Annual Report

2010

efama

European Fund and Asset Management Association

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President’s Statement

From 'Systemic Risks' to 'Investor Protection'

During 2010, EFAMA made significant progress against its 2009–2011 strategic plan, while the financial services industry continued to experience unprecedented changes.

Over the course of the year it became ever more important for the asset management industry to strike the right balance between taking proactive steps towards our goals, and reacting to market changes. A large number of European and international regulatory initiatives unfolded, often as part of political agendas of G20 countries. In total, more than twenty-six regulatory initiatives were identified as having a material impact on our industry and needed to be prioritised in terms of action.

To move towards meeting its strategic plan priorities in the field of distribution and pension provision, EFAMA released a white paper in March 2010. *“Revisiting the landscape of European long-term savings – a call for action from the asset management industry”* provided a road map for action and articulated clear steps to take over the next few years in order to put further investors at the heart of what we do, and to contribute to building long-term savings for the benefit and growth of the European economy.

In distribution, EFAMA has continued to push for a level playing field for the distribution of financial products across the European Union, and for giving investor protection initiatives more prominence. Many steps have been taken in this direction, including notably the launch of a study on UCITS total expense ratios and of distribution costs in Europe. Financial education has also remained a key topic as has the strengthening of pan-European fund classification for investors' benefit.

In the field of pensions, EFAMA actively responded to the Green Paper “towards adequate, sustainable and safe European pension systems”. We continued to raise awareness on the challenges facing long-term savings in Europe and the need for adequate solutions. In particular we supported the introduction of a personal retirement plan with consistent certification standards across Europe (OCERPs), as well as positioning UCITS as a building block for such solutions.

Alongside these proactive moves, the association has had to react to numerous regulatory initiatives, including continuing developments in UCITS regulation, the introduction of regulation for non-UCITS products through AIFMD, a new supervisory framework for financial services, increased regulation of financial markets and a new classification for money market funds (proposed by CESR and essentially based on EFAMA and IMMFA proposals). In all cases, it is vital that our association continues to work closely with the relevant authorities on consultations, impact assessments and ex-post evaluations.

To respond to these challenges, EFAMA took a number of decisive steps throughout the year to strengthen its organisational structure, resources, and governance, as well as its public recognition and awareness. Deeper relationships with other international associations (ICI, IIFA), and constructive dialogue with the European banking and insurance federations have also been an area of focus. All these efforts have significantly strengthened EFAMA's output, profile and supported its actions in this fast changing world.

Even with the work done so far, more remains to be done as we continue to strive to strengthen investor protection and ensure the capital markets function well in order to serve the real economy. This will mean that we continue engaging forcefully with the European Parliament, the European Commission and local regulators with whom we have established close relationships. Let me take this opportunity to thank all these teams and their leaders for our constructive exchanges and cooperation. Also it will be important for our industry to continue articulating what it stands for and its role as part of a thriving European financial services industry.

From an economic standpoint, last year saw a decisive recovery in the industry's assets under management. Investment funds' assets tumbled to almost EUR 6 trillion in early 2009, but recovered to more than EUR 8 billion by the end of 2010 (close to their peak of EUR 8.2 billion in June 2007). In particular, there was an acceleration in the development of the UCITS cross-border market: almost 100 percent of Europe's net flows into UCITS came from cross-border funds, which are sold across multiple jurisdictions. This was also accompanied by strong shift towards long-term UCITS: total net sales of long-term UCITS reached EUR 292 billion in 2010, up from about EUR 195 billion in 2009. The year was also marked by further financial and actuarial stabilisation of Europe's funded pension systems.

I mentioned last year that the challenges that lie ahead are formidable and I would like to reiterate this with even more insistence for 2011. It should also be a year during which we will see the pace of work of regulators, politicians and the industry accelerate from addressing systemic risks to investor protection.

In 2011, I look forward to continued successes in the development of EFAMA and to positive outcomes for European investors and the European asset management industry.

Jean-Baptiste de Franssu
President
June 2011

Director General's Statement

In today's rapidly evolving world, associations must regularly review their mission, core purpose and value proposition to ensure their continued relevance to the industry they serve.

Many global trends and market factors affect the life of an association such as EFAMA. These include economic evolution, financial crises, regulations, G20 agenda, demographic changes, focus on sustainability and corporate responsibility, etc...

Add to these external factors the need for association members (whether national associations, corporate members or associated institutions) to receive value for their membership and their desire for a return on investment more rigorously evaluated and measured than in the past – together with increased competition and ease of access to information – and it is obvious that associations, including EFAMA, must review, rethink and reinvent their strategies on a regular basis.

More than ever EFAMA must be forward-looking and proactive, listening to and learning from its members and prospect members.

In 2010, EFAMA successfully launched a Europe-wide campaign to convince more asset management firms to join EFAMA as corporate members, thus strengthening EFAMA's representation and increasing its resources for working groups and input on technical matters. As a result, the number of corporate members has increased from forty-two in mid-July 2010 to fifty-five at the end of April 2011.

At the same time, EFAMA extended its membership to include a new category, referred to as "Associate Members", with equally excellent results: to date seventeen associate members have been recruited.

Having such a broad membership base of national associations, corporate and associate members makes EFAMA an authoritative source of knowledge and industry and policy intelligence. EFAMA can thus be seen as the thought-leader in the sector of the asset management industry, widely recognised as a credible and respected interlocutor with policy-makers, regulators and industry members alike.

Leadership is all about organising a group of individuals to achieve a common goal. The particular challenge of leading a European association is that it represents such a diverse group of interests and people. Both leadership and good governance are therefore very important elements in the smooth running of a European association.

Finding consensus in an association is often a frustrating process for all participants and members who want to drive issues forward. Still, from an institutional perspective, trade associations are highly valued as they provide a source of technical expertise.[1] Additionally, the fact that European associations help build consensus makes the lives of EU institution officials easier.

Broader influence and impact can be achieved by building coalitions: EFAMA is convinced that the asset management industry needs to be perceived as speaking with "one voice" in order to be considered as a valuable partner for legislators, regulators and other market stakeholders. The art of compromise is key to success, not only at European level, but also in everyday life. EFAMA invites all buy-side associations to join forces in order to be more efficient. The official motto of Belgium "Unity Makes Strength" has more than symbolic value for our industry.

In closing, I very much would like to thank all our members for their unfailing support and trust and all my colleagues at the Secretariat for their continuous efforts in this challenging and stressful environment.

Peter De Proft
Director General
June 2011

1 Key Success Factors for European Trade Associations, 2011, Ellwood & Atfield, p. 8

Activity Report 2010

I. Investment Management Regulation

1. Reform of the European Financial Supervision

2010 marks an important milestone in the evolution of financial supervision in Europe, with the adoption on 22 September 2010 of several regulations establishing three new European Supervisory Authorities (ESA), respectively for Banking (EBA)[1], Insurance and Occupational Pensions (EIOPA)[2] and Securities and Markets (ESMA)[3]. These authorities replace the previously existing Committees of European Regulators (CEBS, CEIOPS and CESR) and officially started their operations on 1 January 2011.

The new supervisory framework will be completed by the creation of the European Systemic Risk Board (ESRB)[4], responsible for the macro-economic oversight of the financial system and for the prevention and mitigation of systemic risks within the Union.

Compared to the Level 3 Committees they will replace, the competences and powers of the new ESAs will be considerably increased. These will include in particular:

- The ability to draft technical standards that are legally binding in EU Member States once they have been endorsed by the Commission. This represents a major step towards the development of a single EU rule book;
- The ability to launch a fast-track procedure to ensure consistent application of EU law;
- New powers in view of the resolution of disagreements between national authorities (including cross-sector disagreements);
- New powers to facilitate and coordinate actions by national supervisors in cases of emergency;
- Monitoring of systemic risks for cross-border financial institutions (in co-operation with the ESRB).

ESMA in particular will also be given specific responsibilities in terms of consumer protection (including the power to temporarily prohibit financial products threatening the stability or the orderly functioning of the financial markets) and will have direct supervisory powers over Credit Rating Agencies.

From the outset, EFAMA recognised the need to reform the EU framework for supervision of the financial system, building on the recommendations of the group of experts chaired by Jacques de Larosière, who had identified a number of serious shortcomings in the system.

1 EBA (EU Regulation 1093/2010): http://eur-lex.europa.eu/Result.do?T1=V1&T2=2010&T3=1093&RechType=RECH_naturel&Submit=Search

2 EIOPA (EU Regulation 1094/2010): http://eur-lex.europa.eu/Result.do?T1=V1&T2=2010&T3=1094&RechType=RECH_naturel&Submit=Search

3 ESMA (EU Regulation 1095/2010): http://eur-lex.europa.eu/Result.do?T1=V1&T2=2010&T3=1095&RechType=RECH_naturel&Submit=Search

4 ESRB (EU Regulation 1092/2010): http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:331:0001:0011:EN:PDF

Because of the increasingly important cross-border nature of the activities of its members (UCITS is certainly the best example to date of a truly pan-European retail financial product), EFAMA fully embraced the creation of three strong European Supervisory Authorities and welcomed, in particular, the power given to ESMA to develop binding technical standards and to develop a single EU rule book. This will indeed help to prevent gold-plating and regulatory arbitrage and thus reduce legal uncertainties and decrease significantly the huge compliance costs that our members are currently facing when they operate on the securities markets of all twenty-seven EU Member States.

Going forward, EFAMA's priority will be to ensure that the investment management industry, a key component of the buy-side on financial markets, will be adequately represented within the stakeholders groups to be established within ESMA, but also within EIOPA (in order to reflect the increasingly important role of our industry in the provision of long-term savings and pension solutions).

We will also seek to develop constructive relationships with the new ESAs and will encourage ESMA to build on CESR's good practices of open and transparent consultations with stakeholders.

2. UCITS IV

After the adoption of the new UCITS Directive 2009/65/EC[5] on 13 July 2009, the attention turned to the Level 2 implementing measures which needed to be adopted before 1 July 2010 in order to be transposed in time in the national legislation of the twenty-seven Member States.

At the end of 2009, and after extensive consultations of the stakeholders, CESR had published its technical advice to the Commission on the implementing measures to be adopted, together with some methodology recommendations.

Early 2010, the Commission published its Level 2 proposals for discussions with Council (European Securities Committee) and European Parliament. These proposals were largely based on the technical advice provided by CESR and consisted in:

- A draft Commission Regulation on notifications (standard notification letter and UCITS attestation) and procedures for on-the-spot verifications, investigations and exchange of information between competent authorities;
- A draft Commission Directive on mergers, master-feeders and notification procedures;
- A draft Commission Directive on organisational requirements for Management Companies;
- A draft Commission Regulation on the Key Information Document (KID).

Although a number of important issues for EFAMA members could already be solved during the CESR consultation process, EFAMA continued the dialogue with the Commission on the draft proposals and managed to obtain further improvements. The Level 2 implementing measures were all adopted on 1 July 2010[6].

5 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (O.J. L302/32 of 17 November 2009).

6 O.J. 10 July 2010 http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2010:176:SOM:EN:HTML

Key Information Document (KID)

The Regulation on Key Investor Information and conditions to be met when providing key investor information or the prospectus in a durable medium covers the rules regarding the content of the KID as well as the provision on a durable medium other than paper. Most issues were successfully resolved during the Consultation on CESR's advice and later during the co-decision negotiations.

Unfortunately, methodology details related to the Synthetic Risk Reward Indicator and to the performance scenarios for structured funds were not included at Level 2 (they were published by CESR as Level 3 guidance), raising concerns of lack of harmonised implementation due to their non-binding nature. The Commission's wish was for ESMA to transform Level 3 into binding technical standards at a later stage.

Issues that remain unsatisfactorily resolved in the final text of the Regulation pertain to past performance for new funds and the deadline to publish a revised KID after year-end.

The Regulation states that for a "*UCITS which does not yet have performance data for one complete calendar year, a statement shall be included explaining that there is insufficient data to provide a useful indication of past performance to investors.*" This provision, coupled with the prohibition to show past performance for any part of the current calendar year, goes beyond MiFID's requirements, which are that "*performance information must be based on complete 12-month periods*" and might result in the prohibition for new funds to show any performance for up to twenty-three months. While the UCITS KID must include the required statement that the data is insufficient to provide useful information to investors, performance figures might be shown in marketing material much earlier (according to MiFID rules), thus confusing investors.

Lastly, the deadline of 35 business days after the end of the calendar year to revise the KID is considered too short by a large part of the industry, as large Management Companies distributing funds into many EU jurisdictions will need to cope with updates (and translations) of thousands of KIDs, and for listed funds the annual reports might have to be approved by the Board before disclosure.

Management Company Passport

A large part of the conduct of business rules at Level 2 were an alignment of UCITS with MiFID requirements. There were, however, some divergences and additions. During the discussion of the Management Company Passport Directive, the main concerns for the industry focused on three issues:

- Requirement for recording of all subscription and redemption orders;
- Management of activities giving rise to detrimental conflict of interest;
- Strategies for the exercise of voting rights.

In its initial proposals, the Commission sought a requirement for the management company to record subscription and redemption orders (potentially all of them). Such a proposal was not justified, and would entail huge changes to existing order flow structures/organisations (with related high costs), as in most Member States the management company does not have the information required, particularly the identification of the unit-holder. The orders are mostly aggregated by the distributors and the units are held in the name of nominees.

EFAMA argued that the requirement could only be fulfilled in relation to the orders directly received by the management company, and in the end, a significant improvement to the provisions was achieved, now requiring the management company to "*take all reasonable steps to ensure that the received UCITS subscription and redemption orders are centralised and recorded immediately after receipt of any such order.*"

Regarding the management of activities giving rise to detrimental conflict of interest, legislators left unchanged the Commission's proposals, which go well beyond MiFID requirements for conflicts of interest management. The Level 2 Directive foresees that "*where the organisational or administrative arrangements made by the management company for the management of conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of UCITS or of its unit-holders will be prevented, the senior management or other competent internal body of the management company is promptly informed in order for them to take any necessary decision to ensure that in any case the management company acts in the best interests of the UCITS and of its unit-holders*." A report on such situations must also be issued to investors by the management company. It remains very unclear what additional activities should be carried out, and how the total elimination of all conflicts of interest could possibly be achieved.

Concerning the exercise of voting rights, the Level 2 implementing measures provide in Art. 21 that a summary description of the strategies for the exercise of voting rights should be made available to investors, a provision agreed upon by EFAMA. However, the industry is concerned that the further requirement to "*make available*" upon request to fund investors the "*details of the actions taken on the basis of those strategies*" could lead to the disclosure of sensitive information such as individual votes or of all votes cast, and cause high costs. The argument that such a requirement should not be imposed only on UCITS but on all investors (through horizontal regulation) was not heeded by legislators.

Contrary to CESR's advice, no provisions were included by the Commission on direct sales of UCITS by the management company, as they were not foreseen in the Level 1 text. Such measures, however, are likely to be proposed soon by the Commission as part of the PRIPs initiative.

Mergers

Concerning the new mergers procedure (applicable to cross-border but also to domestic mergers) one of our main concerns related to the method for providing information to unit-holders of both funds involved in the merger.

Regrettably, the Commission decided not to follow the recommendation made by CESR in its technical advice, namely that "*It does not consider that the benefits of legislation to harmonise the way in which information should be provided in the particular case of a merger, are likely to justify the costs of implementing and maintaining it, and therefore does not intend to provide advice on how this might be done*"[7]. Instead, the Commission Directive 2010/42/EU foresees that the information has to be provided to unit-holders exclusively on paper (or, subject to specific conditions) on another durable medium. It remains to

7 Page 11, item 20 of CESR's technical advice

be seen how Member States will manage to transpose these requirements and to conciliate them with the existing principles governing the communication with shareholders under their national laws.

On a more positive note, the need for differentiation in the content of the information to be provided to unit-holders of the merging fund and to unit-holders of the absorbing funds (who are usually less impacted by the merger) has been well recognised in the implementing measures.

Master-Feeder Structures

The possibility of having Master-Feeder structures in UCITS (which was impossible under UCITS III because of portfolio diversification requirements) will significantly improve the efficiency of the UCITS framework. The economic benefits of these structures are well known and include economies of scale trough pooling of assets and a more efficient organisation for asset management companies, for instance through the centralisation of the portfolio management function in specialised competence centres.

Unfortunately, some of the implementing measures adopted by the Commission (and largely based on CESR's recommendations) such as the content of the agreement between the Master and the Feeder fund, or the procedure to be applied in case of liquidation or merger of the Master UCITS are sometimes excessively detailed and cumbersome, which may limit the attractiveness of master-feeder structures in a number of cases.

