

2018

Annual Report



efama

European Fund and Asset Management Association

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President's Statement

When I took over the Presidency from Stefan Bichsel at our General Meeting last June, I pledged to support EFAMA's long-term strategic goals and I pinpointed two immediate priorities for the year 2007:

- ▶ to support the Commission in the implementation of the measures proposed in its March 2007 UCITS IV Exposure Draft;
- ▶ to find a Director General to succeed to Steffen Matthias who will be retiring in a not too distant future.

The first priority has not progressed much over the past twelve months - not for lack of tremendous support from the industry, I hasten to add. (For more details, please see the following activity report.)

The second priority, on the other hand, was successfully accomplished: Peter De Proft took over EFAMA's secretariat from Steffen Matthias in January 2008. Steffen, who set up and was in charge of the secretariat since 1990, will continue serving EFAMA as Senior Advisor.

Finding a successor to Steffen was the first big challenge in my new capacity as President. I am very happy that we convinced Peter to take over this responsibility. Peter has a considerable wealth of experience as asset manager in product development and distribution. He was previously also the Chairman of our Belgian member association, BEAMA, and he is well known to EFAMA members. I am certain that Peter will bring additional know-how to the secretariat, strengthen it in challenging times and lead EFAMA towards a successful future, underlining its role as opinion leader and voice of the European investment management industry. I know that Steffen will support Peter as much as possible in order to ensure the transition will take place smoothly and under the best conditions.

I would like to take this opportunity to thank Steffen for his outstanding work in the past eighteen years for the European fund and asset management industry, establishing a powerful industry representation in Brussels.

Besides these developments in EFAMA's leadership, its agenda will not change in 2008 and its main areas of activity will continue to focus on four strategic goals:

- ▶ the realisation of a real Single Market for investment management including the creation of a level playing field in substitute and competing products;
- ▶ the realisation of the Commission's "UCITS IV Efficiency Package" to increase the global competitiveness of the European investment funds industry;
- ▶ to continue promoting investment funds as ideal pension vehicles for both the savings and the payout phases;
- ▶ to continue our work on technical industry standards in fund processing and fund categorisation to increase the efficiency of the industry.

Another issue to be added to this list is the translation into daily practice of the lessons learned from last year's subprime and liquidity crisis.

I realise of course that regarding all these issues, the most challenging task for me will be - as was the case for my predecessors - to bring the various national or corporate initiatives under a common denominator to enable the industry to cope more efficiently with the upcoming challenges by adopting strong common views.

All this will demand a high level of collaboration and understanding from our members (national associations and corporate members) as well as continued strong dedication from EFAMA's secretariat.

I would like to thank all EFAMA members, in particular my colleagues on EFAMA's Board of Directors, for their collaboration, understanding and contribution towards EFAMA's work in various working groups and committees in 2007. I would also like to thank the secretariat for its excellent work, the preparation of numerous meetings and, in particular, the drafting of strong statements and position papers.

Mathias Bauer - President
May 2008





Director General's Statement

The turbulent environment in the financial markets certainly pumped a healthy dose of adrenaline into the interesting position of Director General of EFAMA which I took up in October of last year. Taking over effectively since 1 January from Steffen Matthias proves to be both a challenge and an honour: challenging because of the complex environment, e.g. the liquidity crisis, the net outflows during the past quarters or the uncertainty over the UCITS Efficiency Package. An honour because I find EFAMA to be a well-functioning, interesting organisation with an outstanding reputation, capable of facing these challenges. The merits are to the credit of Steffen Matthias who for the past eighteen years has been the driving force behind, and gatekeeper of, the fund industry.

Steffen Matthias was appointed as EFAMA's first permanent Secretary General at the General Meeting of 9 November 1990 in Venice. His appointment coincided with the enlargement of the organisation's membership when Austria and Sweden joined as first non-EEC Member States.

Before the appointment of a permanent Secretary General, the then "European Federation of Investment Funds and Companies (EFIFC)" (later better known under its French acronym "FEFSI" and subsequently renamed in 2005 as the "European Fund and Asset Management Association – EFAMA") operated on a rotating basis with a national association assuming the presidency and secretariat of the Federation. The last "rotating" Secretary General was Guido Cammarano under the Italian Presidency of Giorgio Forti.

Steffen Matthias set up EFAMA's headquartes in Brussels, which were officially inaugurated in February 1991. There were twelve members at the time, i.e. ten national associations (Austria, Belgium, Denmark, France, Germany, Italy, Luxembourg, Spain, Sweden and the United Kingdom) and two direct members (Robeco of the Netherlands and the Investment Bank of Ireland), managing 9,100 investment funds with about ECU 700 billion under management. The unchallenged market leader was France holding nearly 50% of the market. The Secretariat's staff was made up by Steffen Matthias and one secretary and the budget for 1991 amounted to BEF9.2 million.

