. Therefore, it might be helpful to clarify the roles of the statutory auditor and independent accountants in order to ensure consistency of practice in this area. However, following the Lamfalussy approach, the general rules on the level of involvement of the auditor should be laid down in the Prospectus Directive and not only in the implementing measures laid down by using the comitology procedure.

    In defining the auditor's role with regard to prospectuses it should be born in mind that the auditor could only report on the prospective and pro-forma information contained in the prospectus in restricted terms, noting also that information of this nature cannot be audited in the same way as historical financial information (see also our comments under para. 5).

<u>A definitions annex</u>

29. We note that throughout the accompanying text to the detailed rules under Level 2 there are a number of definitions, particularly in relation to specialist classes of issuers, for example we have identified in the text the following:

    - profit forecast (paragraph 72);
    - due and careful enquiry (Annex A IV.D.2, Annex F, Annex I IV.B.2)
    - property companies (paragraph 108);
    - mineral companies (paragraph 114 and Annex E);
    - investment companies (paragraph 118); and
    - scientific research based companies (paragraph 121).

30. We believe that it is essential that the detailed rules to be promulgated under Level 2 include an annex of definitions that would include all of the above as well as other necessary definitions.

31. We believe that the rules in Annex G should capture all investment entities, whether companies or not, with the necessary definitions being expanded accordingly.

32. Other definitions we believe that are required include:

- Independent accountant;
- Profit estimate;
- Pro forma financial information;
- Financial advisor; and
- Investment entities other than companies

33. In addition, we believe that it is particularly important is to ensure that the disclosure in a prospectus properly addresses the whole of the business of the issuer concerned. This would avoid any confusion as to how to address pre-offering restructuring or major acquisitions in an issuer's history.

34. Finally, we are concerned with the interaction of the various definitions of the specialist building blocks. In particular, the definition of a "start-up" company as articulated in paragraph 97 would appear to capture all companies which may not have a three year trading record. Whereas, in our view the specific requirements for mineral, property, investment or scientific research based companies should precede this and the start-up definition should apply to the residue of companies that have not traded in their current economic form for three years.

Part 2

Responses to specific questions

Equity securities

Para 44 *Do you agree with the disclosure obligations set out in Annex A?*

Overall we agree with the substance of the disclosures in Annex A to the extent that they reflect to a large extent the existing European Directive requirements, but have a number of detailed concerns.

In addition to the impact of the important themes identified in Part 1 of this letter and in responding to specific questions, we would also point out that:

- We suggest that the final document continues the approach showing references to IOSCO disclosure standards and that similarly the document issued by each national competent authority contain cross-references to the European disclosure framework;

- We believe that investors would benefit from requiring issuers to make disclosure as to the quality of their financial reporting systems and that this should be included as additional to the core IDS disclosures;

- We do not believe that it is necessary for the form and content of interim financial statements to be stipulated in detailed rules governing the content of prospectuses as is set out in VII.H.1 and VII.H.2. As such requirements will be set out in the Transparency Obligations Directive; it should only be necessary for a prospectus to require information to the standard that would be required under the Transparency Obligations Directive and that the timing rules as to when interim financial information is required should also be aligned with those to be included in the Transparency Obligations Directive;

- We are concerned that specifying disclosures about "Operating results", "Liquidity and capital resources" and "Trend information" as in section IV to annex A may prove to be too inflexible to accommodate evolving market practices in this area. We believe that at this Level the requirement should be for a prospectus to contain an "Operating and financial review" covering the broad headings identified with more detailed guidance dealt with either at Level 3 or by extra-regulatory bodies albeit under the auspices of competent authorities;

- We do not believe that it is necessary for a prospectus to set out the detail as to an issuer's subsidiaries as is envisaged by VIII.G.1. In our view, the overarching requirement in III.D.2 is more than sufficient and meets the requirement for conformity with IDS; and

- We question the effective duplication of the disclosure requirements in relation to "related party transactions" as set out in VI.B and those in the equivalent International Financial Reporting Standard. Our view is that, in general, the requirements should be part of an issuer's financial statements and that no additional disclosure requirement should be necessary in a prospectus. It should only be necessary for a requirement to exist in relation to the period since the latest financial statements through to the date of the prospectus and that requirement should be to update the disclosures required by International Financial Reporting Standards.