Another drawback to the use of Master-Feeder structures often mentioned by practitioners stems from the limitation contained in the Level 1 Directive following which a UCITS is not allowed to invest in an investment fund investing itself more than 15% of its assets in other investment funds. As a result, if an existing UCITS is transformed into a Feeder fund, the UCITS holding shares/units of the Feeder will be forced to redeem in order to comply with the applicable investment restrictions (since a Feeder invests by definition at least 85% of its assets in the Master fund, i.e. largely above the 15% limit).

Notification

The new cross-border notification procedure will now be based on "regulator-to-regulator" communication (only for the initial notification of a new fund, not for subsequent updates of the notification file).

In this context, EFAMA strongly insisted that UCITS should not be forced to cease accessing the market in the host Member State should it appear that the notification is deemed incomplete for reasons beyond the control of the UCITS (e.g. technical failure in the electronic transmission system of the home Member State). In view of the possible negative consequences (costs, reputational damage...), it would indeed be inappropriate for a UCITS to have to cease marketing as a result of a regulator's failure. The possibility for the competent authorities of the Home Member State to instruct a UCITS to stop marketing in the host Member State was therefore deleted in the final text.

Concerning the contents of the notification letter, EFAMA advocated against the obligation to identify individual distributors in the notification letter as it would be extremely burdensome and without real added value for regulators. In the model notification letter finally adopted, this was replaced by a high-level disclosure regarding the type of distribution channels to be used.

CESR's Guidelines and Recommendations

In addition to the Level 2 implementing measures, CESR also adopted in the latter part of 2010 further Level 3 guidelines concerning the KID:

- Template[8]
- Transitional rules[9]
- Guide to clear language and layout[10]
- Performance scenarios for structured UCITS[11]

In parallel, EFAMA continued to work intensively, together with KPMG, on the analysis of the UCITS IV tax implications and on the identification of tax obstacles to the full use of the efficiency measures introduced through UCITS IV *(see below under II.2. Taxation)*.

3. UCITS V

In mid-December 2010, the European Commission published its Consultation Paper on the UCITS Depositary Function and on the UCITS Managers' Remuneration[12].

Concerning the depositaries, this Consultation Paper follows a first round of consultations organised by the Commission in 2009. The first Consultation had indeed revealed some divergence in the interpretation of the depositary role and liabilities, which underscored the need for more harmonisation in the definition of these functions in order to ensure a level playing field in terms of UCITS investor protection measures within the European Union[13]. As a result, the Commission committed itself to introduce a number of changes to the depositary provisions in the UCITS Directive with the objectives of clarifying the depositary functions and to ensure consistency with the depositary regime in the AIFMD. The Consultation Paper presents in detail the policy options envisaged by the Commission to achieve these objectives and seeks feedback from the stakeholders on these proposals. The UCITS depositary regime that the Commission intends to put in place will most probably be similar, to a large extent, to the AIFMD provisions. However, the Commission indicates that *"the review of the liability regime applicable to the UCITS depositary will take into consideration specificities linked to the UCITS environment and its suitability for retail investors"*[14].

In its Consultation, the Commission also announced the inclusion of provisions on remuneration for UCITS managers into the UCITS Directive. The application of sound remuneration principles to UCITS managers comes in view of achieving consistency with requirements for AIF managers, banks and investment firms as currently included in the agreed political text of the AIFMD[15] and in the Capital Requirements Directive[16].

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8 CESR's template for the Key Information Document, http://www.esma.europa.eu/index.php

9 CESR's guidelines – Transition from the Simplified Prospectus to the Key Investor Information: http://www.esma.europa.eu/index.php

10 CESR's guide to clear language and layout for the Key Investor Information Document: http://www.esma.europa.eu/index.php

11 CESR's guidelines – Selection and Presentation of Performance Scenarios in the Key Investor Information Document (KII) for structured UCITS

12 http://ec.europa.eu/internal_market/consultations/docs/2010/ucits/consultation_paper_en.pdf

13 For further details about this first consultation, see EFAMA's Annual Report 2009, pp. 18-20, available at www.efama.org

14 Consultation Paper, p. 7

15 http://register.consilium.europa.eu/pdf/en/10/st15/st15053-re01.en10.pdf

16 http://ec.europa.eu/internal_market/bank/legislation/index_en.htm

The Commission mentioned in the Consultation the different business models and suggested similar although not necessarily identical principles for all relevant entities. EFAMA members broadly support that the regulation should reflect the principles of the Capital Requirements Directive and the AIFMD, but should be tailored to take into consideration the specificities of UCITS management and allow for proportionality.

The Commission Consultation mentioned further legislative initiatives and communications which are likely to be taken into account in the current revision of the UCITS Directive. These include in particular the Commission Communication for reinforcing sanctioning regimes in the financial sector[17], the Commission Green Paper on corporate governance in financial institutions and remuneration policies[18], Alternative Investment Fund Managers Directive, Consultation by Commission Services on Legislative Steps for the Packaged Retail Investment Products Initiative[19], Legislation on Legal Certainty of Securities Holding and Dispositions[20], ICSD Review[21], Public Consultation on Central Securities Depositories and on the Harmonisation of Certain Aspects of Securities Settlement in the European Union[22]. The Commission indicated that this list is not exhaustive and made provisions for further technical adjustments.

4. AIFM Directive

In October 2010, a political agreement[23] was finally reached between the European Parliament and the Council of the European Union regarding the Alternative Investment Fund Managers Directive (AIFMD). The agreed text of the AIFMD was adopted by the European Parliament in first reading in November 2010[24]. The official adoption by the Council of the European Union is still outstanding and expected for the first half of 2011.

The text of the AIFMD finally agreed upon by the European Parliament and the Council of the European Union has come eighteen months after the publication of the first proposal[25] by the European Commission. It was agreed after intensive political battles between the European institutions, within the European Parliament and between the Member States. The most disputed points included the Third Country Regime, freedom of investment for institutional investors (reverse solicitation), the depositary regime and the provisions regarding private equity, leverage and short selling.

The political discussions were closely followed by EFAMA's Secretariat and EFAMA's Working Groups on AIFMD and on Depositaries. EFAMA presented drafting amendments to various draft versions of the AIFMD issued by Council as well as to the draft amendments presented in the European Parliament's Economic and Monetary Committee. EFAMA's Board of Directors identified at its Board meeting in June 2010 in Luxembourg as key priorities for EFAMA members the topics of delegation, freedom of investment for institutional investors and

17 http://ec.europa.eu/internal_market/consultations/docs/2010/sanctions/COM_2010_0716_en.pdf

18 http://ec.europa.eu/internal_market/company/docs/modern/com2010_284_en.pdf

19 http://ec.europa.eu/internal_market/consultations/docs/2010/prips/consultation_paper_en.pdf

20 http://ec.europa.eu/internal_market/consultations/docs/2010/securities/consultation_paper_en.pdf

21 http://ec.europa.eu/internal_market/securities/isd/investor_en.htm

22 http://ec.europa.eu/internal_market/consultations/docs/2011/csd/consultation_csd_en.pdf

23 http://register.consilium.europa.eu/pdf/en/10/st15/st15053-re01.en10.pdf

24 http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0393&format=XML&language=EN#BKMD-5

25 http://ec.europa.eu/internal_market/investment/docs/alternative_investments/fund_managers_proposal_en.pdf

the partial exclusion from the AIFMD of funds for up to three professional investors. EFAMA focused its activities on these key priorities while continuing to work on the other topics identified by its members.

The text of the AIFMD finally agreed at political level is a consensus on a text very much improved compared to the first Commission proposal. The scope of the finally agreed AIFMD is extremely wide and covers in a "one-size-fits-all" approach all non-UCITS funds and their managers. The AIFMD applies to any fund which either is an EU fund or has an EU manager, or is marketed to EU investors. For European alternative investment fund managers (AIFM) the AIFMD foresees a UCITS-like regime with authorisation and ongoing supervision and a European Passport for AIFM and their alternative investment funds (AIF). Once adopted, the AIFMD is likely to create a second European quality label for asset managers and funds, next to the already well-established UCITS label.

The AIFMD provides manager regulation with detailed conduct of business rules and organisational requirements, reporting obligations to competent authorities and investors, notification procedures for European AIFM and AIF to make use of their European passport. In this regard, the text reflects in many respects the current UCITS[26] and MiFID[27] regimes.

Drawing a number of conclusions from the financial crisis, and more specifically, from the Madoff scandal and the Lehman default, the AIFMD further foresees a detailed regime for depositaries aimed at strengthening investor protection. First and foremost this new regime imposes an obligation for the AIFM to appoint a single depositary for each AIF it manages and defines the categories of institutions (mainly credit institutions and MiFID authorised investment firms) that are eligible to perform depositary functions. Very importantly, the AIFMD also contains a detailed description of the depositary functions and duties, in particular concerning the obligations of the depositary concerning the safe-keeping of the assets of the AIF. EFAMA strongly supported and welcomed these clarifications. We are indeed convinced that a common definition of functions and operational standards is a prerequisite to further harmonise depositary liability regimes across Member States and, therefore, to foster a higher degree of convergence in the level of protection offered to investors. Crucially as well, the AIFMD depositary regime also includes rules defining the conditions under which a depositary is authorised to delegate part of its functions to a third party. Last but not least, in comparison to the existing UCITS depositary liability standards, the AIFMD provides for a strengthening of the liability regime for depositaries. It notably includes an obligation of restitution in case of loss of assets held in custody as well as a reversal of the burden of proof in a number of cases. Although the precise boundaries of this new depositary regime still have to be defined through Level 2 implementing measures, it already seems relatively clear that this new regime will result in higher costs for investors (through an increase of depositary fees). EFAMA is also concerned by the fact that putting a too strict liability regime on depositaries' shoulders might limit the access to a number of markets (in particular in emerging countries) and could also result in further concentration of the custody market, causing a potential increase of systemic risk. Going forward, EFAMA will therefore advocate for carefully balanced implementing measures with the aim of avoiding, to the extent possible, these counterproductive effects.

26 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:302:0032:0096:en:PDF

27 Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0039:20070921:EN:PDF

The AIFMD also contains provisions on leverage, short selling and investment in portfolio companies. At the request of the European Parliament provisions on remuneration for AIFM were included based on the provisions on remuneration in the revised Capital Requirements Directive[28].

The political agreement reached regarding the highly disputed Third Country Regime, in particular cross-border marketing and cross-border management of funds is highly complex, difficult to grasp and subject to a complicated transitional regime.

The Level 1 text of the AIFMD will require extensive Level 2 and Level 3 measures. The Commission itself provided a list of nearly 100 measures in this regard. One of the main difficulties lies in the "one-size-fits-all" approach of the AIFMD, which does not make it an easy task to find adequate and proportional regulation for all managers and funds covered. Another challenge arises from the fact that important parts of the political discussion have been avoided in the final result of Level 1 and will now need to be tackled in the elaboration of Levels 2 and 3.

At the beginning of December 2010, the European Commission issued a Provisional Request on Level 2 measures concerning the AIFMD[29] to the Committee of European Securities Regulators (CESR). The provisional character of this mandate was related to the fact that at that time the AIFMD still awaited its final adoption. The provisional request has been divided into four parts: Part I covers general provisions, authorisation and operating conditions. Part II is devoted to implementing measures regarding the depositary. Part III concerns transparency requirements and leverage. Part IV encompasses implementing measures regarding supervision.

CESR immediately issued a Call for Evidence – Implementing Measures on the AIFMD[30] consulting interested stakeholders until mid-January 2011. CESR also indicated that it would not limit its work to the Level 2 measures but immediately consider Level 3 measures concerning the AIFMD. The Commission and CESR aim at adopting Level 2 and Level 3 measures within two years of entry into force of the Directive, trying to align their timing with the implementation of the Directive in Member States. EFAMA's Working Group on AIFMD will prepare a response to the Call for Evidence – Implementing Measures on the AIFMD and participate in any workshops and future consultations organised by ESMA or the Commission in the framework of Level 2 and Level 3 measures concerning the AIFMD.

At the end of December 2010, the final official adoption of the AIFMD by Council had yet to take place, pending progress achieved by the lawyer linguists. Its adoption is expected for the first half of 2011, following which the AIFMD will enter into force twenty days after the publication of the final text in the Official Journal. The date of entry into force will trigger the two-year delay of transposition of the AIFMD into national law by the European Member States and determine the date when asset managers and their products need to comply with the requirements of the Directive.

The Level 2 and Level 3 measures of the AIFMD will be one of the key files for EFAMA's Secretariat and EFAMA's AIFMD Working Group in 2011. Achieving a result which starts from the UCITS and MiFID framework and takes into account the differences of the AIFM and AIF will be an important challenge and require continued efforts in the years ahead.

28 http://ec.europa.eu/internal_market/bank/legislation/index_en.htm

29 http://ec.europa.eu/internal_market/investment/docs/alternative_investments/level2/mandate_en.pdf

30 http://www.esma.europa.eu/index.php?page=consultation_details&id=176

5. Investor-Compensation Schemes

Directive 97/9/EC on Investor-Compensation Schemes (ICSD) was adopted in 1997 and provides for a client receiving investment services from investment firms to be compensated, in specific circumstances, where the investment firm is unable to return money or financial instruments that it holds on the client's behalf.

In 2009, ten years after its entry into force, the Commission decided that the time had come to open a review of the Directive in order to ensure that it continued to achieve its overarching objectives (protection of investors and assistance to the functioning of the single market for financial products) and to restore consumers' confidence which had been shaken by the financial turmoil and some highly publicised cases of fraud resulting in substantial losses to small investors. A Call for Evidence[31] was therefore organised in order to gather feedback from the stakeholders on a number of policy options, including, amongst others, an extension of the scope of the Directive, an increase in the level of compensation, the harmonisation of the funding of the compensation schemes and the reduction of pay-out delays.

On 12 July 2010, as part of a broader package, also containing amendments to the Deposit Guarantee Schemes Directive and a White Paper on Insurance Guarantee Schemes, the Commission published a legislative proposal[32] amending the ICSD for adoption by the Council and the European Parliament (co-decision procedure).

The key elements of this legislative proposal were the following:

- Alignment with MiFID definitions in terms of services covered and classification of clients;
- An extension of the scope of the Directive to cases of failure of a third party custodian, but also to cases of failure of a UCITS depositary;
- Increased level of compensation to a fixed amount of €50,000 per investor;
- Harmonisation of the basic principles for the funding of the schemes (including the obligation to reach a determined target fund level fully ex-ante funded);
- Possibility of borrowings among national schemes as last resort mechanism;
- A reduction of pay-out delays;
- Better investor information about the scope and the amount of the coverage.

Although supportive of the objectives of the review of the Directive, EFAMA expressed in a detailed Position Paper[33] its major concerns regarding the proposed extension of the benefit of the investor-compensation schemes to UCITS unit-holders in case of default of a depositary or sub-custodian.

EFAMA highlighted, in particular, that UCITS are heavily regulated financial products already providing a high level of protection to their unit-holders against cases of insolvency of a depositary or sub-custodian (notably, through the principle of segregation of assets) and that the ongoing review of the UCITS depositary regime would further increase the level of investor's protection essentially through a clarification of depositaries functions and liabilities, more stringent rules on depositaries supervision duties and due-diligence requirements in the appointment of sub-custodians.

31 http://ec.europa.eu/internal_market/consultations/docs/2009/investor_compensation/cons-doc_en.pdf

32 Proposal for a Directive of the European Parliament and of the Council amending Directive 97/9/EC of the European Parliament and of the Council on investor-compensation schemes http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0371:FIN:EN:PDF

33 http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=375&Itemid=-99

EFAMA therefore called upon European policy makers to reject or suspend the extension of the ICSD to UCITS unit-holders, at least until the outcome of the discussions concerning the UCITS depositary would be known. Indeed, it is only once the duties and liabilities of the depositary will have been clearly defined that it will be possible to assess objectively the need to extend the benefits of compensation schemes to UCITS unit-holders and, as the case may be, to determine the exact conditions under which these unit-holders should be entitled to claim for coverage.

We also underlined the lack of clarity about the risks that the Commission intends to cover in relation with UCITS activities as well as legal and practical issues raised by the proposed extension of the scope of the ICSD (notably because the proposal of the Commission ignores the legal existence of the UCITS and does not sufficiently take into account the intermediation models in the distribution of UCITS).

EFAMA also pointed to the important additional costs that such a proposal would entail, highlighting that these costs would ultimately be borne by UCITS unit-holders and that they appeared to be disproportionate in comparison to the benefits they would enjoy in terms of increased protection. As such, these additional costs would also represent a serious threat to the competitiveness of UCITS compared to other substitute retail products that are left outside the scope of the ICSD.

After the publication of the legislative proposals by the Commission, EFAMA engaged in a continuous dialogue with EU policy makers and, in particular with MEP Olle Schmidt, who was appointed rapporteur by the ECON Committee for this piece of legislation on 6 September 2010.