Over the years and twelve Presidents later (Kai Preskou, Peter Hemme, Marc Bayot, Patrick Zurstrassen, Mariano Rabadan, Julian Tregoning, Georg Festetics, Alain Leclair, Kajsa Lindståhl, Wolfgang Mansfeld, Stefan Bichsel and Mathias Bauer), both the European investment fund industry and EFAMA have undergone major changes, as is illustrated by this report.

Two stabilizing factors were omnipresent during those nearly twenty years: the Secretary General of the European fund association, Steffen Matthias, and the discussion about the UCITS Directive. Indeed, in the summer of 1991, the European Commission opened the discussion about a modernization of the Directive. EFAMA's chief argumentation: Open-Ended Real Estate Funds (OEREFs) must be included. The discussion has never stopped since.

On behalf of all EFAMA's members and its staff, I would like to thank Steffen for these achievements and successes which he has been able to realise for the benefit of the fund and asset management industry.

It will be a privilege for me to rely on Steffen's experience and historical perspective to take on as a team the upcoming challenges in our industry.

Peter De Proft - Director General

May 2008



Activity Report 2007/08

EFAMA's achievements in 2007 and the first four months of 2008 were accomplished in its overall mission to:

- ▶ support a high level of investor protection;
- ▶ promote the completion of an effective Single Market for investment management including the creation of a level playing field for competing savings and investment products; and to
- ▶ strengthen efficiency and competitiveness of the industry.

But by far, the most striking feature in 2007 was the so-called "liquidity crisis". Its impact on the European asset management industry is reviewed below.

1. The Impact of the Liquidity and Credit Market Turmoil on the European Asset Management Industry in 2007

The 'subprime' or credit market crisis that affected the world's markets in the middle of the summer of 2007 had a major impact on the entire financial services industry. The depreciation and temporary illiquidity of some asset-backed securities, exposed to the risky U.S. mortgage market and its "subprime lenders", created a crisis of confidence which extended to other types of securities to include less risky instruments such as investment grade corporate bonds, especially those issued by the financial sector. While credit institutions have proven to be the most exposed market players, the asset management industry has not been unaffected. The closure of funds by renowned asset managers in the course of August has been one of its most visible consequences, but the scope of its impact deserves being analysed and presented in further detail.

Impact of the Credit Market Crisis on Asset Management Companies

Management companies are rather immune from the direct consequences of the liquidity crisis, unlike credit institutions, whose balance sheet is directly exposed to the risks deriving from the credit crisis. In the case of asset management entities, management companies do not trade for their own account, and the market/financial risks are ultimately carried by shareholders of the fund, as the management company does not provide any guarantee in terms of performance nor liquidity. Management companies are at risk only under exceptional circumstances (misselling, operational mistakes...), which would make them liable for the losses incurred by their clients.

Rather than having a direct impact on the asset managers' balance sheets, the crisis has had two main indirect impacts:

- ▶ Firstly on revenues: recent market conditions have generated outflows in the second half of 2007, from bond funds (€78 billion), equity funds (€46 billion) and money market funds (€32 billion). The exceptional combination of adverse circumstances led to this outcome. On the one hand, the prolonged volatility in stock markets led to outflows from equity funds. On the other hand, the credit/liquidity crisis and growing inflationary pressures sapped investor

confidence in fixed-income funds. As a result, bond and money market funds did not take over from equity funds in what is their typical supportive role in periods of stock market volatility.

In any business model where fees are paid as a percentage of the total amount of assets, a reduction in the level of assets will subsequently lead to a reduction in fees, as has been the case in the fund servicing business. This reduction in fees -- albeit relatively modest -- puts financial pressure on a firm. However, this has, in general, been more than offset by an increase in the level of assets for the year 2007. For the year as a whole, total net sales of UCITS reached €168 billion, and total fund assets (UCITS and non-UCITS together) rose by 4.8% between end 2006 and end December 2007 or €360 billion to reach €7,924 billion.

- Secondly on operational procedures: the liquidity/credit crisis has posed a number of operational challenges that are explained further.

EFAMA has carried out twice an in-depth survey of its members to have a comprehensive and up-to-date overview of the impact on the industry: one at the end of November 2007, the other at the beginning of April 2008.

The surveys revealed some interesting results regarding the impact on the fund industry. The main conclusions from the surveys can be summarized as follows:

1. Fund Closures

- Very few funds have been closed: 4;
- Few funds temporarily suspended redemptions: 12, of which 4 reopened;
- Few funds temporarily stopped distribution;
- Type of funds affected: ABS and enhanced money market funds;
- Type of investors affected: mostly institutions and HNWIs.

- ## 2. Returns from money market funds
- were negatively affected, both from a decline in asset prices and from a shift into less risky assets. Regarding the decisions taken because of illiquid assets, (to close the fund, suspend redemptions or keep the fund open), they varied because of the differences in the following factors: pricing mechanisms (mark to market, mark to model, mark to matrix, etc.), types of instruments held (ABS, commercial paper, etc.), percentage of illiquid assets, different redemption levels, different availability of prices to the fund (from broker/dealers, from realized trades, from third party price providers).