Pro forma information

Para 51 *Do you agree that pro forma should be mandatory in case of a significant gross change in the size of a company, due to a particular actual or planned transaction?*

Para 52 *Do you agree that pro forma financial information should also be required in all cases where there is or will be a significant gross change in the size of a company?*

We have answered questions 51 and 52 together as they cover similar ground.

Our view is that it is appropriate that the regulations should mandate that pro forma financial information should be presented when there has been a significant change to an issuer.

Our one caution in respect of mandating the presentation of pro forma financial information is in relation to planned transactions. The reason for this is that issuers may not necessarily have control over, and therefore information in respect of, the subject of a planned transaction for example in the case of a contested take-over. In such circumstances, preparing pro forma financial information that is definitely not misleading may be impossible.

Indeed there may be other disclosures that cannot be made in a contested take-over situation. We would recommend that consideration be given to issuing a separate annex which identifies which disclosures, with a competent authority's consent, may be omitted from a prospectus, but which would have to be issued within a reasonable time period after completion of the transaction.

Para 53 *Do you agree that 25% is the correct threshold figure? Would a different figure, say 10%. Be more appropriate?*

We are comfortable that 25% is the correct threshold. However, we believe that given that this is to be a mandatory disclosure requirement that there should be no discretion about its application as would otherwise be permitted in "anomalous" circumstances.

Para 55 *Do you agree that the competent authority should be able to insist on pro forma information being included where this would be material to investors?*

No. We do not agree that competent authorities should have such power. Reflecting our views on the power to waive the requirement in anomalous circumstances the rules should be clear for all preparers of prospectuses. To introduce competent authority discretion would only introduce inconsistency into prospectus disclosure and into the cost of raising capital across Europe.

Para 64 *Do you agree with the disclosure requirements in respect of pro forma financial information as set out in Annex B, in particular with the obligation of an independent auditor's report?*

In general, we agree with the disclosures advocated in "Annex B". However, we do not see the relevance of paragraph 1: financial statements restated according to IAS/IFRS or other national GAAP do not fall into the commonly understood definition of pro forma financial information. As noted in Part 1 above, whilst we do support the requirement for an "independent accountant" to report as a useful check for investors this can only be in the context of detailed guidance to preparers having been promulgated.

One particularly important requirement that is present in both the United States' SEC's and the United Kingdom's Listing Rules equivalent requirements is the existence of some conditions governing the nature of adjustments that are permitted. Such conditions are in our view essential if pro forma financial information is to be consistently presented in prospectuses around Europe and is necessary in order that an issuer's independent accountants have a framework against which they can report in the manner anticipated.

We believe that the key conditions necessary for a pro forma adjustment to be made are that it should be factually supportable, not be dependent on future events or decisions and be directly attributable to the transaction or offering concerned.

Para 65 *Would it be more appropriate to restrict the disclosure of pro forma information to the occasions where securities are being issued in connection with the transaction and hence require pro forma information in the securities note?*

Pro forma financial information should not be restricted to the securities note, although there may be circumstances where transactions have occurred since the registration document was prepared which mean that pro forma financial information will have to be included in a securities note.

Profit forecasts

Para 73 *Do you have any comments at this stage about this preliminary definition of a profit forecast?*

We agree that a definition of a profit forecast is necessary if there are to be specific rules regarding disclosures in relation to profit forecasts. Presumably this definition would be included in an annex to the main disclosure requirements.

We would note that a definition of a profit estimate is also required; being a statement similar to that for a forecast but for a completed period that has not been reported to the market in accounts or an interim announcement.

Para 85 *Should issuers be required to repeat or update outstanding ad-hoc profit forecasts in the prospectus?*

Yes. Statements about future financial performance are important to investors and, therefore, issuers should be required to address outstanding ad-hoc profit forecast statements in a prospectus if subsequent events or decisions prove the forecasts previously announced to be wrong. The drafting of the requirement needs to provide the flexibility that enables an issuer to update any outstanding ad-hoc forecasts to reflect changes that might have occurred since the ad-hoc forecast was made and to ensure that any change is properly explained.

Para 86 *Do you agree with the disclosure requirements in respect of profit forecasts set out in disclosure requirement CESR reference IV.D.3(a) and (b) of Core Equity Building Block (Annex "A")?*

As a basic framework we consider the disclosure requirements in IV.D.3(a) to be adequate. As emphasised in our comments in Part 1 above, we do believe that issuers need further guidance as to the preparation and presentation of prospective financial information. FEE would be pleased to support CESR and/or the standard setting bodies in any such project.