Both MEP Olle Schmidt and representatives of Member States in Council are seriously questioning the appropriateness of including UCITS unit-holders in the scope of the Directive. However, given that the Commission stands very firm behind that proposal, the battle is far from won. This will represent a lobbying priority for EFAMA in the months to come.

The amendments to the ICSD are expected to be adopted in the course of 2011.

6. Risk Management

The EFAMA Risk Management Working Group was very active during 2010. First of all, it helped draft EFAMA's replies to CESR Consultations. Furthermore, it completed the Risk Management Position Paper, which has been approved by the Board of Directors and presented to the Commission, regulators and legislators.

Work on risk management started in the aftermath of the financial crisis, when EFAMA reviewed existing risk management regulation and surveyed twice its members regarding industry standards and best practices, to determine whether gaps existed or improvements were needed. The EFAMA Position Paper builds upon current Level 2 UCITS risk management regulation and on Level 3 guidance, in particular on CESR's risk management principles from February 2009 and CESR's Guidelines on Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS from July 2010. The objective of the work was to establish if and how much the definition and scope of risk management had evolved during the financial crisis, and provide a source of best practices for the industry. In the process, EFAMA analysed the "lessons learnt" by the industry due to the financial crisis.

In April CESR launched a second public Consultation on risk measurement, this time on a draft of its Guidelines on Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS[34].

The Guidelines are Level 3 guidance to accompany the UCITS IV Level 2 measures, and cover the use of the commitment approach vs. VaR to calculate the global exposure of UCITS, as well as the calculation of counterparty risk (including provisions on collateral). The industry largely welcomed CESR's proposals, with a few exceptions. Particularly controversial were two points:

- The proposal to require UCITS using VaR to calculate global exposure to disclose the expected level of leverage in the prospectus, as well as the proposed methodology to calculate such leverage;
- CESR's initial views on specific guidelines for structured UCITS.

In July, CESR published the final text of the Guidelines[35], but announced that it had decided to carry out more work on structured UCITS, to assess whether it would be appropriate to allow certain types of structured UCITS to use other methodologies. A workshop with stakeholders followed in September and a specific Consultation in November. The final Guidelines for certain types of structured UCITS have been published in April 2011[36]. EFAMA followed very closely all of CESR's work and coordinated industry views into a common position.

7. Packaged Retail Investment Products (PRIPs)

After a long pause, the PRIPs initiative showed new signs of life in December 2010, after the Communication in April 2009 by the European Commission.

One of the key initiatives for the investment management industry, PRIPs started as a horizontal approach for mandatory disclosures and selling practices in Europe for a wide range of investment and savings products. In the latest Consultation[37], the Commission proposed a cross-sectoral horizontal measure only for disclosures, while selling practices would remain under current sectoral legislation and therefore be split under MiFID and the Insurance Mediation Directive (IMD), both currently under review. Structured bank deposits would be added to the scope of MiFID, and direct sales rules for UCITS would be added to the UCITS Directive.

Although disappointed by the split approach, EFAMA continues to support strongly the initiative and to press for maximum coherence not only at principles level, but also and especially in the details. We shall monitor very closely the progress of PRIPs in EU legislation and regulators' technical standards, as the risk of divergent implementation and lack of harmonisation is very real.

The main issue regarding PRIPs continues to be the scope, and here EFAMA strongly disagrees with the Commission's proposal to exclude pensions and its doubts about some annuities. EFAMA's position is that although State-run pension schemes should be exempted from the PRIPs initiative, personal pension products (individual, voluntary pensions) should be included in the scope of PRIPs as they have all the

34 http://www.esma.europa.eu/index.php?page=consultation_details&id=162

35 http://www.esma.europa.eu/index.php?page=document_details&id=7000&from_id=28

36 http://www.esma.europa.eu/index.php?page=document_details&id=7542&from_id=28

37 http://ec.europa.eu/internal_market/consultations/docs/2010/prips/consultation_paper_en.pdf

characteristics of a PRIP (and they fit the general definition of PRIPs). Furthermore, all annuities (including variable ones) should be in scope as long as they include an element of capital accumulation. There is no reason why products that have the same features as PRIPs should not provide the same level of disclosure and investor protection to retail investors.

The Consultation Paper proposed as benchmarks the UCITS KID for the disclosure document for PRIPs, and MiFID selling rules for the distribution of insurance products under the IMD. EFAMA supports both proposals, although "the devil is in the details" and much will depend on how such principles are implemented. In particular, much resistance is to be expected against full disclosure of all costs for all PRIPs.

Legislative proposals are expected before summer 2011 for PRIPs disclosure, although the Level 1 text is likely to be quite high level (similar to the UCITS Directive), and further details will have to be developed at Level 2.

8. Prospectus Directive

The review of Level 1 of the Prospectus Directive continued in the first half of 2010 and concluded with the vote in the European Parliament plenary in June[38]. Among the modifications sought by the Commission, the review of the prospectus summary was of particular importance in view of its link to the PRIPs initiative.

As the details of the PRIPs initiative were not yet available, EFAMA encouraged the Commission and the legislators to postpone a review of the summary. In the end, the summary format was revised for all products under the Prospectus Directive (not just retail products) but the key elements of the new summary were not entirely the same as those of the PRIPs disclosure document. No carveout proposals for PRIPs could be inserted in the text, but Recital 27 does empower the Commission to seek alignment with PRIPs at a later stage. The Commission has confirmed its intention to include all Prospectus Directive PRIPs in the upcoming horizontal measure on disclosure.

9. MiFID Review

2010 saw a great deal of activity both by the European Commission and CESR with regard to the MiFID Review. Work started with many workshops on a variety of topics held by the Commission in January 2010 with stakeholders (EFAMA included), in order to gather expert views.

Later on, CESR held five Consultations, on client categorisation[39], non-equity market transparency[40], equity markets[41], investor protection and intermediaries[42], as well as transaction reporting[43].

38 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:327:0001:0012:EN:PDF
39 http://www.esma.europa.eu/index.php?page=consultation_details&id=167
40 http://www.esma.europa.eu/index.php?page=consultation_details&id=164
41 http://www.esma.europa.eu/index.php?page=consultation_details&id=161
42 http://www.esma.europa.eu/index.php?page=consultation_details&id=160
43 http://www.esma.europa.eu/index.php?page=consultation_details&id=159

Finally, in December a long-awaited Consultation[44] was published by the European Commission, unfortunately with a very short deadline. The Consultation covered not only all areas previously covered by CESR Consultations, but also several new ones. Very importantly for the investment management industry, it included a large section on investor protection covering distribution issues (such as advice and inducements) as well as conduct of business rules, with new and far-reaching proposals. Data consolidation proposals were also included, although the Commission did not seem to have decided yet on a path towards a European consolidated tape.

Regarding distribution, the Consultation's proposals and questions covered among others a possible ban on inducements in the case of portfolio management and in the case of advice "provided on an independent basis". Furthermore, it discussed the provision to clients of additional extensive information requirements on complex products, as well as the requirement to keep client holdings under review for continued suitability and to inform clients about any relevant modifications in the financial instruments in their portfolio. Some of these proposals go well beyond the duties pertinent to the current definition of advice, and resemble more the activity of portfolio management.

Besides investor protection, a large part of the Consultation covered equity and non-equity markets transparency, with many proposals aimed at increasing (or introducing) pre-and post-trade transparency for various asset categories. Transparency is the object of most attention in the political debate and in the media, although sadly a balanced discussion is impossible due to the commercial interests at stake: in spite of the lack of clear evidence and the questionable quality of the statistics, the rise of "dark trading" is often used to invoke the necessity of higher levels of pre-trade transparency for equities, and of pre- and post-trade transparency for non-equities. The impact on liquidity – a very important factor for institutional investors – is overlooked in the quest by some market participants for higher market shares or new business opportunities.

New topics introduced in the Consultation related to commodities, supervisory powers and sanctions, reinforcement of supervisory powers.

In spite of the vast number of issues to be covered, the limited time available for drafting and the need for more in-depth consultation on some issues, the European Commission remains committed to the publication of legislative proposals before the summer 2011.

The European Parliament was also active in 2010 on some of the MiFID issues, and adopted an own-initiative report on regulation of trading in financial instruments – "dark pools" etc.[45] which makes recommendations on transparency for equity trading in secondary markets, trading venues, as well as data consolidation.

44 http://ec.europa.eu/internal_market/consultations/docs/2010/mifid/consultation_paper_en.pdf

45 http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2010-0466

10. Insurance Mediation Directive (IMD) Review

The Insurance Mediation Directive (IMD) covers the distribution of insurance products by intermediaries. As previously discussed, the European Commission has decided to use separate legislative instruments to implement the PRIPs initiative regarding sales rules, and proposes to amend the IMD to align it with MiFID. The European Commission also published in December a Consultation[46] on the IMD Review, which EFAMA answered.

EFAMA will continue monitoring progress and encouraging the Commission to closely coordinate the work of the different Units in charge of PRIPs, MiFID Review, IMD Review and Prospectus Directive. Implementation must be coherent and harmonised not only at principle level, but also in the details (Level 2, and technical standards or Level 3). In particular, the IMD should be made Lamfalussy-conform and many details should be included in Level 2 (as is the case for MiFID), otherwise the risk of divergent implementation would be too great. Furthermore, EIOPA must also ensure the same coherence and harmonised implementation in its technical standards and Level 3 work.

11. Short Selling

In March 2010 CESR published a report[47] recommending a pan-European model for the disclosure of short positions in EU shares, in order to replace the patchwork of national initiatives (restrictions, bans) taken in the wake of the financial crisis.

In June the European Commission launched a public Consultation on short selling[48], largely mirroring the CESR proposals. In September a legislative proposal was published for a Regulation on short selling and certain aspects of Credit Default Swaps[49]. In it, the Commission proposed rules on transparency of short positions, whereby a notification to regulators would be required at a lower threshold (0.2% of the issued share capital) and a disclosure to the market would have to be made at a higher threshold (0.5%). Notification to regulators would enable them to monitor short selling, while the publication of short positions to the market was meant to rein in "aggressive" short selling strategies. A regime for notification - only to regulators, not to the public - of significant net short positions in EU sovereign bonds was also included in the proposals.

Among the Commission proposals, the most controversial for investment managers was the requirement to publicly disclose short positions to the market identifying the investor, thereby exposing it to the risk of a short squeeze or allowing others to profit from proprietary research.

In order to reduce the risks of settlement failures associated with naked short selling, a "locate rule" was introduced, requiring that arrangements must have been made by an investor to borrow a share before entering into a short sale. The Regulation also foresaw an important coordination role for ESMA and powers for regulators in exceptional market situations.

46 http://ec.europa.eu/internal_market/consultations/docs/2010/insurance-mediation/consultation-document_en.pdf

47 http://www.cesr.eu/data/document/10_088.pdf

48 http://ec.europa.eu/internal_market/consultations/docs/2010/short_selling/consultation_paper_en.pdf

49 http://ec.europa.eu/internal_market/securities/docs/short_selling/20100915_proposal_en.pdf

The discussion on the Regulation has been heavily influenced by the financial crisis and the perception that short selling played a large role in market instability. Furthermore, provisions on "naked" CDS positions in sovereign debt are a result of the Euro sovereign debt crisis and of political calls for restrictions on "speculation" in sovereign bonds. In the European Parliament, proposals have been made to tighten the "locate rule" and to ban naked CDSs on sovereign debt. However, the text is quite different from the Council's approach and it remains to be seen where the final compromise may lie. Agreement between the European Parliament and Council is expected soon (before summer 2011).

12. Derivatives Regulation – EMIR

Derivatives regulation has been a top priority for regulators worldwide as a result of the financial crisis and of the Lehman bankruptcy. Following the preparatory work in 2009 – culminated by the setting up of a few clearinghouses (or CCPs) for the central clearing of Credit Default Swaps – the European Commission launched in June 2010 a Consultation on derivatives and market infrastructures[50], as a prelude to its legislative proposals presented on 15 September to Parliament and Council.

The Regulation on OTC derivatives, central counterparties and trade repositories (EMIR)[51] aims at increasing transparency and addressing stability concerns arising from OTC derivatives, by reducing counterparty and operational risks and enhancing market integrity and oversight. The initiative is part of a global move to implement the G20 commitments made in Pittsburgh and Toronto regarding derivatives.

EMIR regulates both the obligation to use central clearing (notably, non-financial counterparties such as corporations hedging their business risks are excluded), as well as the clearing infrastructure, laying down the basic organisational rules for CCPs and trade repositories, as well as their authorisation and supervision.

For financial counterparties (investment managers included), EMIR provides for an obligation to centrally clear derivatives which are deemed eligible, and which a CCP has applied to clear. Non-standardised OTC contracts will remain bilateral, but must be collateralised.

EFAMA supported from the beginning the Commission's efforts to create European CCPs to clear CDS contracts, but insisted that the interests of the buy-side should be better taken into account in the setting up of the clearing infrastructure. The Commission proposal unfortunately ignores many of the concerns raised by EFAMA and the buy-side in general, also in the reply to the Commission Consultation.

Our main concerns relate to:

- Unfair distribution of costs of central clearing;
- Types of assets that can be used to post collateral at CCPs;
- Segregation of assets;
- FX contracts;
- CCP governance.

50 http://ec.europa.eu/internal_market/consultations/docs/2010/derivatives/100614_derivatives.pdf

51 http://ec.europa.eu/internal_market/financial-markets/docs/derivatives/20100915_proposal_en.pdf

Regarding the distribution of costs, concerns arise from the fact that CCPs mitigate counterparty risks by means of a default fund (to which only the banks as clearing members must contribute), initial margin and variation margin. Client default risk is ignored by CCPs, and all clients have to post the same amounts of initial and variation margin, regardless of their creditworthiness. As a result, low-risk clients such as pension funds are treated the same as clients with high default risk.

Margin requirements are crucial for investment managers, insurance companies and pension funds, as EMIR proposals would oblige CCPs to accept only *"highly liquid collateral with minimal credit and market risk"*, thus extending current practices to accept only cash or cash and government bond at best. If clients were obliged to sell assets to procure cash for margin, portfolio/fund returns would be significantly negatively impacted, and the costs would be borne by European pensioners and savers. Hardest hit would be investments for pension funds using LDI strategies, which would have to post high amounts of collateral due to the size and long maturity of the derivatives contracts used. However, also equity funds/portfolios would suffer significantly. The only real solution is to ensure that CCPs are incentivised to accept also other liquid assets as collateral, obviously subject to appropriate haircuts and without endangering their stability. On this issue, Commission, Parliament and Council seem interested in finding a way to reduce the impact, but due to the efforts to avoid exemptions, any solution could be very limited (possibly covering only IORPs/ pension schemes) and therefore maybe not helpful for investment managers.

Effective segregation of assets is essential for CCPs, as they would otherwise not fulfil their role to reduce counterparty risk – and therefore systemic risk. EMIR unfortunately does not clearly mandate that CCPs should offer full segregation options to the clients, down to individual client level. Portability in case of clearing member default to another clearing member is also very important and must be assured.

The Central Clearing obligation applies in principle to all derivatives under EMIR. EFAMA has lobbied for an exemption of FX derivatives with short maturities, as their main risk is not counterparty but settlement risk, and settlement is already covered by existing market infrastructure arrangements (CLS bank). A decision on exempting FX contracts from Dodd-Frank is still to be taken in the U.S.

EMIR provisions on CCP governance unfortunately do not foresee any client representation either on the Board or in the Risk Committee. This is a grave oversight that needs to be rectified.

In spite of the vital importance of the concerns presented by the buy-side, many are not given sufficient attention, as new political issues have emerged in the debate, namely whether only OTC derivatives should be in scope, and whether interoperability with other CCPs should be mandated. Political agreement is nonetheless expected before summer 2011 and EFAMA will continue to follow the discussion and ask for the necessary amendments.

13. Dodd Frank

Parallel to the European regulatory reaction to the financial crisis the U.S. approved in 2010 the Dodd-Frank Wall Street Reform and Consumer Protection Act. EFAMA started to analyse the impacts of this legislation on European investment managers in the autumn with the help of the law firm Dechert LLP. EFAMA has paid particular attention to the "Private Fund Investment Advisers Registration Act of 2010" ("Advisers Registration Act"). The Advisers Registration Act has far-reaching implications for European investment managers. It requires investment managers to consider the application of the new U.S. requirements to each entity within their group, even if that entity has very limited contacts with U.S. investors. Unless implemented in a manner that recognises the differing circumstances of non-U.S. advisers, the Advisers Registration Act may subject European investment managers to duplicative (and possibly inconsistent) regulation.