Net Sales of UCITS in 3rd and 4th Quarters 2007

(EUR billions)

	Equity	Bond	Balanced	MM	Other
Europe ⁽¹⁾	-46.2	-78.2	11.7	-32.5	45.8
France	-6.7	-27.0	-16.5	-55.6	-0.4
Germany	-1.5	-3.2	2.3	-6.4	0.7
Italy	-8.4	-14.4	-9.1	4.5	0
Luxembourg ⁽²⁾	-10.9	-26.1	30.0	22.0	42.9

(1) Excluding Ireland, for which no net sales data are available.

(2) Net sales of non-UCITS are included in "Other" funds.

3. Regulatory Actions

- ▶ Frequent requests for information from, and informal dialogue with, supervisory authorities;
- ▶ Topics covered general effects, liquidity, exposure, flows, valuation methods, injections/support/loans to cover redemptions, risk management;
- ▶ Formal survey was initiated in two countries;
- ▶ In one country the closure required approval from the regulator;
- ▶ In one country the authorities investigated whether actions taken by fund managers were compliant with regulation on prudent business policy, investor protection and other regulatory requirements. (They have developed guidelines on ABS investing by funds, covering prospectus transparency, liquidity and risk management.);
- ▶ The large majority of regulators did not take any action.

Some Key Challenges Have Arisen for the Industry

The asset management industry has had to face a number of key challenges highlighted by the crisis. As Commissioner McCreevy pointed out, "the financial turbulence of the past four months has provided salutary lessons for everyone involved in global financial markets. It is especially – indeed sometimes only – in turbulent times that regulation and its effectiveness get tested. [...] There are lessons for us all."¹

¹ Charlie McCreevy, European Commissioner for Internal Market and Services – Wachovia Bank International – Official Opening, Dublin, 26 October 2007

Operational and Investment Challenges

- ▶ As a result of the turmoil, funds have raised liquidity levels. They have also started a review of pricing sources and their pricing committees have met more frequently and scrutinized much more carefully available prices, as well as valuation methodologies in general and value-at-risk models. Another area of scrutiny has been counterparty risk and the management of collateral. Within the fund's investment policy, there has been a shift to less risky assets wherever possible and appropriate.
- ▶ Valuation rules and procedures: there is a need for accurate pricing of assets in all market conditions. Against this background, valuation methodologies have been actively reviewed in a number of countries. Numerous initiatives have also been taken at firm level, for instance, the adoption of the rule that under exceptional circumstances, such as intense market volatility, close monitoring by the investment adviser and the fund's board of directors (or audit committee) should take place to confirm the validity of the fair valuation model under such specific circumstances.
- ▶ Reporting to unitholders: improved transparency in terms of the nature of the underlying assets that constitute the portfolio of the UCITS.
- ▶ Operational challenges, notably in relation to depositary activities: the crisis made more acute the operational stress that can arise from fund activity and the need for a well-defined framework between the asset manager and the depositary, as well as the need for depositary institutions to adjust their service to the new nature of complex instruments in which UCITS can invest.
- ▶ Fund suspension of redemptions and fund closure: the circumstances under which a fund could be suspended could be further reviewed. The industry should keep in sight the overall need to manage investors' expectations and act in the best interest of all investors (i.e. maintain liquidity and provide appropriate disclosure to investors), both existing and prospective. The management of liquidity is key and is a competitive advantage of UCITS vehicles vs. other funds, such as hedge funds or other types of vehicles (SIV, notes, SPV...). In the context of a liquidity crisis, the equal treatment of shareholders is a key challenge.
- ▶ Fund naming and classification: fund naming and categorisation is a potential issue as the name of the fund does not always reflect the investment strategy and risks that are inherent to the product. Investors may not be aware of all risks related to products. The naming practices could be further analysed by the industry. In terms of fund classification, the adequacy of official classifications and those of institutes was also challenged. It is for the industry to address such issues in conjunction with rating agencies and the press.
- ▶ Communication: to a large extent, crisis communication issues highlighted the need for the industry to respond appropriately in order to avoid a wider impact on its reputation.

- Fair competition, as challenged in the case of the support or liquidity injections provided by fund promoters or related entities who wish to provide financial support to their money market funds in the event that valuation or liquidity issues arise within those funds. This financial support may take a number of forms to address the absence of liquidity and meet liabilities.
- Is there a new role that could be played by rating agencies (as in fund rating and fund performance classification)? In order to restore trust, they should take effective corrective action that strengthens confidence in their governance.
- The role of regulators: further consideration can be given to the role regulators can play in a volatile environment, and their expectations in terms of risk management procedures and expectations in terms of valuation. In addition, regulators could play a role regarding the level of information they ask funds to provide on the risks inherent to products.