We have commented at length as to our concerns regarding the "auditors" statement requirement in Part 1 above.

Para 87 *Do you agree with the arguments set out regarding mandatory reporting by the company's financial advisor?*

By way of clarification, we assume that by "financial advisor" you do not mean an issuer's auditor or independent accountants, but an entity who provides "financial advice" such as, but not necessarily, an investment bank.

We believe that there is value to investors in requiring a financial advisors opinion. This arises from the fact that by requiring such an opinion investors can be sure that appropriate due diligence has been performed in relation to a particularly important element of a prospectus.

Specialist Building Blocks

Para 95 *Do you believe that the building blocks in Annexes D, E, F, G and H are appropriate as minimum disclosure standards?*

We believe that the building block approach is the only way in which a coherent package of disclosures can be developed meeting the objectives of common disclosure across Europe's capital markets. We have commented one each of the building blocks in turn in response to your specific questions.

Para 96 *What other specialist building blocks (if any) should CESR consider producing in the future?*

Industry specialist building blocks should be created in relation to "banks" and to "insurance companies". We would note that such building blocks may require core Annex A disclosures to be waived. For example an indebtedness statement for a bank is impossible to define meaningfully.

Start-up Companies

Para 100 *Do you agree with the specific disclosure requirements set out in the building block for start-up companies?*

We do not agree with the certain of the proposed disclosures.

Firstly, we do not understand the requirements as set out in Annex C I.C. If this is to be a requirement that any financial information otherwise required by Annex A which has not been audited to be audited then it should say so.

Secondly, as noted in Part 1 above, the auditor's statement required in Annex C IV.D that any forecast included in a start-up company prospectus must opine as to whether the forecast was "prepared on the basis of reasonable assumptions" goes way beyond any profit forecast reporting required in any Member State today. If there is to be an "independent accountant's" report then it should be as to a forecast's compilation and plausibility checks consistent with current common practice, as discussed in Part 1 to this letter.

Mineral companies

Para 117 *Do you agree with then disclosure requirements in registration documents for mineral companies set out in Annex "E"?*

Our comments are directed at the information to be disclosed in the Securities Note, Annex F.

We are concerned whether the requirement for "an accountant acceptable to the competent authority" to be satisfied as to whether the estimated cash flows have been stated "after due and careful enquiry" is widely understood. Firstly we do not believe that it is appropriate for competent authorities to maintain lists of "acceptable" accountants. Secondly, as also noted In Part 1, we do not accept that an obligation imposed on accountants to report publicly as to whether any statement has been prepared "after due and careful enquiry" is appropriate; indeed, the term "after due and careful enquiry" is not one that is ever used in public reports by accountants or auditors in their capacities as such.

Debt securities

Para 145 *Do you consider it necessary for a disclosure requirement that stipulates when interim financial statements should be disclosed in the registration document, to also stipulate what the form and content of these statements should be?*

Consistent with our comments on equity securities above, we do not believe that it is necessary for the form and content of interim financial statements to be stipulated in detailed rules governing the content of prospectuses. Such requirements will be set out in the Transparency Obligations Directive. It should only be necessary for the prospectus disclosure requirements to be aligned with those under the Transparency Obligations Directive.

Securities note

Para 253 *Under Section I.5., the securities note should mention any other information in the prospectus besides the annual accounts, which have been audited or reviewed by the auditors. Should the securities note contain the "auditors' report relating to this information" ?*

We believe that:

- Such information on the auditors' involvement should be located where the financial information is presented (registration document, securities note or both);
- When the financial information is published in full the related audit report, if any, can also be reproduced in full. If the financial information is not published in full an indication that an audit opinion, if any, has been issued should be required but the full audit report should not be published;
- The same principles should apply to other advisors and the extent of such other advisors involvement to the extent that they have responsibilities for performing procedures in relation to information presented in the prospectus; and
- Such information should be clearly presented in such a manner as to avoid confusion as to the nature and extent of work performed and assurance provided.

Para 280 This mentions amongst the documents that may be incorporated by reference the auditor's report as a separate bullet point. Grouping the financial statements and the auditors' report under the same bullet point should be considered. The question can be raised as to whether the nature of the auditor's report should be mentioned in the prospectus itself and whether any qualifications and/or emphasis of matter paragraphs be reproduced in full therein.