EFAMA and its members strongly believe that the SEC should carefully consider the application of its proposed rules to non-U.S. investment advisers in order to give meaningful effect to the exemptions from registration under the U.S. Investment Advisers Act of 1940 ("Advisers Act") included in the Advisers Registration Act for non-U.S. advisers that do not seek U.S. clients or investors.

14. Credit Rating Agencies and Credit Rating Issues

2010 was a busy year regarding the regulation of Credit Rating Agencies (CRAs). In June, the European Commission launched a proposal[52] to amend Regulation (EC) No 1060/2009 on credit rating agencies, to give ESMA the oversight of CRAs operating in the EU, including the registration and supervision of CRAs as well as matters related to ratings issued by rating agencies established in third countries that operate in the EU.

CESR published a number of consultation papers and guidelines, and EFAMA replied to two of them, on Guidance on the Enforcement Practices and Activities to be Conducted under Article 21.3(a) of the Regulation[53] and on Guidance on Common Standards for Assessment of Compliance of Credit Rating Methodologies with the Requirements set out in Article 8(3)[54].

During the summer, the European Commission gathered information on credit ratings issues from the industry on topics such as the role of credit ratings in investment management, reliance on credit ratings, and possible alternatives to credit ratings. This preceded the publication in November of a Consultation[55] covering topics such as overreliance on credit ratings, sovereign debt ratings, enhancing competition among CRAs (in other words, the creation of an "independent" rating agency), civil liability and potential conflicts of interest inherent in the "issuer-pay" model. These are issues on which the Commission is required by a recital in the Regulation to submit a report to the European Parliament and the Council by December 2012, so more proposals are to be expected.

Also in November, the European Parliament started discussing an own-initiative report on Credit rating agencies: future perspectives[56], which awaits final adoption in Plenary. In the Draft Report, the Parliament makes several recommendations to the Commission, asking it among others to conduct a detailed study and impact assessment on the possibility to create a fully independent European Credit Rating Foundation.

On 15 November EFAMA wrote letters to the European Commission regarding the interpretation of the endorsement process of ratings issued in a third country pursuant to Article 4(3) of the Regulation. EFAMA disagreed with an interpretation by CESR and the Commission that endorsement would be permissible

52 http://ec.europa.eu/internal_market/securities/docs/agencies/100602_proposal_en.pdf

53 http://www.cesr.eu/popup2.php?id=6634

54 http://www.cesr.eu/popup2.php?id=6635

55 http://ec.europa.eu/internal_market/consultations/docs/2010/cra/cpaper_en.pdf

56 http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-454.361+01+DOC+PDF+V0//EN&language=EN

only if the regulation of credit rating agencies in the third country was as stringent as regulation in the EU, blurring the distinction between the endorsement and the equivalence regime. As the recognition of ratings issued in the U.S. is very important to investment managers due to the impact on their bank clients' regulatory capital positions and on the European financial markets, EFAMA encouraged the Commission to confirm the original intention of the two-pillar approach of endorsement and equivalence processes for the use of ratings issued outside the EU.

15. CESR and Money Market Funds

CESR published guidelines on a common definition of European Money Market Funds on 19 May 2010. This definition was broadly in line with the recommendation presented by EFAMA and the Institutional Money Market Funds Association (IMMFA) in July 2009. In particular, CESR supported the EFAMA/IMMFA proposal to distinguish between two types of money markets funds: short-term money market funds operating with a very short weighted average maturity and weighted average life and money market funds operating with a longer duration and weighted average life. CESR also considered that both types of funds must have the primary investment objective of maintaining the principal of the fund and aim to provide a return in line with money market rates. In addition, specific disclosure should draw attention to the difference between the money market fund and investment in a bank deposit. It should be clear, for example, that an objective to preserve capital is not a capital guarantee. In order to avoid any confusion among investors, CESR also decided to require that only funds that comply with the guidelines may have in their name any reference to "money market".

The CESR guidelines will enter into force on 1 July 2011 and apply to all UCITS and non-UCITS money market funds. However, money market funds that existed before 1 July 2011 are allowed a 6-month transitional period (until 31 December 2011) to comply fully with the guidelines.

To stimulate the discussion on money market fund issues and the CESR guidelines, EFAMA organised a Money Market Fund Day on 26 May 2010, together with IMMFA. The event allowed representatives from central banks, national regulatory authorities, the European Commission, the European Parliament and CESR to engage in discussions with money market fund managers, investors and issuers. Buddy Donohue, the Director of the Division of Investment Management at the U.S. Securities and Exchange Commission, also participated in the event and shared his views on the latest developments in the U.S. money market fund industry.

In September 2010, EFAMA and IMMFA reconvened their joint Money Market Fund Working Group to assess whether or not certain aspects of the CESR guidelines needed clarification. Through a series of meetings, this Working Group discussed the CESR guidelines, and prepared a "Frequently Asked Questions" document. This document has two objectives: firstly, to help enable a harmonised application of the CESR guidelines by investment managers across Europe, and secondly, to provide further information for investors on the risk presented by these funds. On 22 December 2010, EFAMA and IMMFA also sent a joint letter to CESR to ask for official feedback on some interpretation issues with respect to the CESR guidelines.

II. Taxation

2010 was a busy year for EFAMA's tax work streams, in particular as regards the U.S. Foreign Account Tax Compliance Act (FATCA) which is expected to have a huge impact on the worldwide asset management industry. EFAMA has been a key player in engaging with the U.S. government to find proportionate solutions for the fund industry and EFAMA's position has been endorsed publicly by a number of associations representing the asset management industry worldwide.

The joint report with KPMG on the "Analysis of the Tax Implications of UCITS IV" was published in September 2010 and work continued on the long-standing review of the VAT treatment of the financial services sector. Towards the second half of the year EFAMA started to look increasingly at the proposals of the European Commission in the area of new taxes for the financial sector.

1. FATCA

The U.S. tax legislation FATCA was enacted as part of the U.S. HIRE Act in March 2010. The enacted legislation is a framework with scope for the U.S. Treasury and IRS to publish regulations and guidance on how the detailed provisions of the legislation will operate. In addition to changes to the U.S. withholding tax treatment of certain stock lending, repos and swaps over U.S. equities (which became effective from 14 September 2010), the FATCA provisions provide for onerous new reporting requirements for foreign financial institutions. These rules are effective from 1 January 2013.

The basic premise of FATCA is to require certain foreign (i.e. non-U.S.) financial institutions ("FFIs") to report detailed information on their U.S. account holders, or else suffer penal 30% withholding tax on all U.S. source income and, more importantly, gross disposal proceeds. The 30% withholding tax will also apply to payments attributable to such U.S. source income and gains ("pass-thru payments").

FFIs will be required to enter into agreements with the IRS which will detail the information they will have to report to the IRS. The agreement will also require the FFI to apply withholding tax to payments to "recalcitrant account holders" (those on which the FFI cannot obtain sufficient information). In August 2010 the U.S. authorities published guidance in the form of Notice 2010-60; however, unfortunately this Notice gave rise to more questions than answers as far as the fund industry is concerned.

EFAMA started engaging with the U.S. authorities at the end of 2009, before the legislation was enacted. At an initial meeting in May 2010, EFAMA explained the huge impact of FATCA on the European fund industry and the difficulties of compliance with FATCA arising from the typically intermediated business model of the EFAMA membership. The May meeting was followed by a number of detailed submissions by EFAMA of constructive ways in which the disproportionate impact of the legislation could be reduced and the legislation be made workable for European funds. EFAMA's submissions included proposals for carve-out for low risk funds and deemed compliant status for certain publicly-traded and widely-held funds as well as funds restricted to non-U.S. investors or where fund units and payments are held through FATCA-compliant FFIs. In formulating the EFAMA proposals, it was apparent to the EFAMA Working Group that workable FATCA rules need to acknowledge the big differences in business and distribution models prevalent across the European, and indeed the worldwide, fund industry.

EFAMA had the opportunity to explain the proposals in more detail at a meeting with the U.S. Treasury and IRS in December in Washington. As for the initial meeting in May 2010, this meeting was a fruitful exchange of information and technical discussions; however, the U.S. authorities were not forthcoming with detailed indications on how the rules will operate. The U.S. authorities are understood to be continuing to consider carve-outs and exemptions for certain types of funds. There remains a significant degree of uncertainty as to how the FATCA rules will be applied and the next set of guidance, expected in the first half of 2011, is eagerly awaited.

2. Analysis of the Tax Implications of UCITS IV

The industry report "Analysis of the Tax Implications of UCITS IV" prepared jointly by EFAMA and KPMG was published on 15 September 2010[57]. The UCITS IV Directive has to be implemented by Member States by July 2011 and there is an expectation that fund managers will wish to take advantage of the features of the Directive such as making use of cross-border mergers, management company passport and master-feeder structures. As a regulatory measure, the Directive does not contain any provisions for harmonising tax measures. The European Commission had concluded that as far as the taxation of UCITS mergers is concerned, it considered it preferable to build on existing case law of the European Court of Justice rather than tabling harmonising tax measures which would require unanimous consent of the Member States.

The report analyses the tax implications of UCITS IV at three levels (the review did not take into account VAT considerations):

- At management company level;
- At fund level; and
- At investor level.

The report concludes that there are significant tax barriers that are likely to prevent the universal application of the measures contained in the UCITS IV Directive. The report identifies critical tax issues and numerous examples of discrimination and inefficiencies across the European Union which could prevent the universal application of the measures in the UCITS IV Directive. In order to make UCITS IV a success, the report recommends that tax neutrality should apply at investor and fund level in relation to matters covered by the UCITS IV Directive.

The following areas are highlighted:

- Fund Mergers – A survey of fund managers showed that tax is a significant factor when considering cross-border fund mergers, especially at investor level. The treatment of investors in the case of cross-border fund mergers is inconsistent across Member States with some Member States imposing a tax charge on investors on their unrealised gains.
- Management Company Passport – In certain Member States the management of a fund cross-border could lead to a fund becoming liable to tax in the management company's state of residence.
- Master-Feeder Structures – Certain Member States levy withholding taxes on cross-border dividend distribution or impose tax on redemptions so that there could be tax leakage between the Master and Feeder funds, making them an inefficient fund structure.

57 http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=442&Itemid=-99

It is understood that the Commission will review the position in the course of 2011. In implementing the Directive into national law, a number of Member States are expected to adapt their national tax legislation to remove some of the tax barriers mentioned above to ensure the effective operation of the UCITS IV Directive.

3. VAT on Financial Services

The initiative launched by the European Commission in May 2006 aimed at modernising and harmonising the existing VAT Directive with regard to its application to the financial services sector is ongoing. Throughout 2010 EFAMA provided continuous input into compromise texts for the revised VAT legislation prepared by the Spanish and Belgian Presidencies of the Council and a follow-up meeting took place in September 2010 with the Belgian Presidency. Considerable progress has been made so far, in particular regarding the definition of "investment funds"; however, EFAMA continues to have a number of comments for discussion with the Hungarian representation which takes up the Presidency of the Council from 1 January 2011.

The orientation debate at the ECOFIN meeting in November 2010 reiterated the desire to establish a level playing field for economic operators across the European Union. Regarding the definitions of exempt services, the ECOFIN meeting agreed that the modernisation of the definitions should achieve neutrality and consistency in the application of the VAT exemption to the constituent elements of all exempt services. Moreover, the Council asked the Commission, in the context of investment funds and pension funds, to report on the overall effect of changes in the regulatory climate, so that the available options may be considered. This report is expected in February 2011.

In December 2010 the Commission launched a Green Paper Consultation "On the future of VAT - Towards a simpler, more robust and efficient VAT system"[58] to inform about its VAT policy for the next years. The Consultation closes on 31 May 2011 and EFAMA expects to submit comments.

4. Financial Sector Taxes

In October 2010, the European Commission published a Communication outlining its vision for taxing the financial sector. These tax measures are intended to ensure that the financial sector makes reparation for the financial crisis and for having benefited from government support as well as enhancing the efficiency and stability of financial markets and reducing volatility and the harmful effects of excessive risk-taking. The measures are also intended to constitute a fair and substantial contribution to public finance by the financial sector which is said to be potentially "under-taxed" as a result of the VAT exemption for financial services.

The European Parliament is in favour of pursuing a Financial Transactions Tax at EU level (in the absence of G20 agreement to the introduction of such a tax at global level) and has called on the European Commission to prepare a detailed impact assessment regarding the introduction of financial sector taxation.

58 http://ec.europa.eu/taxation_customs/common/consultations/tax/2010_11_future_vat_en.htm

EFAMA is monitoring future developments and will contribute to a public Consultation to feed into the Commission's 2011 impact assessment. The consideration of financial transaction taxes raises several fundamental issues such as the potential interaction of financial sector taxation with the existing VAT system for financial services (which is currently undergoing review) as well as the appropriateness, in the case of the asset management industry, of the justifications put forward to tax the financial sector. The Commission's impact assessment is expected to be published in summer 2011.

III. Pensions

In the pension's area, 2010 was an important year marked by the publication in July 2010 of the "European Commission's Green Paper on the future of adequate, sustainable and safe pension systems". The Green Paper launched a European debate on the key challenges facing pension systems – notably the adequacy and sustainability of pension systems, the obstacles to mobility in the EU, the safety in pensions, the solvency regime for pension funds and the minimum information disclosure requirements for pension products – and how the EU can support in a coordinated way the strengthening of the common framework for pensions in Europe.

In its response to the questions set out in the Green Paper, EFAMA highlighted the following key points:

- The European Commission should promote the adoption of measures to encourage people to save more and longer for retirement, such as mandatory participation in pension plans and automatic enrolment with an opt-out clause. It should also take initiatives to raise households' awareness about the financial implications of living significantly longer, notably by disseminating statistics about the old-age pension replacement rate and promoting financial education;
- The increasing role played by DC plans can be seen as a positive development contributing to provide plan members with a valuable supplementary income for their retirement. DC plans can offer significant advantages in terms of asset ownership and security, flexibility, portability and choice. They can also be structured to meet different risk profiles;
- Pension funds should not be subject to the same type of solvency rules as insurance companies. A "one-size-fits-all" approach would result in adverse consequences for pension funds, beneficiaries and the economy as a whole;
- The Commission should develop a regulatory framework for pan-European pension plans to allow individuals to enjoy portable pension plans, foster job mobility, stimulate competition and reduce the cost of saving for retirement. Different options should be considered, including a 28th regime.

To demonstrate that the concept of a pan-European plan can be translated into a concrete proposal, EFAMA called for the introduction of officially certified European retirement plans (OCERP). This concept had been introduced in the Think Tank report "Revisiting the landscape of European long-term savings – A call for action from the Asset Management Industry"[59] which was published by EFAMA in March 2010. In a nutshell, an OCERP is a personal retirement plan based on individual accounts and personal ownership of pension assets. An OCERP allows for adequate investment choice and complies with a set of unified standards across Europe. When certified by a competent authority in one member state, an OCERP can be offered by IORPs, insurers, banks and asset managers.

To contribute to the debate on the future of pensions in Europe, EFAMA organised together with Carmignac Gestion and with the collaboration of Debory-Eres a conference on 4 October 2010 at the Bibliothèque Solvay in Brussels. Participants included senior officials from Member States, the European Commission, MEPs, and representatives of other European associations and the civil society. It was agreed that the demographic challenge will give rise to greater individual responsibility for securing adequate retirement income. In addition, in order to achieve their savings targets, households will need the highest possible return on their long-term savings. Standing in the way of this is a highly inefficient pensions market in Europe where

59 http://www.efama.org/index.php?option=com_docman&task=cat_view&gid=261&Itemid=-99

fragmentation of markets is too high, access is too limited, costs are too high, innovation too low and choice too limited. To overcome these problems, the development of a single market for pan-European pension products would represent an important step forward towards overcoming these problems, leading to lower costs of pension provision and higher returns.

IV. Statistics and Economic Research

EFAMA continued to make progress on delivering key information and reliable statistics on the development of the European asset and investment fund industry. This work is carried out in close collaboration with EFAMA's member associations, which are the official statistics providers of EFAMA. EFAMA is also responsible for providing the International Investment Funds Association (IIFA) with statistics about the European fund market.