Responding to the Challenges

Recognizing and reflecting the issues raised for the fund and asset management industry two initiatives are being pursued by EFAMA. First, the creation of a guidance for classification for money market funds. And second, EFAMA will issue a practice note as to guidance on fund valuation.

The Guidance for Classification for Money Market Funds

Rational for the creation of a guidance for classification

The “subprime” or credit market crisis of the past summer evolved in a general liquidity crisis impacting the fund industry. Several “dynamic” or “enhanced” money market funds - exposed to instruments that became illiquid - were directly impacted, which had a contagion effect on the money market funds’ universe. This is a major challenge for the fund industry, notably due to the size of the asset class and its economic significance (representing more than 15% of UCITS’ assets²).

In light of these recent events, there is an opportunity for the industry to highlight to investors the strengths and benefits of money market funds, notably in comparison to other types of funds or competing investment solutions. To that extent and in parallel to the “technical” initiatives taken by EFAMA to respond to the consequences of the liquidity crisis - such as the clarification of valuation rules and procedures -, the setting of an industry Guidance for Classification for Money Market Funds (MMFs) is a key initiative for the industry to re-position money market funds. The crisis highlighted in particular the absence of a recognised definition for MMFs across Europe - except the definition from IMMFA³ for stable value money market funds - and the need to define

2 €1.2bn at the end of 2007 out of a total UCITS market size of €6.2tn. The main domiciles for MMF are France (€430bn), Ireland (about €350bn) and Luxembourg (€262bn).

3 Institutional Money Market Fund Association - www.immfa.org – which represents promoters of, and providers of services to, triple A rated constant and accumulating NAV money market funds domiciled in the EU (and in the Channel Islands and Switzerland).

clear concepts. Currently in Europe there is no regulation similar to that in the USA to restrict the use of the name to certain types of funds.⁴

Purpose

The guidance for classification for money market funds proposed by EFAMA would be a guideline for asset management professionals in Europe as well as a reference for the performance measurement organisations. The setting of a guidance implies a commitment from the industry and their service providers to adhere to a list of agreed steps.

This guidance will complement the existing Code of Conduct of EFAMA. They will notably aim to provide:

- ▶ A better definition of what should be labelled as a Money Market Fund: the future classifications for MMF will need to be stricter than the existing ones and therefore there is a need to determine the best risk indicators.
- ▶ Set best practices' standards to be applied in the management and operation of funds, in order to ensure that members offer a consistently high quality product and service to investors.

The scope of the guidance for classification encompasses both the activity of the management company and the funds managed. The management company would commit to design its money market fund range up to certain standards, clearly separating the different sub-categories of MMFs and their associated risk levels, and upgrade the level of information provided to investors. At a fund level, asset managers would admit to adhere to the defined criteria and provide indicators to enhance investor protection and understanding.

In fine, the Guidance Principles would ensure that investors and market participants understand and recognize the different types of MMFs available.

4 MiFID's definition of "qualifying money market funds" – Article 18 (See part III)

Valuation Rules and Procedures

Valuation challenges that arise from financial instruments that are illiquid or complex are shared by all investment funds. Disruption to financial markets and general reduction of liquidity has had consequences for fund valuations. Increased vigilance and scrutiny have been required as well as additional checking, sourcing multiple prices where available and/or much more frequent meetings of pricing committees.

Following a proposal of EFAMA's Management Committee, its Board of Directors has created a working group to deal with valuation, valuation errors and the interruption of redemptions or fund closure. A draft valuation practice note, which has been elaborated by this working group, is to be presented to EFAMA's Board of Directors.

The practice note aims to document a consolidation of views and best practices across different investment funds and asset management participants throughout Europe and to establish common high level principles and suggested good practice in the valuation of financial instruments and portfolios. The main aim of the paper is to seek to ensure that instruments are valued fairly and appropriately, leading to the fair and equitable treatment of all investors.

As there already is a good deal of excellent practice published in the investment fund market with respect to valuations amounts, notably by IOSCO⁵, AIMA⁶ and HFWG⁷, the purpose of the paper is not to repeat what has already been published. Rather, while these good practices and guidelines retain their validity, what has changed are some market postulates, requiring such good practices to be applied more consistently across the industry and requiring market participants to make adjustments on how those good practices are implemented.

The paper also looks at the circumstances surrounding fund suspensions in an effort to explain how and why they happen, both from a liquidity and from a valuation perspective, as well as aiming to promote the consistent application of good valuation practice across industry participants and across jurisdictions. It also considers the roles and responsibilities of the various parties involved in the valuation process (e.g. the fund, directors, management company, investment manager, trustee, administrator, auditor, third party specialists etc.).

At the time of writing, both documents, i.e. the Guidance for Classification for Money Market Funds and the Valuation Notice, are due for release in early summer 2008.