1. EFAMA's Third Annual Asset Management Report

In April 2010, EFAMA published the third edition of its Annual Asset Management Report. The report provides a snapshot of the European asset management industry, looking at its overall size, general structure, asset allocation and client base at end 2008. It also included a first estimation of the assets under management (AuM) at end 2009. Among other things, the 2010 report highlighted the following figures:

- Total assets managed in Europe bounced back to €12.8 trillion as at end 2009, from €10.8 trillion at end 2008. The stock market rally and the recovery of net inflows into UCITS were the main drivers behind the increase of total assets under management;
- More than 2,500 asset management companies are registered in Europe. Collectively, these companies directly employ around 73,000 individuals. Taking related services into account, such as accounting, auditing, custodianship, marketing, research, order processing and distribution, the overall level of employment associated with the asset management companies can be estimated at a multiple of that figure;
- The UK, France and Germany accounted for 66% of total AuM at end of 2008. The UK is the largest country in terms of discretionary mandates AuM, whereas France is the largest country in terms of investment funds AuM;
- Institutional clients account for 66% of AuM and retail investors for the remaining 34%. The high share of institutional clients reflects their importance in the UK, where they account for 79% of total AuM, compared to 62% in France, 60% in Germany and 46% in Italy;
- Equities accounted for only 27% of total assets under management at end 2008, compared to 37% at end 2007. The financial crisis and the substantial falls in equity values in 2008 explained the substantial movements out of equities into bonds and money market instruments. With the recovery of the stock markets since April 2009, the relative proportion of equities must now be somewhere around 33%.

2. EFAMA's Other Statistical Publications

EFAMA published in October 2010 the 8th edition of its Fact Book. For the second year running, the former Chairman of CESR accepted to write the preface. In this context, Eddy Wymeersch noted that "*once more the EFAMA Fact Book contains a wealth of information about the developments of the investment fund sector in Europe and its development in the rest of the world. It indicates the importance of this segment of activity and the great success it has experienced over the last years. Notwithstanding the setback in 2008, most of the fund industry activity has or is on the way to recovering its position from pre-crisis times*."

The other publications of EFAMA, which are all available on our website, include the monthly Fact Sheet, which reports the evolution of net sales in Europe on a monthly basis, on average six weeks after the reporting month, the European Quarterly Statistics Releases, which analyse the developments in UCITS and non-UCITS assets and net sales by fund type and country of domiciliation on a quarterly basis, and the International Statistical Releases, which provide data on worldwide investment fund assets and flows also on a quarterly basis.

3. International Statistics Review

The Statistics Working Committee of the International Investment Funds Association (IIFA) continued its review of the current international statistical exchange in 2010, under the chairmanship of Bernard Delbecque (Director of Economics and Research at EFAMA) and with participation of representatives from Brazil, Canada, France, Germany, Hong Kong, Japan, Luxembourg, Mexico, Pakistan, South Africa, Sweden, the UK and the U.S.

The review had three main objectives: broadening the exchange towards new data series, solving some definitional and measurement issues and reviewing the dissemination of statistical releases and update of historical data. To progress on these objectives, the Committee prepared a survey to which twenty-seven associations responded. The Committee carried out a careful analysis of feedback received, and drew a number of conclusions. The most important are summarised below:

- The Committee agreed to recommend the creation of a separate category for guaranteed/protected funds as these funds have a very different investment strategy than other fund types. The Committee also agreed to propose to broaden the data collection towards ETFs provided that the market coverage of ETFs would be satisfactory and that ETFs data could be reported consistently across the IIFA membership;
- A majority of Committee members was in favour of covering real-estate funds and institutional funds. However, some (non-European) members strongly disagreed with this proposal because they considered that the international statistics should only cover publicly offered investment funds investing in transferable securities;
- The Committee agreed that it would be useful to start collecting data once a year on investment fund asset ownership, with a breakdown of fund ownership between households and institutional investors;
- The Committee reached an agreement on how total sales, redemptions and net sales should be defined by member associations, as well as on the treatment of exchanges, fund closures and fund mergers in net sales data;
- Finally, the Committee discussed whether the dissemination process of the international statistics could be streamlined and the most efficient way in which to update the IIFA statistics with revised data. Different solutions were considered, and it was agreed that their feasibility would need to be assessed carefully from an operational standpoint.

At its October 2010 meeting, the IIFA Board of Directors took note of the progress made by the Statistics Working Committee and recommended that it continue its work to ensure that the international statistics are indeed consistently defined and reported by IIFA members.

V. Technical Industry Standards

Increasing efficiency of the industry remains an important priority on EFAMA's agenda in 2010, with the focus on four areas:

- Fund Processing Passport Portal
- Fund Processing Standardisation
- The European Fund Classification
- Harmonisation of Settlement Cycles

1. Fund Processing Passport Portal

In June 2010, EFAMA opened a Portal on its website (http://fpp.efama.org) with the goal to facilitate access to all existing Fund Processing Passports (FPPs) from a single location and to raise the visibility, use and coverage of FPPs. The development of the Portal was undertaken by Finesti, a Luxembourg-based company, and financed by the existing leading FPP Primary Providers (Finesti, FundConnect, KNEIP, OeKB and WM Datenservice). The Portal includes a search engine that allows searching FPPs according to the following criteria: ISIN, fund name, umbrella name, fund management company, FPP last revision, and FPP Providers. The results include a list of links to websites where the FPP providers keep the "FPP golden copies", i.e. the latest, most up-to-date, version of an FPP of their FPPs.

Dr. Wolf Klinz, a Member of the European Parliament, congratulated the industry for the creation of the Portal and expressed his hope that this initiative would "*create a momentum for the adoption of the FPP as the European standard to make fund processing simpler and more automated*".

Following the opening of the Portal, EFAMA undertook a number of initiatives to promote the adoption of the FPP standard and to encourage fund management companies to start producing FPPs for their funds (creation of a logo, brochures and flyers). As a result of this effort, in December 2010, the FPP Portal was given access to approximately 5,000 FPPs from 69 fund managers, including some of the largest European fund management companies.

2. Fund Processing Standardisation

In 2005 EFAMA published its first report to present recommendations of the Fund Processing Standardisation Group (FPSG) to increase efficiency in the processing of fund orders and achieve cost savings. This work was completed in September 2008 with the publication of an updated report, in which new sections were added covering reporting of positions and transactions and commission reporting. The FPSG resumed its work in 2010 with a view to extending its recommendations in two areas: transfers of fund units between two accounts and corporate actions. The work in this area was undertaken by the FPSG Transactions Best Practices Working Group under the leadership of David Broadway from the IMA (UK).

The draft recommendations prepared by the Working Group were discussed by the FPSG in December 2010. The FPSG agreed that an updated version of the FPSG could be finalised in early 2011 to include new sections on transfers of title and corporate actions.

In order to continue informing the European Commission, the European Parliament and other interested stakeholders about the European fund industry's progress toward greater standardisation and automation, EFAMA published in 2010 three reports on standardisation and automation rates of fund orders. These reports, which were prepared jointly with SWIFT, analysed the progress achieved in the two main cross-border fund distribution centres, Luxembourg and Ireland, in the course of 2009 as well as during the first six months of 2010.

3. The European Fund Classification (EFC)

The EFC Forum (EFCF) has established a single pan-European methodology for comparing funds that is both robust and transparent. The main goal was to establish a classification structure that all industry stakeholders can rely on to compare investment funds, thereby further enhancing the integrity of European investment funds. The aim is to classify and regularly monitor every investment fund available for sale in multiple jurisdictions.

The development of a pan-European classification structure has never been more important. UCITS are now recognised worldwide as well-regulated and transparent investment products, ideally suited for retail investors, and every effort that can be made to reinforce this core benefit will further strengthen the industry in its positioning within the long-term savings arena. The classification process is based on the underlying holdings of each fund, which enables comparison across all European jurisdictions and incorporates a system for regular monitoring of holdings.

In June 2010, the EFCF announced the appointment of Cora Gibbons, Head of Product Sales Support Group Market Management at Allianz Global Investors, to chair its ongoing development and expand its franchise across the various stakeholder communities.

In order to promote the EFC as the recognised and authoritative "gold standard" classification for cross-border fund comparison, EFAMA undertook a number of promotional actions in 2010, including the publication of an EFC Forum Briefing to keep all stakeholders informed of progress made on a regular basis, the adoption of an EFC logo and the launch of an active campaign to encourage widespread commitment to the classification. At the same time, EFAMA resumed a discussion with member associations about new initiatives that could be taken at national level to promote the adoption of the EFC throughout Europe.

Regarding the classification itself, it is important to highlight that the EFCF has adopted CESR's Guidelines on a common definition of European money market funds. Following that decision, the EFC Administrator started preparatory work to classify money market funds according to CESR's guidelines.

More than 12,000 fund share classes managed by 56 fund groups, including some of the largest European's asset management groups, were classified based on their end 2010 portfolio holdings.

4. Harmonisation of Settlement Cycles

In late 2009, EFAMA was invited to join the Harmonisation of Settlement Cycles Working Group (HSC WG), which had been set up at the initiative of the European Commission advisory group on post-trading issues (CESAME2) to analyse the pros and cons of harmonising securities settlement cycles. The HSC WG members include representatives from the European Commission and from the principal industry segments active in the post-trading area, including Exchanges (FESE), CCPs (EACH), CSDs (ECSDA), banks (AFME and EBF).

In early 2010 EFAMA conducted a survey among its members and found that asset managers were in favour of harmonising the settlement periods but had different views on the choice between T+2 and T+3.

Throughout 2010, the Working Group concentrated on three goals: identifying a list of pre-conditions that would need to be fulfilled for European markets to be able to move without undue additional cost or risk to a harmonised settlement cycle of T+2, determining prospects for steps towards a worldwide harmonisation of settlement cycles, and preparing a fully-fledged implementation and monitoring plan. Different subgroups were set up to work on this goal, with the active support of representatives from the European asset management industry. In the end, the Working Group confirmed that T+2 would be the right harmonised solution for European markets.

In the meantime, the European Commission announced its intention to launch a Consultation regarding future Central Securities Depository (CSD) legislation and the harmonisation of certain aspects of securities settlement, including settlement cycles. The HSC Working Group agreed to respond to the questions of the consultation paper relating to settlement, as a way to concluding its work on settlement cycles.

VI. Preserving the Integrity of the Industry

1. Strengthening Fund and Corporate Governance

As a consequence of the financial crises, Corporate Governance has become one of the most discussed issues and top priorities for the European legislator. Over the past years, the European Commission has identified significant weaknesses in the area of corporate governance in financial institutions which have, in its opinion, played an important role in contributing to the financial crises. Strengthening corporate governance has become a cornerstone of the European Commission's programme of financial market reform and crisis prevention.

In June 2010, the European Commission finally published a long awaited Green Paper on Corporate Governance in financial institutions and remuneration policies[60] accompanied by an extensive Commission Staff Working Document Corporate Governance in Financial Institutions: Lessons to be drawn from the current financial crisis, best practices[61].

Furthermore, the European Commission will most likely publish another Green Paper on Corporate Governance, this time its scope not limited to financial institutions, in spring 2011.

European Commission Green Paper on Corporate Governance in Financial Institutions and Remuneration Policies

In the Green Paper on Corporate Governance in financial institutions and remuneration policies[62], the European Commission sought to address weaknesses regarding the role and functioning of boards of directors, weak risk management and control mechanisms, identification and management of conflicts of interest within financial institutions, ineffective implementation of existing corporate governance principles, inadequate remuneration structures, questions around the role of shareholders and problems with the role of supervisory authorities and auditors.

EFAMA members considered the topics covered by the Green Paper from two perspectives. Firstly, the very broad definition of financial institutions employed by the European Commission in the Green Paper clearly included both asset managers and funds. Both the asset managers and the funds will be affected by any regulation following this Green Paper. Secondly, managing assets for investors, EFAMA members are major investors in other financial institutions which form part of the portfolio holdings.

EFAMA's response to the Green Paper was prepared by the EFAMA Fund and Governance Working Group over the summer holidays of 2010. The response clearly underlined that any future legislative proposal should not to be tailored to a "one-size-fits all" approach for all financial institutions. Instead, any regulation should take into account the business model of the financial institutions covered. Legislation applicable to asset managers should reflect the fundamental differences between the business model of the asset management industry and the banking and investment banking sector. Assets managers act as agents, managing the assets of their clients on behalf of the clients. Clients assets are segregated from the own

60 http://ec.europa.eu/internal_market/company/docs/modern/com2010_284_en.pdf

61 http://ec.europa.eu/internal_market/company/docs/modern/sec2010_669_en.pdf

62 http://ec.europa.eu/internal_market/company/docs/modern/com2010_284_en.pdf

assets of the asset manager and from other clients' assets and separately accounted for. There is no dealing on own account (balance sheet) performed by asset managers. Consequently, managing the clients' assets does not affect the own assets of the asset manager.

The European Commission published a Feedback Statement[63] shortly before Christmas. It draws the message from the responses received that the regulatory framework regarding corporate governance in financial institutions shall be improved and effective supervision enhanced. The Commission announced principle-based and proportionate proposals. In its Feedback Statement the Commission took note of the recent reform of internal governance in the asset management sector brought by "Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company"[64]. Nevertheless it announced in the Consultation Paper on the UCITS Depositary Function and on the UCITS Managers' Remuneration[65] that the conclusions of the Feedback Statement could be taken into consideration in the framework of corporate governance requirements for UCITS.

The European Parliament's Economic and Monetary Affairs Committee has also debated the Green Paper on Corporate Governance in Financial Institutions and remuneration policies and the adoption of a European Parliament Report is foreseen in the first half of 2011.

Legislative proposals by the European Commission on the topics covered in the Green Paper on Corporate Governance in Financial Institutions and remuneration policies can now be expected by the second or third quarter of 2011.

EFAMA Code for External Governance

EFAMA's Fund and Governance Working Group continued its work throughout the year 2010. The Working Group was originally set up in 2009[66] with the mandate to look into the existing governance standards, in particular the EFAMA Discussion Paper on "A Code of Conduct for the European Investment Management Industry" issued in 2006[67]. It was asked to advise EFAMA's Board of Directors on ways to strengthen fund and corporate governance to preserve the integrity of the industry and restore investor confidence.

Based on the original mandate by EFAMA's Board of Directors, the Working Group first compiled an important inventory of national and European sources of governance and regulation. It then agreed upon unified definitions of different aspects of Corporate Governance, distinguishing between Internal Corporate Governance (including organisational requirements for management companies and funds, conflicts of interest rules, rules regarding independent oversight[68] etc.) and External Corporate Governance (i.e. the role of fund managers in influencing corporate governance of listed and non-listed companies).

63 http://ec.europa.eu/internal_market/consultations/docs/2010/governance/feedback_statement_en.pdf

64 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:176:0042:0061:EN:PDF

65 http://ec.europa.eu/internal_market/consultations/docs/2010/ucits/consultation_paper_en.pdf

66 For further information regarding the creation and the mandate of this Working Group please refer to EFAMA Annual Report 2009, p. 42ff

67 http://www.efama.org/index.php?option=com_docman&task=doc_details&gid=150&Itemid=-99

68 Further details regarding the aspect of independent oversight are mentioned in the EFAMA Annual Report 2009, p. 43

The Working Group members were of the view that Internal Corporate Governance is already largely covered by the Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company[69], leaving very little room for additional rules that EFAMA could recommend on self-regulation.

In the area of External Corporate Governance, the Working Group considered that the EFAMA Discussion Paper on "A Code of Conduct for the European Investment Management Industry" of 2006[70] could be reviewed and updated, drawing lessons from the financial crises.

The Working Group used as starting point the 2006 EFAMA Code of Conduct and inspired itself from the UK "FRC Stewardship Code"[71] with which EFAMA was able to gain experience through participation in the FRC Stewardship Code Steering Committee. On the basis of this, EFAMA's Working Group prepared self-regulation in the form of an EFAMA Code for External Governance. The EFAMA Code for External Governance provides six high level principles and best practice recommendations regarding engagement between institutional investors and companies in which they invest significantly[72]. EFAMA's Code for External Governance is addressed to Investment Management Companies (IMC). Its six high level principles provide: IMC should have a documented policy available to the public on whether, and if so how, they exercise their ownership responsibilities; IMC should monitor their investee companies; IMC should establish clear guidelines on when and how they will intervene with investee companies to protect and enhance value; IMC should consider cooperating with other investors, where appropriate, having due regard to applicable rules on acting in concert; IMC should exercise their voting rights in a considered way; IMC should report on their exercise of ownership rights and voting activities and have a policy on external governance disclosure.

The EFAMA Code for External Governance shall provide a European wide standard which is neither designed to supersede applicable law and regulations nor to replace national self-regulation. It should instead allow mutual recognition of national codes which at least reflect its principles. EFAMA members should, if applicable, publicly confirm adherence to the EFAMA Code for External Governance or to their relevant national code.

EFAMA's Board of Directors adopted the EFAMA Code for External Governance in December 2010. Going forward, EFAMA association members agreed to promote the EFAMA Code for External Governance with their members. The EFAMA Code for External Governance will be presented to the European institutions and interested stakeholders throughout the year 2011.