EFAMA's initiatives, surveys and documents have been discussed in depth with the Commission's services, who have been kept updated at all times on the developments within the asset management industry.

5 International Organization of Securities Commissions (www.iosco.org)

6 Alternative Investment Management Association (www.aima.org)

7 Hedge Fund Working Group (www.hfwg.co.uk)

2. Efama Activities and Achievements

EFAMA's four main areas of activity relate to:

- ▶ Regulation
- ▶ Industry Standards
- ▶ Pensions
- ▶ Communication

1. Regulation

Regulatory initiatives of the European Commission (hereafter referred to as the "Commission"⁸) are seen by EFAMA first and foremost as a tool to contribute towards the realisation of a single market for investment management and the creation of a level playing field for all competing saving and investment products. The goal in a first phase is the creation of comparable conditions for these products at the point of sale. Central to this debate in 2007 were the UCITS review, the discussions on MiFID Level 2 measures, the Commission's Green Paper on retail financial services and issues relating to taxation. All these measures are benchmarked by EFAMA against the goal of reaching a real Single Market.

Briefly, the main developments can be summarized as follows:

- ▶ The discussion on the UCITS review saw significant progress:
 - the Commission's "Initial orientations on possible adjustments to the UCITS Directive" (*Exposure Draft*)⁹ covered the major needs of the European investment management industry;
 - the conclusions of the Expert Group on open-ended real estate funds (OEREF) set up by the Commission in spring 2007 were in line with EFAMA's position regarding the need for a European regulatory framework for OEREFs;
 - on marketing and selling to qualified investors (private placement regime) the Commission launched a Call for Evidence in spring 2007 and organised two workshops in early 2008. The Commission will issue an opinion in June 2008.
- ▶ Regarding MiFID implementation, some significant charges were avoided after many discussions with the Commission and CESR on inducements and best execution.
- ▶ In the discussion about the creation of a real level playing field:
 - the Commission in late April 2007 issued a Green Paper on retail financial services¹⁰, which took on board many of our industry's concerns;

8 Similarly, "Council" refers to the Council of the European Union and "Parliament" to the European Parliament.

9 See: http://ec.europa.eu/internal_market/securities/ucits/index_en.htm#ini

10 See: COM (2007) 226 final of 30 April 2007

- the ECOFIN Council of 8 May 2007 invited *“the Commission to review the consistency of EU legislation regarding the different types of retail investment products (such as unit-linked life insurance, investment funds, certain structured notes and certificates), so as to ensure a coherent approach to investor protection and to avoid any misselling possibilities”*;
 - the Commission organised an Open Hearing on retail financial services (September 2007);
 - the Commission launched a Call for Evidence on “substitute products” (November 2007).
- In the field of taxation, the Commission has been working for the past couple of years with some success on two important issues: a modification of the 1977 VAT Directive¹¹ and a modification of the 2003 Savings Taxation Directive.¹²

Another equally important tax issue on the agenda of the OECD Committee on Fiscal Affairs (CFA) since the autumn of 2006 relates to the question of Treaty benefits for collective investment schemes.

1.1. UCITS Review

1.1.1. The Exposure Draft and Now...

Following its “White Paper on enhancing the single market framework for investment funds”¹³ the Commission published in March 2007 its Initial Orientations for discussion on possible adjustments to the UCITS Directive (the so-called Exposure Draft), taking on board the main findings of the White Paper and followed by a Public Hearing in April of the same year.

The Exposure Draft was broadly welcomed by the industry as it addressed most of the industry’s concerns and comments expressed by EFAMA following the report of the first asset management expert group in June 2004 and the November 2006 White Paper.

From a political perspective, the Exposure Draft was seen as a very balanced proposal procuring important elements to all major interested governments.

Indeed, the Commission proposed regulation in six areas where action is needed urgently:

- to remove administrative obstacles and delays to the cross-border marketing of funds through an overhaul of the current UCITS notification procedure;
- to allow fund managers to manage funds which are domiciled in other Member States through a partial management company passport;

11 Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment

12 Council Directive 2003/48 EC of 3 June 2003

13 COM (2006) 686 final

- to facilitate consolidation through fund mergers;
- to provide for centralised management of assets by allowing master-feeder structures;
- to refocus and improve the quality and usefulness of product disclosures provided to retail investors through a review of the Simplified Prospectus;
- to strengthen supervisory powers and cooperation to ensure effective oversight of the increasingly integrated European fund market.

Regarding the details of the planned regulation we refer the reader to last year's Annual Report because at the time of writing the present Report, the Commission's "official" proposal has not been issued. It would seem that problems arose from the only really controversial part of the Exposure Draft, i.e. the Commission's proposal for a "partial" management company passport. Whilst recognising that a management company passport was in principle already introduced by Directive 2001/107/EC of 21 January 2002¹⁴, the Exposure Draft took a more reserved approach by proposing that certain core administrative functions be performed in the jurisdiction where the fund is domiciled. Most EFAMA members did not share this view. They were of the opinion that the management company passport must not be weakened by leaving various back-office activities in the Member State where the fund is authorized.