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69 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:176:0042:0061:EN:PDF

70 http://www.efama.org/index.php?option=com_docman&task=doc_details&gid=150&Itemid=-99

71 http://www.frc.org.uk/images/uploaded/documents/UK%20Stewardship%20Code%20July%2020103.pdf

72 Please also refer to EFAMA Annual Report 2009, p. 43 ff "Shareholder activism"; the Principles in the EFAMA Code for External Governance have built upon and go beyond the concept of "Shareholder activism" as they promote a broader engagement between institutional investors and the investee companies

2. Responsible Investment

In the recently published Single Market Act[73] and on the occasion of meetings with EFAMA, the European Commission has shown a particular interest in Socially Responsible Investment (SRI) and in Environmental, Social and Governance issues (ESG). EFAMA's Board of Directors reacted to this interest by appointing a Working Group in autumn 2010.

The Working Group met frequently in the last quarter of 2010. It was established early on that EFAMA members prefer the term "Responsible Investment" or "RI" to the more commonly used SRI. RI indicates that the responsibility of investment managers goes beyond being socially responsible to encompass environmental responsibility as well as governance. The RI Working Group established that there is no universally accepted definition of RI. RI is an investment process or concept encompassing a wide variety of approaches. Since investors have different preferences in the field of RI, it is difficult to define universal RI standards other than transparency in reporting on RI, regarding investment processes and selection methods and regarding the composition of investors' investment portfolios.

The RI Working Group analysed recent developments in the area of RI, exchanged views with Eurosif[74] and conducted a survey of country specific developments on RI for a large number of countries. By the end of December 2010, the RI Working Group was about to finalise an EFAMA Report on Responsible Investment. In its report, the RI Working Group seeks to summarise its findings on recent and country specific developments. The report will detail EFAMA's position on RI and provide a list of suggested actions both for the EU institutions as well the industry regarding RI. It calls for transparency in reporting on RI to investors with the aim to allow investors to be able to better compare products promoted as RI products.

Work of the RI Working Group in finalising EFAMA's Report on Responsible Investment and on developing transparency standards for products promoted as RI products will continue throughout the year 2011.

3. Financial Education

In his action plan for the period 2009-2011, EFAMA's President defined Financial Education as one of his key priorities. This is the first time that EFAMA has placed this item at the top of its agenda, clearly recognising the significance of financial education. As a result, EFAMA's Board of Directors approved the creation of the Investor Education Working Group. Under the chairmanship of Charles Muller (ALFI, Luxembourg), the Working Group met twice during the year with the aim of analysing what EFAMA could reasonably contribute to the topic and also to come up with concrete proposals on the implementation of a comprehensive and affordable EFAMA-led education plan.

In September 2010, the first interim report was presented to EFAMA's Board, with the following "quick win" action points:

- Lobby authorities and collaborate with existing international and European initiatives;
- Support the Commission in its efforts to make financial education a compulsory item in global education, with a specific focus on retirement planning;

73 http://ec.europa.eu/internal_market/smact/index_en.htm

74 See www.eurosif.org

- Inform multipliers such as politicians and journalists that they should convey objective information to their audiences;
- Coordination and exchange of best practices. Some national associations already have investor education high on their priority list and excellent work is already being undertaken at a national level. It would be very useful to make other associations aware of these existing initiatives and let them participate in, or copy, the effort.

Many other, more ambitious and effective initiatives were discussed; however, each required resources that EFAMA at present cannot support financially. The Working Group therefore agreed that new and additional ways of financing should be explored, taking as a model, among others, the ICI Education Foundation. This however will require an in-depth study, as complex legal and fiscal issues need to be tackled.

In the meantime, the Working Group has been given the go-ahead on the four above-mentioned action points and has been encouraged to explore additional actions and financing options.

VII. EFAMA and its Members

EFAMA's profile has changed significantly over the past five years. Today, EFAMA speaks with a single voice for the whole of the European investment management industry, both at European and global level. This unified industry representation is based on a set of rules representing a fair balance of rights and decision-making aptitude between corporations and associations as well as between large and small associations.

Two aspects have been key over the past five years, i.e. the independency of national associations and the full integration of corporate members in EFAMA's working procedures. A third dimension was added in 2010 with the creation of associate membership as a new category of members.

1. Independency of National Associations is Key

Some national associations function under the umbrella of wider financial trade associations, creating potential conflicts of interest. The discussion initiated more than five years ago by EFAMA on the need for the creation of a level playing field for all saving products demonstrated the importance of the independency of EFAMA's member associations. Without this independence EFAMA would not have been in a position to drive the discussion forward against other very strong competing interests. The PRIPs file will be very illustrative in this context.

This is why EFAMA in 2009 amended its Rules of Procedure to make clear that:

- National Member Associations should be sufficiently independent to provide EFAMA with opinions reflecting the interest of the national investment management industry, and also when conflicting with the interests of other areas of the national financial industry;
- National Association Members should have decision-making bodies mandated to conduct independent budgetary and policy decisions representing the interests of the national investment management industry.

Only on such a basis is EFAMA strong enough to defend efficiently the interests of the European investment management industry.

2. Corporate Members: a Vital and Growing Part of EFAMA

Corporate members have become increasingly involved in the work of EFAMA since it first admitted direct corporate membership back in 2005. Today EFAMA's Working Groups benefit greatly from a significant participation of corporate members. The contribution of their practical knowledge is an asset and helps to take the pulse of the industry. From the association's point of view, one of its main goals has been reached: without the often highly technical input of its corporate members, EFAMA would not be in a position to deal as efficiently with the tremendous number of complex files the industry has to tackle.

Also, the close cooperation between EFAMA members broadens the industry's understanding of pan-European issues and intricate European regulatory procedures. In the past five years, EFAMA corporate members have gained a better understanding of the key role they play in the opinion-building exercise within EFAMA through:

- Active participation in all working groups and consultations;
- Three meetings a year held specifically for corporate members;
- Six weekly conference calls and permanent updates;
- Representation in EFAMA's institutional bodies, i.e. AGM, Board of Directors and Management Committee, and chairing of Working Groups.

Working on the further integration of its corporate members in the work of the association will continue to be at the top of EFAMA's agenda.

In July 2010, the Presidency launched a Europe-wide campaign to convince more asset management firms to join EFAMA as corporate members, thus strengthening EFAMA's representation and increasing its resources for Working Groups and input on technical matters. Meetings were organised in Geneva, Paris, Frankfurt and London to explain the current strategies, agenda and the vast number of issues dealt with at European level. Concurrently, an extensive and personalised mailing campaign was launched by the President to CEOs of asset management firms, inviting them to join EFAMA. As a result, the number of corporate members increased from forty-two in mid-July 2010 to fifty-five at the end of April 2011.

3. Associate Membership

In September 2010, an Extraordinary General Meeting of members extended EFAMA membership to a new category referred to as "Associate Members".

Associate members are companies, firms, associations and other organisations which do not qualify to become full members of EFAMA but are acting as service providers or major stakeholders of the fund industry and/or the asset management industry and have developed specific expertise in that field which may be helpful to achieve the objectives of EFAMA. Associate membership is open, among others, to national and international consulting, audit and law firms, IT and technology support providers, research firms, fund service providers, fund administrators, depositaries and global custodians, clearing and settlement institutions.

The Vice-President of EFAMA initiated an important mailing campaign targeting potential associate members, with excellent results: to date, seventeen associate members have been recruited.

Benefits of membership

The benefits of becoming an associate member of EFAMA are numerous. Associate members may attend EFAMA's general meetings (without voting rights). Furthermore, they are invited to the EFAMA Investment Management Forum. This is an annual two-day event organised in Brussels, where industry leaders, policy-makers and other stakeholders come together to exchange views and network in a high-level framework. Associate members are able to attend this event at a special rate and may apply to become speakers.

Associate members are also invited to the other seminars organised by EFAMA on a variety of topics. In the recent past, EFAMA hosted events on money market funds and on pensions and long-term savings.

In addition, associate members may be invited to participate in EFAMA Working Groups on a variety of topics of significance to the fund and asset management industry.

Last but not least, associate members receive EFAMA's regular statistics and similar information and reports, working papers relating to the work and findings of the EFAMA Working Groups as well as any other document of general interest provided to EFAMA members and posted on EFAMA's public website. Associate members also have access to specific sections of the members' restricted area on EFAMA's website.

4. The EFAMA Investment Management Forum 2010

The 16th EFAMA Investment Management Forum took place on 14-15 September 2010 in Brussels and brought together close to two hundred and fifty investment managers, supervisors and consultants from twenty-seven countries. Under the general title "*The Investment Management Industry: Beginning of a New Decade*", Day 1 of the conference focused on the consequences of the new regulatory architecture for asset managers and funds. Special attention was given to investor confidence and investor protection, by analysing the impact of new regulation on distribution and industry business models. PRIPs, depositary regulation and the Green Paper on Pensions all had their dedicated panels. Day 2 welcomed the new financial supervisory structure, ESMA for the asset management industry in particular. The far-reaching consequences of FATCA on European fund business were obviously at the centre of attention, and EFAMA clearly was asked by all present to remain in the leading role in this file. In the afternoon of Day 2 a special workshop led by Dechert LLP presented the highlights of the Dodd-Frank Act.

5. CIO Forum

Throughout 2010 EFAMA's CIO Forum continued to assist EFAMA, in particular regarding several initiatives aiming to contribute towards transparent and effective markets.

The CIO Forum was most often consulted regarding the PCS Initiative. This initiative was first presented by EFR (European Financial Services Round Table) in autumn 2009 as a market-led initiative aimed at revitalising the securitisation market. The final goal of the PCS Initiative is the establishment of a new market segment called Prime Collateralised Securities (PCS) which shall help the market to distinguish ABS with direct link to real economy and 1st quality collateral. PCS compliant issues will receive the PCS label by an independent PCS Secretariat if they meet strict criteria built around four main principles of quality, transparency, simplicity/standardisation and liquidity. The initiative is currently led by EFR and AFME/ESF in cooperation with EBF, EFAMA, CEA and EFRP while the ECB and EIB hold an observer status. Upon advice of the CIO Forum, EFAMA's Board of Directors decided that EFAMA should continue to cooperate and send one expert to the PCS Steering Committee. 2011 will show whether the PCS Initiative will lead to the incorporation of a PCS Secretariat and the successful issuance and placement of PCS under the label. All will depend on the ability of the participants to agree on and implement sufficient PCS criteria.

The CIO Forum further provided EFAMA with assistance when EFAMA was approached by Euribor-EBF, manager of the STEP (European Short Term Paper)[75] Secretariat regarding a buy-side representation in STEP Market Committee. Traditionally, the STEP Market Committee was composed of experts, mainly issuers and dealers, from different European countries, along with ECB and Banque de France as institutional observers. EBF-Euribor considered that a buy side representation in the STEP Market Committee would be beneficial. It approached EFAMA at the time of the signing of a new STEP Convention which allowed the enlargement of the STEP Market Committee by two new members. The CIO Forum was able to come forward quickly with the name of two industry experts who were successfully elected as members of the STEP Market Committee.

75 According to the STEP Secretariat, STEP had by November 2010 an outstanding amount of approximately €410 billion.

VIII. EFAMA on the Global Scene

1. Annual Joint Meeting with the ICI's International Committee

The joint meeting of EFAMA members and the ICI's International Committee takes place in Washington, D.C. once a year, directly before the ICI's General Membership Meeting in May. The aim is to intensify contacts between the European and the U.S. investment fund industries and to identify issues of mutual interest.

Over the past decade the meeting has developed from a forum serving to exchange views to an efficient instrument for analysing regulatory trends and sharing experiences.

The 2010 meeting was co-chaired by Liliane Corzo, Chair of the ICI's International Committee, and EFAMA's Director General, Peter De Proft, and the agenda included a number of key issues, e.g.:

- Regulatory agenda and priorities for funds and asset management;
- FATCA: implications for non-U.S. funds and managers;
- Money market funds;
- AIFMD;
- Financial regulatory and supervisory reform.

2. The 24th International Investment Funds Conference in Chile

The International Investment Funds Association (IIFA)[76] gathers thirty-five investment fund associations from across the world. Its 2010 Annual Meeting was hosted by the Chilean Mutual Fund Association and took place in mid-October in Viña del Mar, Chile.

Chaired by Peter De Proft, the conference focused on the fund industry in the various jurisdictions represented in the IIFA with special attention on emerging markets. The role of funds in retirement savings was at the heart of the discussions, as well as the value of advice, passive versus active management, disclosure of costs and risks, regulation, distribution and level playing field, and taxes impacting savings. As always, the dialogue with the IOSCO speaker, Patrice Bergé-Vincent, Chairman of IOSCO's Standing Committee 5, was very constructive and to the point.

The IIFA General Meeting which took place during the conference re-elected Peter De Proft as IIFA Chairman, which can be interpreted as a sign that the world investment fund industry is confident that EFAMA not only speaks for the European investment fund industry and acts as "guardian of the global UCITS brand" but – as global player – feels responsible for the global industry.

Participants felt that the globalisation of the financial markets and the G20's reaction to the financial crisis had strongly increased the pace of convergence of the problems the individual IIFA members were having to face. IIFA could act as a forum for analysis and exchange of views, leading to a more common approach

76 For more information see: www.iifa.ca

towards international supervisors such as IOSCO, going beyond the original, narrow role as a sole conference organiser.

A proposed framework for implementing a broader advocacy role by the IIFA, elaborated by the ICI, was discussed in-depth by the conference delegates and unanimously approved. The identification and development of IIFA policy positions for comment letters will be centralised in an executive committee of the Board. A policy secretariat responsible for following the direction of the executive committee will be established; the ICI volunteered to assume this role and an assessment will be made after two years.

3. The Wilton Park Conference

The Wilton Park Financial Markets Conference, co-sponsored for now five years by EFAMA, is developing into the main international cross-sector event for EFAMA. This event offers EFAMA members a unique possibility for discussing international financial market issues beyond asset management and meeting high-ranking people from other financial sectors, in particular banking, pension and exchanges not only from Europe but also from the U.S. and Asia.

The 2010 Conference held from 28-30 October was chaired by Daniel Zuberbühler, Vice-Chairman of FINMA, the Swiss Financial Market Supervisory Authority. It was aimed to analyse whether lessons from the 2008/2009 events were learned, to examine how new regulatory structures are implemented and whether we are moving towards regulatory convergence around the world from the U.S. to the EU and Asia.

The extremely high level speaker faculty included David Wright, Deputy Director General at the European Commission responsible for Internal Market and Services, Ethiopis Tafara, Director of International Affairs at the SEC in Washington, Anastassios Gabrielides, Chairman of CESR-Pol Standing Committee, Eleni Dendrinou-Louri, Deputy Governor of the Bank of Greece, Arnoud Vossem, Secretary General of CEBS and Jakko Syyrilä, Deputy Director General of EFAMA.

As usual, discussions, held under the Chatham House Rule, were very lively and extremely fruitful, offering much insight into the political thinking of the various national, pan-European and international bodies.

4. The EFAMA-ICI Industry Roundtable

With a view of intensifying relations with the ICI and raising the understanding of issues of mutual interest, EFAMA's Director General and the ICI's President and CEO, Paul Schott Stevens, agreed to complement the EFAMA-ICI joint May meeting by a meeting at the end of the year in Brussels. The second meeting of that nature was held on 2 December 2010 with a workshop on "*What's Ahead for Fund Managers and Investors*".

A very high level panel of speakers of the European Commission and the Chair of the Belgian regulator discussed several important topics:

- The role of funds and DC plans;
- The meaning of UCITS IV, AIFMD and ESMA for funds and managers;
- Money market funds;
- Governance and the role of funds as shareholders.

5. The IOSCO Agenda

IOSCO has an increasingly important role to facilitate cooperation and coordination of securities regulators' work in the aftermath of the financial crisis. EFAMA has continued to contribute to IOSCO's work. In 2010 we responded especially to the Consultation on principles of point of sales disclosure where we pointed out the need for a level playing field and that the regulators should not only discuss the disclosure of funds, but also other savings products. We also responded to the Consultation on guidance on the application of the 2004 CPSS-IOSCO Recommendations for Central Counterparties to OTC derivatives CCPs (CPSS-IOSCO).

6. EFAMA and European Organisations

European Parliament Financial Services Forum

As of 1 January 2010 EFAMA is a member of the European Parliament Financial Services Forum (EPFSF), a not-for-profit organisation, supported by a wide range of MEPs from most political groups.

The EPFSF is not a lobbying organisation. That is not its role. Moreover, the diversity of its membership means that it is not capable of advocating a position of its own. In order to guarantee its independence and neutrality, the Forum is administered and managed not by a lobbying group or a consultancy, but by its own dedicated Secretariat.

Interested Members of the European Parliament form a Steering Committee which reviews and oversees the Forum's role and programme of events. It reflects the EPFSF's priority objective of providing a service to MEPs which is best able to meet their needs.