Without wanting to go too deeply into the discussion, in relation to the term "partial passport", EFAMA in September 2007 put to the Commission that one should stop discussing about "full" vs. "partial" passport, but instead focus on the needs of supervisors and that the Commission should ask CESR about this issue. Whilst the industry could analyze how certain administrative duties are executed across borders today and how it would like them to be in the future, supervisors should explain their needs regarding fund supervision when the fund manager is situated in another Member State. What information is needed? What needs to be done to give supervisors unhindered access to this information at any time? A preliminary suggestion was made recently at a conference in Luxembourg¹⁵ by Eddy Wymeersch, the Chairman of CESR¹⁶, when he underlined that one should:

- *no longer speak about "full" or "partial" passport;*
- *accept supervisory concerns regarding their responsibility for a fund if they have no say over the main functions;*
- *accept that the passport will never relate to all services.*

To take these issues into account, the forthcoming Commission Level 1 proposal needs to define the services that are essential in this context, mainly: accounting, NAV calculation and depositary.

The Internal Market Commissioner, Charlie McCreevy, decided at the end of January 2008 not to include in the Commission's proposal any legislative measure to make the Management Company Passport work better but to "ask CESR for advice on safe, efficient and cost effective solutions that can provide trust among supervisors".

14 The so-called "Management Company Directive";
See: http://ec.europa.eu/internal_market/securities/ucits/index_en.htm#directives

15 ALFI Spring Conference 2008 on 18 March in Luxembourg

16 The "Committee of European Securities Regulators"

Discussions rapidly escalated on a political level and in April the situation had become rather confused: the risk that we might end up with nothing at all was feared. As such a situation would be totally unacceptable to the industry, EFAMA underlined in many discussions with the various EU law-making bodies (Commission, Council, Parliament and CESR) the need for the other measures included in the UCITS IV package as described in the White Paper of November 2006. EFAMA's Board of Directors in April issued a statement urging the Commission to:

- present its current proposal for modifying the UCITS Directive as planned, i.e. at the beginning of May 2008 at the latest;
- ask CESR for advice and input on the Management Company Passport, in particular on how to safeguard the needs of fund supervisors regarding the three “crucial” activities, i.e. accounting, NAV calculation and depositary. The mandate should be precise, clear and practical, and it should include a clear deadline (end September 2008).

The vast majority of Directors expressed at the same time their expectation that CESR's advice, combined with a request by the Parliament, would ultimately result in the inclusion of meaningful Management Company Passport rules and a clear mandate for CESR advice on Level 2 regulation in the new Directive.

Also, Directors demonstrated their strong support towards the Commission and CESR in practical terms. They immediately created a small working group of senior executives with the task of analyzing how the “crucial” activities are carried out in practice on a cross-border basis, how fund managers would like to proceed in the future with regard to the issues and under what conditions cross-border management company activities could be carried out in practice. In a second step, EFAMA should discuss with CESR on how to bring their needs in line with those of supervisors.

1.1.2. The Conclusions of the COM Expert Group on Open-Ended Real Estate Funds (OEREF)

After years of lobbying for a pan-European regulatory framework for real estate funds, the Report of the Expert Group set up by the European Commission in spring 2007 on OEREFs was published mid-March 2008 and followed in April by an Open Hearing. The approval of a Commission Report had rarely been so unanimous.

Based on a comprehensive description of real estate markets and a profound analysis of the real estate fund products, the Experts concluded that OEREFs *“should therefore be seen as a particular form of investment product, suitable for the retail investor, but different from other forms of real estate investment and investment fund products”*. They, therefore, proposed regulation to create a pan-European framework for OEREFs, built on the UCITS model without endangering the UCITS brand which over the years has become the global standard for liquid and well diversified investment funds.

In a next step, the Commission will report to Council and Parliament in October 2008 on possible action. However, one should not be over-optimistic: what the Commission is doing now is not preparing legislative action, but the agenda for the next Commission, i.e. the years

2010-2013. Also, experience shows that the devil is in the details and a lot still needs to be done with respect to the future regulation of OEREFs.

1.1.3. Marketing and Selling to Qualified Investors

A pan-European harmonization of possibilities to market and sell to qualified investors has been an important issue for EFAMA since the Commission established its “post-FSAP” *Asset Management Expert Group*. This Group’s Report underlined the need for a pan-European framework and EFAMA pointed to this need in all its statements on the UCITS review. After the Commission declared its intention to report to Parliament and Council in autumn 2008 about the steps that are necessary to create a private placement regime, the first real step in the right direction was the Call for Evidence regarding private placement regimes in the EU in early 2007.