The Forum is supported by a Financial Industry Committee which is broadly representative of the financial services industry in the EU. Its role is to make suggestions on the programme of events, to provide speakers, assist in the drafting of briefing papers and set the level of member contributions in order to finance the Forum's activities.

In addition, there is an Administrative Committee which is drawn from and elected by members of the Financial Industry Committee. It has the responsibility for liaising regularly with the Steering Committee, setting the agenda of meetings, managing the business of the Forum and deciding on applications for membership. EFAMA is a member of the Administrative Committee.

The principal objective of the EPFSF is to provide a forum for discussion on matters relevant to Europe's financial services industry and to enhance MEPs' understanding of the financial markets and their role within the wider community.

The value placed on the EPFSF lies in its diverse membership and its position as an acknowledged and reliable source of information, allowing debate and the issuance of impartial commentaries on key issues at the heart of the European legislative agenda. During its debates, all participants, including consumer representatives and other stakeholders, are entitled to voice their opinion. The briefing papers that are prepared in advance of the events are all published on the Forum's website and demonstrate its effort to be as neutral and informative as possible. Since the EPFSF benefits from members of the whole financial industry, which have different points of views, all positions are taken into account, thus helping to ensure neutrality.

EFAMA is an active participant in drafting the briefing documents and providing speakers for EPFSF events.

Other European Trade Organisations

Given the nature of its activities and topics covered, EFAMA has developed over the years active and open relationships with the other trade organisations from the financial industry such as EBF, CEA, EAPB, EFRP, ESBG, FESE, EVCA, Business Europe, etc. Views and documents are shared and discussed on a regular basis and the Director General's and staff have so-called "open lines".

At the same time, EFAMA is convinced that the asset management industry needs to be perceived as speaking with "one voice" in order to be considered as a valuable partner for legislators, regulators and other market stakeholders. For this reason, EFAMA has initiated a "Buy-Side Associations Group", composed of AMIC, FEAM, AIMA and IMMFA. These groups meet twice a year and share views at regular conference calls, trying to determine common positions on consultations or topics.

European Investment Fund Developments in 2010

Introduction

The European investment fund industry enjoyed strong growth in 2010, reaffirming the strength and sustainability of the recovery from the financial crisis, recording net assets surpassing 2007 levels. This came during a year in which Europe experienced an unprecedented sovereign debt crisis. Despite this crisis, the demand for investment funds remained strong, as evidenced by strong net sales. The success of the industry over the past year is the result of the following factors:

- Confidence in the global economic outlook continued to strengthen going into 2010 as stock markets emerged from the lows seen in 2009.
- Euro area sovereign debt crisis created market apprehension in the second quarter of 2010. However, confidence once again strengthened as wide-ranging policy actions were agreed to help the countries in difficulty and strengthen the euro area.
- Strong UCITS brand recognition, coupled with buoyant cross-border fund business and a wide range of fund choice, contributed also to the good results recorded by fund managers in 2010.

Overall, total net sales of UCITS and non-UCITS reached €335bn in 2010, compared to €195bn in 2009. This result was achieved despite net outflows of €126bn from money market funds, which suffered from very low short-term interest rates and strong competition from banks seeking to strengthen their balance sheets by increasing the share of deposits.

Thanks to the sustained demand for long-term funds and higher asset valuations, total European investment fund assets increased by 13.7% to €8,028bn, representing 60% of GDP[1] at end 2010, compared to 55% at end 2009. This indicator highlights the important role played by investment fund managers in the European economy: they act as managers of long-term savings, investors in the European financial markets, shareholders in European companies, providers of short-term funding for many European corporations and an important source of employment.

[1] Aggregated GDP of all EFAMA reporting countries.

Investment funds per inhabitant have increased on the back of strong growth and net sales in the industry in 2010 amounting to €14,000, equaling the level at end 2007 and considerably higher than the low of €10,700 recorded at end 2008 in the midst of the financial crisis.

Chart 1. Net Assets of European Investment Funds
(EUR billions)

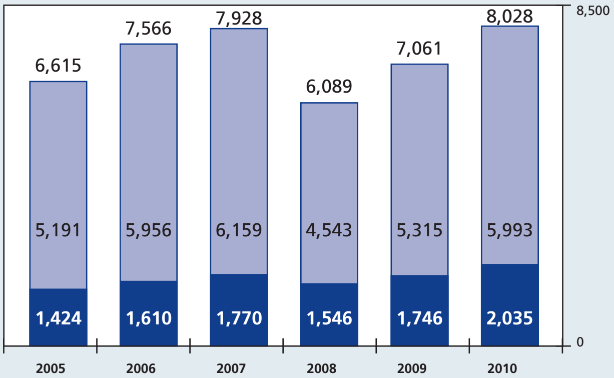
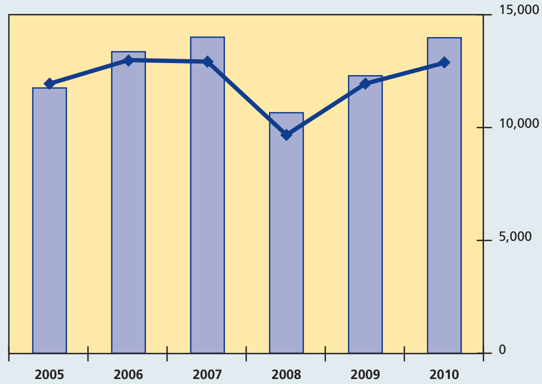


Chart 2. Trends in Investment Funds in Europe[(1)]

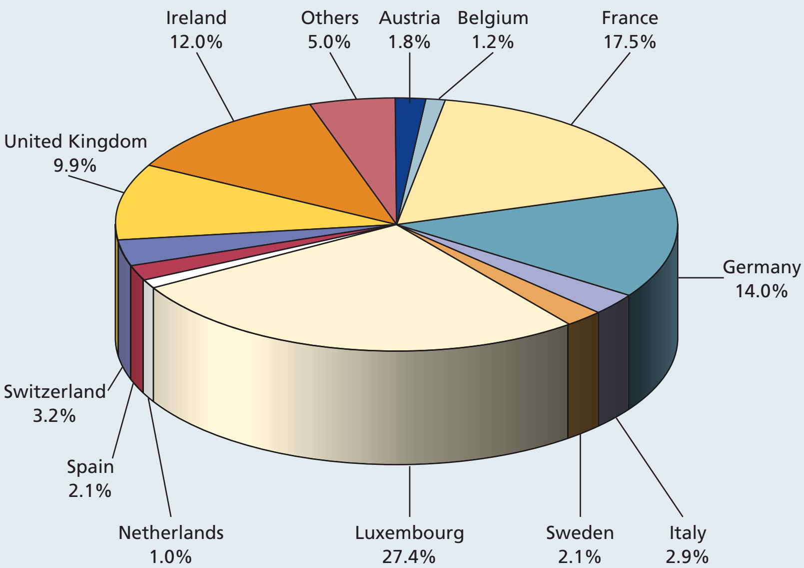


Source[2]: EFAMA, European Commission

(1) Aggregated GDP and population of all EFAMA reporting countries were used to prepare this chart.

Three countries – Luxembourg, France and Germany – held a cumulative share of 59% of the industry's assets at end 2010, down from 61% at end 2009. Ireland, the United Kingdom and Italy follow in this ranking (Chart 3).

Chart 3. The European Investment Fund Market
(Breakdown of nationally domiciled funds at end 2010)

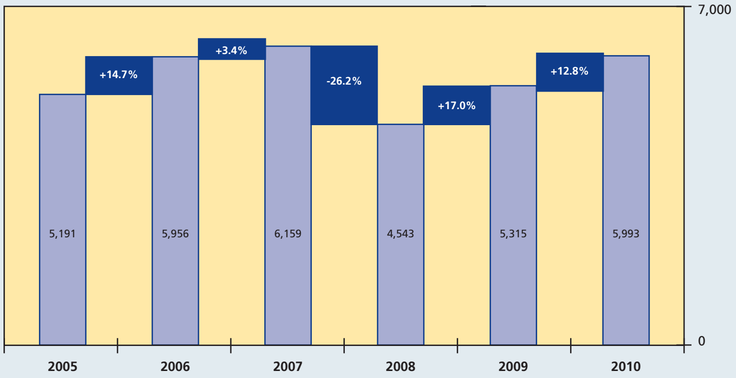


2 Except noted otherwise, EFAMA is the source of data.

Trends in the UCITS Industry

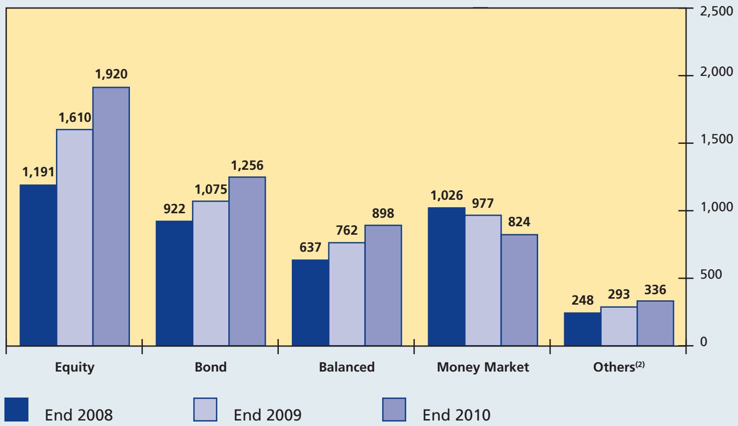
Total assets in the UCITS[3] market rose 12.8% in 2010 to stand at €5,993bn at year end. UCITS net assets have risen by 31.9% since the depths of the financial crisis at end 2008. However, net assets for UCITS remained just short of the level reached at end 2007 (Chart 4).

Chart 4. Trends in the UCITS Industry
(in EUR billions)



For the second year running, excluding money market funds, all UCITS categories grew in 2010 (Chart 5). Equity funds experienced the strongest increase climbing 19% (€310bn) during the year. Balanced and bond funds followed with an increase in assets of 18% and 17%, respectively. Other UCITS, which include funds of funds, funds of hedge funds and all funds whose strategy falls outside the four main UCITS categories, saw their assets increase by 15%. On the other hand, money market funds recorded an acceleration in asset reduction, declining 16%, reflecting net outflows (see below).

Chart 5. Net Assets by Type of UCITS[(1)]
(in EUR billions)



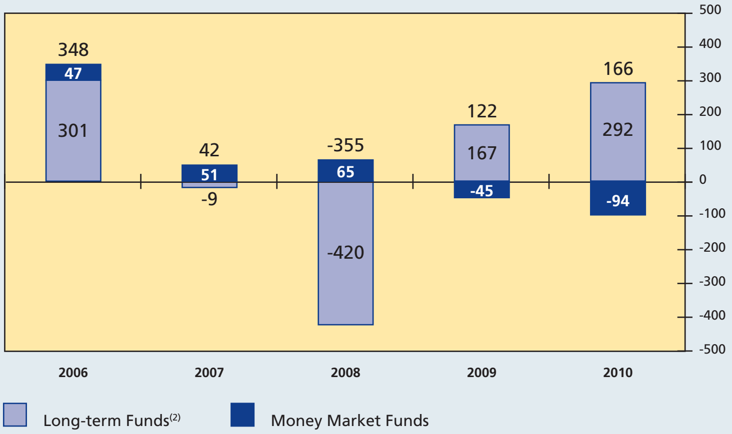
(1) Excluding Ireland for which no full asset breakdown by type of funds is available.

(2) Including funds of funds.

3 UCITS is defined in this section as publicly offered open-ended funds investing in transferable securities and money market funds.

UCITS enjoyed strong growth in net inflows in 2010 rising to €166bn. Long-term UCITS, i.e. UCITS excluding money market funds, registered net inflows of €292bn in 2010. Bond funds continued to enjoy the strongest inflows in 2010 (€88bn). Balanced and equity funds followed with net inflows of €59bn and €52bn, respectively. In contrast to the strong net inflows into long-term funds, investors withdrew €126bn from money market funds in 2010, significantly up from the €45bn they invested on net in 2009.

Chart 6. Net Inflows into UCITS(1)
(in EUR billions)



(1) Excluding Ireland 2006-2009.

(2) All UCITS excluding money market funds.

Chart 7a. Net Inflows into Equity Funds(1)
(in EUR billions)

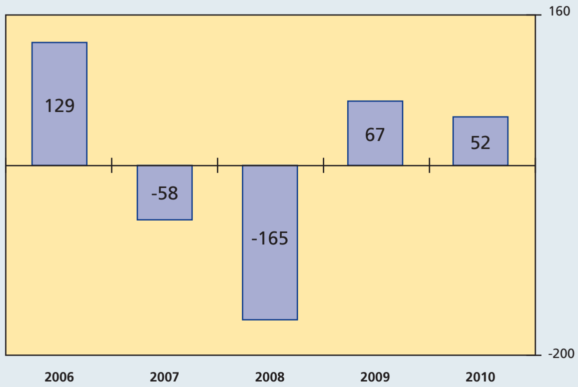


Chart 7b. Net Inflows into Bond Funds(1)
(in EUR billions)

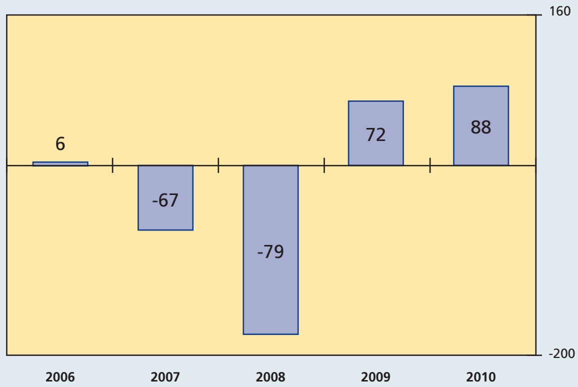


Chart 7c. Net Inflows into Balanced Funds(1)
(in EUR billions)

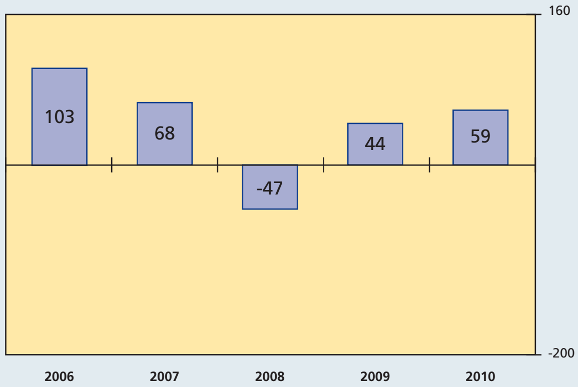


Chart 7d. Net Inflows into Money Market Funds(1)
(in EUR billions)

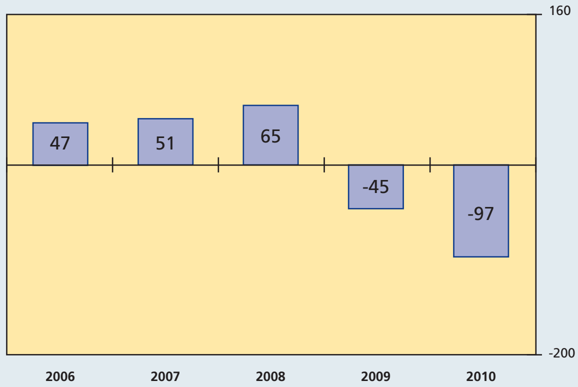
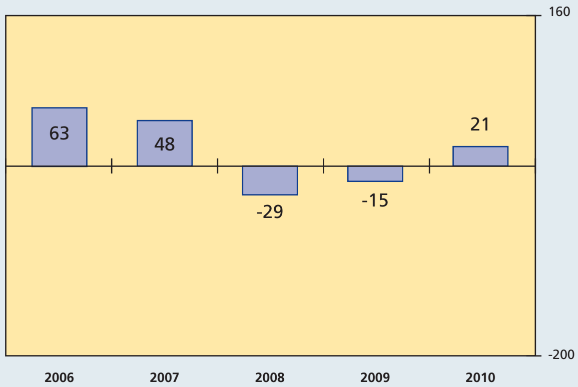


Chart 7e. Net Inflows to Other Funds(1)
(in EUR billions)



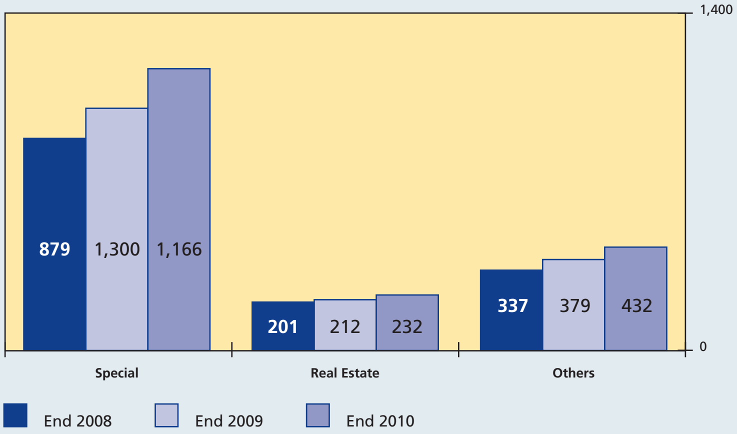
(1) Excluding Ireland due to non availability of data.

Trends in the Non-UCITS Industry

Total assets in non-UCITS increased by 16.6% to reach €2,035bn at end 2010. Special funds for institutional investors enjoyed the strongest growth (16%) thanks to net inflows and market appreciation. Overall special funds collected €129bn in new money in 2010, compared to €48bn in 2009. Inflows were concentrated in funds domiciled in Luxembourg and Germany.

Assets in real estate funds increased by 9% in 2009, whereas "other" non-UCITS assets rose by 14%.

Chart 8. Net Assets by Type of Non-UCITS(1)
(in EUR billions)



(1) Excluding Ireland.

Trends across Europe

Europe enjoyed net inflows into UCITS during 2010 totaling €166bn or 3.1% of UCITS assets at end 2009. Looking at net flows in the leading countries, UCITS domiciled in Luxembourg, Ireland and the United Kingdom attracted inflows amounting to €269bn or 5% of total UCITS net assets at end 2009. France experienced net outflows of €85bn or 6.8% of its 2009 UCITS assets, due primarily to large outflows from money market funds.

In Southern Europe, Spain and Italy continued to suffer net outflows in 2010 amounting to €24bn and €23bn respectively. These flows represented approximately 12.6% (Spain) and 11.6% (Italy) of UCITS assets at end 2009.

Elsewhere, net inflows in relation to UCITS assets at end 2009 varied significantly across the continent from 53% in Romania to outflows of 25% in Portugal. Net inflows totalled 22% in Bulgaria and 14% in Turkey. On the other hand, outflows were also experienced in Austria (3%) and Greece (11.9%) in 2010.

Net Inflows to UCITS in 2010

Country	Net Inflows (in EUR bn)	Country	Net Inflows (in % of end 2009 assets)
Europe	166.1	Romania	53.2%
Luxembourg	114.1	Bulgaria	22.0%
Ireland	100.7	Ireland	16.9%
United Kingdom	54.6	Turkey	14.0%
Germany	10.4	United Kingdom	10.1%
Sweden	7.3	Hungary	7.7%
Denmark	3.8	Luxembourg	7.2%
Norway	3.5	Norway	7.0%
Switzerland	3.2	Slovakia	6.7%
Turkey	1.9	Denmark	6.5%
Poland	1.0	Poland	6.0%
Hungary	0.6	Sweden	5.9%
Finland	0.6	Germany	4.7%
Romania	0.4	Europe	3.1%
Liechtenstein	0.2	Switzerland	2.7%
Slovakia	0.2	Czech Republic	1.8%
Netherlands(1)	0.2	Finland	1.3%
Czech Republic	0.1	Liechtenstein	1.1%
Bulgaria	0.0	Slovenia	0.9%
Slovenia	0.0	Netherlands(1)	0.3%
Greece	-1.1	Austria	-2.5%
Austria	-2.1	France	-6.8%
Portugal	-2.9	Italy	-11.6%
Italy	-22.5	Greece	-11.9%
Spain	-23.5	Spain	-12.6%
France	-84.7	Portugal	-25.3%

(1) 2010 data includes Q3 & Q4 net sales data only.

Strong asset growth was recorded amongst many of the fund industry's leading countries with growth reaching 29% in Ireland, followed by the UK (24%), Luxembourg (19%) and Germany (10)%. France saw a slight decline in net assets of 1%. Switzerland witnessed strong growth of 60% in 2010, however, this was mostly due to an increase in the universe of reported data, and a 16% appreciation of the Swiss Franc during the year.

The Nordic countries continued to enjoy strong asset growth, with net assets in Sweden increasing 31%, Norway (27%), Denmark (24%) and Finland (13%). Asset growth in Sweden and Norway benefited from the appreciation of the Swedish Krona and the Norwegian Krone vis-à-vis the Euro (13% and 6% respectively).

In Central Europe, UCITS asset growth was also above average in Bulgaria (28%), Poland (27%) and Romania (15%).

Net Assets of Nationally Domiciled UCITS and Non-UCITS (EUR billions, at end 2010)

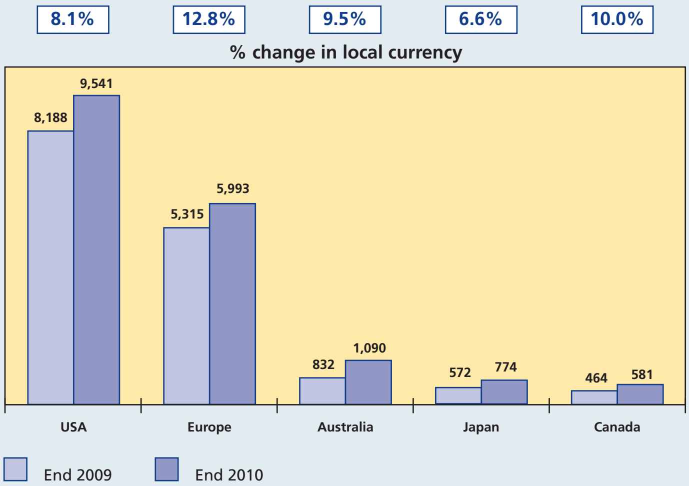
Members	Total Assets	% chg[1]	UCITS Assets	% chg[1]
Luxembourg	2,199.0	19.4%	1,880.6	18.1%
France	1,401.6	-1.4%	1,210.3	-3.4%
Germany	1,125.9	10.4%	249.7	13.1%
Ireland	963.3	28.7%	758.5	27.0%
United Kingdom	794.0	24.4%	675.4	24.9%
Switzerland	253.2	59.8%	196.0	65.9%
Italy	232.1	-10.0%	175.4	-9.6%
Spain	169.6	-12.8%	162.3	-13.3%
Sweden	166.1	31.4%	162.4	31.5%
Austria	147.6	6.5%	84.6	2.6%
Denmark	135.4	23.6%	67.6	16.4%
Belgium	97.2	0.3%	91.1	-0.2%
Netherlands	78.1	-1.2%	64.3	-3.0%
Norway	63.2	26.7%	63.2	26.7%
Finland	61.5	13.4%	53.3	12.4%
Liechtenstein	31.1	26.4%	26.8	20.2%
Poland	28.8	27.3%	19.2	21.1%
Portugal	25.8	-9.4%	8.8	-24.3%
Turkey	17.6	7.9%	14.6	5.7%
Hungary	13.5	22.3%	9.4	12.0%
Greece	9.1	-11.2%	7.0	-23.3%
Czech Republic	4.9	10.3%	4.8	9.8%
Slovakia	3.8	10.1%	3.5	8.8%
Romania	3.0	14.7%	1.3	62.7%
Slovenia	2.3	0.6%	2.0	9.2%
Bulgaria	0.2	27.8%	0.2	27.9%
Total	**8,027.7**	**13.7%**	**5,992.5**	**12.7%**

[1] End 2010 compared to end 2009.

Trends in Worldwide Investment Fund Assets

Worldwide investment fund[4] assets under management increased by 16% in 2010 to €18,484bn. Measured in U.S. dollar terms, fund assets increased by 3% to $23,696bn. Measured in Euro and taking into account funds of funds, U.S. mutual fund assets rose by 17% (Chart 9). The other markets in the world also showed positive growth with a 35% increase in Japan, followed by a 31% increase in Australia, reflecting a significant exposure in equity funds and other funds assets.

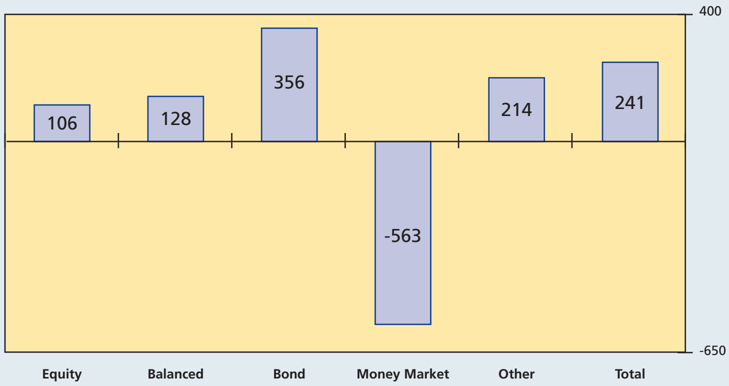
Chart 9. Trends in Worldwide Investment Fund Assets
(in EUR billions)



Source: EFAMA, ICI.

Worldwide net inflows into investment funds reached €241bn in 2010, compared to net inflows of €285bn in 2009. The composition of flows was considerably different. Long-term funds had net inflows of €804 billion in 2010, compared to net inflows of €730 billion in 2009. Money market funds had net outflows of €563 billion in 2010, compared to net outflows of €444 billion in 2009.

Chart 10. Net Cash Inflows to Worldwide Investment Funds in 2010[(1)]
(in EUR billions)

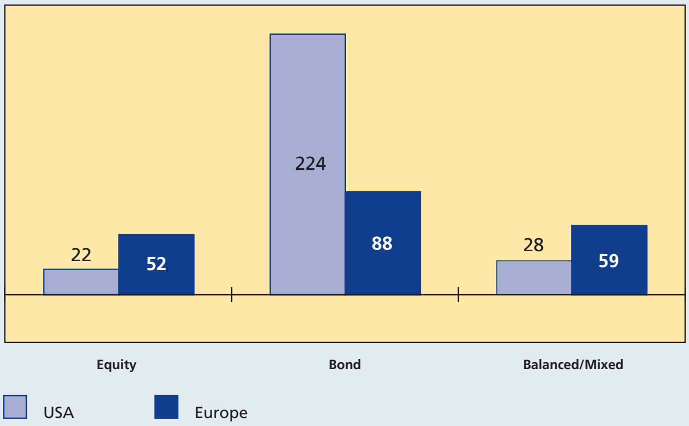


[(1)] Excluding Ireland – Source: EFAMA, ICI.

4 In the sense of publicly offered open-ended funds, i.e. UCITS in Europe and mutual funds in the United States, including funds of funds.

Comparing net flows between the U.S. and Europe (Charts 11 & 12), it is interesting to note that equity funds in the U.S. experienced net inflows of €22bn in 2010, compared to net inflows of €52bn in Europe. Flows into U.S. bond funds (€244bn) represented 69% of the total worldwide inflows (€356bn). European bond funds collected €88bn in 2010.

Chart 11. Net Inflows to Investment Funds[(1)]
(in EUR billions)

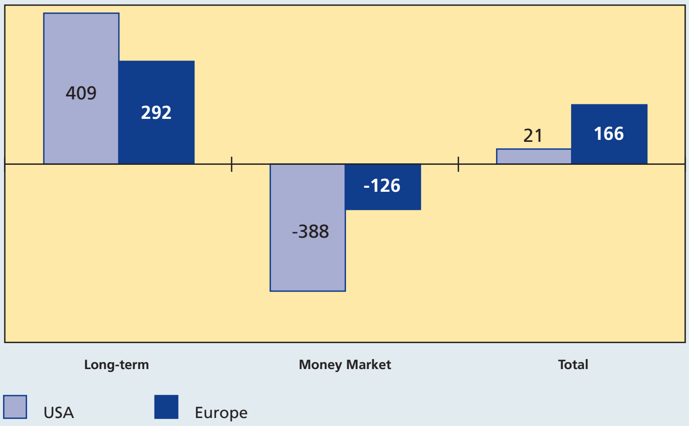


[(1)] Excluding Ireland.

Source: EFAMA, ICI.

Net inflows into long-term UCITS totaled €292bn in 2010, compared to inflows of €409bn in the U.S. Money market funds suffered €388bn of outflows in the U.S., whereas outflows in Europe reached €126bn. Total net inflows into European investment funds amounted to €166bn in 2010, considerably higher than the net inflows of €21bn recorded in the U.S. over the same period.

Chart 12. Net Inflows to Investment Funds[(1)]
(in EUR billions)

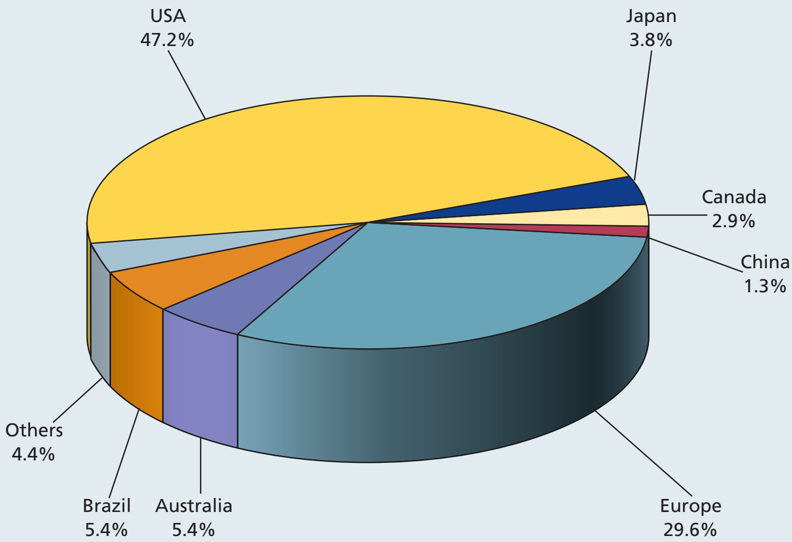


[(1)] Including Ireland.

Source: EFAMA, ICI.

Looking at the worldwide distribution of investment fund assets, the United States and Europe held the largest share in the world market, with 47.2% and 29.6% respectively at the end of 2010. Australia, Brazil, Japan, Canada and China followed in this ranking. Taking into account non-UCITS assets, the market share of Europe reached 36.1%, compared to 42.9% for the United States (Chart 13).

Chart 13. Worldwide Investment Fund Assets
(Market share at end of 2010 Q4)



Taking into account non-UCITS.

Source: EFAMA, ICI.

EFAMA Membership

National Associations

– 66 –

Associate Members

– 80 –

Corporate Members

– 75 –

National Associations

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VÖIG

Vereinigung Österreichischer Investmentgesellschaften

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Secretary General: Mag. Dietmar Rupar

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Web site: http://www.voeig.at

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Belgische Vereniging van Asset Managers

Association Belge des Asset Managers

Belgian Asset Managers Association

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Vice-Chairman: new vice-chairman to be announced after June 7th, 2011

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BAAMC

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Chief Secretary: Evgeny Jichev

Chairman of the International Relations Committee: Daniel Ganev

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Asociace pro kapitálový trh České republiky

Czech Capital Market Association

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Vice-Chairman: Radek Urban

Executive Director: Jana Michalíková

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Chair of the International Affairs Commission : François Delooz
Director General: Pierre Bollon
Director, Head of International Affairs Division: Stéphane Janin
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GERMANY

BVI

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German Association of Investment and Asset Management Companies

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Director General: Stefan Seip
Managing Directors: Thomas Richter, Rudolf Siebel
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GREECE

E.T.H.E.

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Association of Hungarian Investment Fund and Asset Management Companies

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ITALY

ASSOGESTIONI
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Italian Association of Investment Management

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LIECHTENSTEIN

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Association of the Luxembourg Fund Industry

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Deputy Director General: Charles Muller

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Verdipapirfondenes Forening

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Observer

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www.axa-im.com

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Web site: http://www.bcv.ch/am

Banque Privée Edmond de Rothschild SA
Tel.: + 41 22 818 9708
Web site: http://www.lcf-rothschild.ch

BBVA Asset Management
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E-mail: BLK-GovtRelations@blackrock.com
Web site: http://www.blackrock.com

BNP Paribas Investment Partners
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Tel.: + 33 1 58 97 2525
Web site: http://www.bnpparibas-ip.com

BNY Mellon
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Tel.: + 32 2 545 8111
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Web site: http://www.carmignac.com

Credit Suisse AG
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https://www.credit-suisse.com

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Route d'Arlon 136, 1150 Luxembourg (Luxembourg)
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BE: Tel.: +32 2 222 11 11;
LUX: Tel.: +352 27 97 1
E-mail: investor.support-dam@dexia.com
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DWS Investment GmbH
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E-mail: info@dws.de
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