In its reply to the Commission’s Call for Evidence EFAMA highlighted the importance for the industry of a harmonized private placement regime at EU level, which would provide legal certainty and reduce the significant costs necessary to adhere to the different existing national regimes. Such a private placement regime should apply both to UCITS and non-UCITS funds, and the definition of eligible investor should be based on the definition of “professional investor” under MiFID.

After the Call for Evidence, the Commission organized in January and February 2008 two Workshops with representatives of industry and regulators, in order to discuss further details of a possible private placement regime. There was broad consensus among participants that the Commission should work towards such a regime for funds, and the Commission gathered further evidence for an impact assessment.

The Commission is expected to present in June a Communication where it will indicate whether it sees the need for further action on this issue and – in that case – how it intends to proceed.

1.2. MiFID Implementation

MiFID Level 1 legislation was adopted in 2004¹⁷ and the final MiFID Level 2 legislation was adopted in August 2006.¹⁸ However, implementation at national level has been much slower than expected, and most EU Member States have missed the 31 January 2007 deadline to implement Level 1 and Level 2 into national legislation, leaving to industry far less than the promised nine months’ time. In the end, three Member States (Spain, Poland and the Czech Republic) also missed the deadline of 1 November, and the European Commission started legal proceedings against them. All Member States were supposed to have adopted MiFID by the beginning of May 2008.

17 Directive 2004/39/EC of 21 April 2004 on markets in financial instruments amending Directives 85/611/EEC (UCITS Directive) and replacing Directive 200/12/EC (ISD).

18 Commission Directive 2006/73/EC of 10 August 2006 and Commission Regulation (EC) No. 1287/2006 of 10 August 2006

During 2007 CESR completed the publication of its guidelines, recommendations, and Q&A as part of its Level 3 activities. Many of the texts were not very detailed, leaving ample room for divergent interpretations at national level. It has become clear in the meantime that even the implementation of key MiFID provisions (such as inducements) varies considerably from country to country and adds to the cost of doing business cross-border in the EU.

The hot topics for asset management during the Level 3 discussions were inducements; best execution; the passport; transaction reporting; and the overlap between MiFID and the UCITS Directive.

CESR's final recommendations on inducements considerably limited the possibility of paying commissions and fees without disclosure to the client. However, CESR left to investment firms the application of high-level factors to determine whether an arrangement may be deemed to be designed to enhance the quality of the service provided to the client and not impair the duty of the firm to act in the best interests of the client. The lack of definition of the level of "summary" disclosure, on the other hand, has led to diverging national implementations and goldplating.

While recognizing the importance of a level playing field between investment funds and other products with regard to inducement disclosure, CESR could not deliver a real solution and it is far from clear whether MiFID's implementation has improved the disclosure for investment products competing with funds at the point of sale.

The industry was quite pleased with CESR's recommendations on the passport, although the "pragmatic" approach and case-by-case flexibility could also lead to an uneven implementation. In contrast, the low level of harmonization reached by CESR on transaction reporting was clearly disappointing and has led to different interpretations, over-reporting and the need for many investment managers to set up costly transaction reporting systems.

Some interpretations of MiFID by the European Commission have proven quite controversial and far-reaching, particularly one with regard to the overlap between MiFID and the UCITS Directive: according to the Commission, delegated portfolio management for investment funds is to be considered as individual and not collective portfolio management, bringing the service under MiFID.

EFAMA continues its active monitoring of MiFID implementation at national level and fosters exchanges of views and experiences among its members.

1.3. *The Single Investment Management Market and the Creation of a Level Playing Field*

Over the years, EFAMA has reminded the European institutions on separate occasions that completing the Single Market for investment management is of the utmost importance to all interested industries, investors and markets.

The Commission's Green Paper on Retail Financial Services in the Single Market¹⁹ marks a positive step in the right direction. Indeed the paper raises a number of issues which have been top of EFAMA's agenda for many years. There are other positive steps:

- the various conclusions adopted by the ECOFIN Council of 8 May 2007;
- the report of the Financial Services Committee's subgroup on the implications of ageing populations for financial markets as endorsed by the ECOFIN Council of 8 May 2007;
- the European Parliament's Resolution of 11 July 2007 on financial services policy.

Together, these points give an impression of what might at the end actually be a *"level playing field"*.

The European investment management industry welcomed the Green Paper and its findings and strongly supported the Commission's view that "integration in EU retail financial services markets can be further developed by:

- *bringing about concrete benefits for consumers by ensuring that properly regulated open markets and strong competition deliver products that meet consumers' needs, offering choice, value and quality;*
- *enhancing consumer confidence by ensuring that consumers are properly protected where appropriate, and that providers are financially sound and trustworthy;*
- *empowering consumers to make the right decision for their financial circumstances. This is based on several elements, including financial literacy; clear, appropriate and timely information provision; high-quality advice; and a level playing field between products perceived as having similar characteristics(...)."*

The Commission's Hearing in September 2007 on the Green Paper confirmed a very broad support of the Commission's approach and in November 2007, the Commission launched a Call for Evidence on the *"Need for a Coherent Approach to Product Transparency and Distribution Requirements for "Substitute" Retail Investment Products."*²⁰

It is no exaggeration to pinpoint the Call for Evidence as a milestone in the discussion about the creation of a level playing field for financial services, in particular because the Commission is taking a broad approach, focusing not only on certain products, but trying to draw up a comprehensive picture of the European retail investment landscape. The Call for Evidence also

¹⁹ COM(2007) 226 final of 30 April 2007

²⁰ See: http://ec.europa.eu/internal_market/finances/cross-sector/index_en.htm#product

stands for a change of policy: instead of concentrating only on what are in effect highly regulated and transparent investment funds, the Commission is now starting to examine how the gap separating them from less transparent savings products can be closed, thus bringing the latter up to the same high level of standards.

In its comments²¹ of 31 January 2008 on the Call for Evidence, EFAMA pointed to the huge product shift which took place in the past four years: from entirely different financial products serving different investment needs and aimed at different investors' categories, Europe has moved to an environment where the same content is packaged in different wrappers and sold to the same investor type, often via the same distribution channels. On the other side, EU regulation structure has not followed this development (except for MiFID) and is still mostly based on product-by-product regulation which does not establish equal production or distribution conditions for different financial products and producers. In some cases, there is no EU regulation at all for the product, but only prudential regulation of the producer, and the distribution of the same product is subject to different rules depending on the channel.

This situation is creating significant distortions in the development and growth of the market for savings products, as it encourages product and distribution channel arbitrage and in practice it affects the choices made by product providers, favouring the issuance of certain products vis-à-vis others, skewing the availability of products to investors on the basis of higher profitability and time-to-market and thus reducing investor choices.

In summary, EFAMA fully supported the Commission's initiative to put an end to the *"current regulatory patchwork governing product disclosure and intermediary regulation"* and to follow the way agreed at the 8 May 2007 ECOFIN Council *"to review the consistency of EU legislation regarding the different types of retail investment products (...) so as to ensure a coherent approach to investor protection and to avoid any misselling possibilities."*

Also, EFAMA underlined that equal treatment for comparable savings and investment products targeting retail investors must be ensured by EU regulation whereby the Commission should opt for a more pragmatic approach focusing for the time being on product transparency and distribution. In doing so, the Commission should take MiFID and the incoming UCITS Key Investor Information (KII) as a benchmark for all competing savings products and strive to eliminate the regulatory patchwork. Some efficient first steps in this direction could be made relatively easily:

- regarding distribution and taking MiFID as benchmark, Article 12 of the Insurance Mediation Directive (IMD)²² could be adapted to MiFID rules when it is reviewed (the procedure due to start in 2008 is now being postponed);

21 See: <http://www.efama.org/55PositionPapers/2008/substituteproducts>

22 Directive 2002/92/EC; See: http://ec.europa.eu/internal_market/insurance/mediation_en.htm
Article 12 IMD states that only those intermediaries who give advice based on the obligation to provide a fair analysis (distributors who are under a contractual obligation to conduct insurance mediation exclusively with one or more insurance undertakings do not need to provide a fair analysis) are *"obliged to give that advice on the basis of an analysis of a sufficiently large number of insurance contracts available on the market..."*. No mention is made about the facts on which such an analysis must be based, or about a suitability test.

- regarding investor information, the upcoming UCITS KII document could be taken as benchmark and Annex XII of Regulation 809/2004 (implementing the Prospectus Directive²³) and Annex III of Directive 2002/83/EC²⁴ could be adapted accordingly.

Currently the European Parliament is working on an *own initiative report* in relation to the Commission's Green Paper. This is done on two levels, under the so-called "enhanced cooperation procedure":

- the Committee on Economic and Monetary Affairs (ECON) is dealing with issues linked with the supply side (Rapporteur: Othmar Karas MEP);
- the Committee on Internal Market and Consumer Protection (IMCO) is dealing with issues regarding the demand side (investor protection) (Rapporteur: Olle Schmidt MEP).

However, as at Parliament level the Commission's Green Paper was "mixed" with typical retail banking issues (bank accounts etc.), both Rapporteurs are concentrating their activity on banking topics and there is apparently not very much room left for the level playing field. Having said this, EFAMA achieved, however, to get some statements on the need for a level playing field for retail financial services introduced into the reports.

When completed, ECON will integrate IMCO's opinion into its final report to be voted in the Plenary Session in June 2008.

1.4. *Taxation: Three Important and Complex Issues*

1.4.1. **Double Tax Treaties and Investment Funds**

In the late autumn of 2006, the OECD²⁵ Committee on Fiscal Affairs (CFA) started a two-year project on the issue of Treaty benefits for collective investment schemes (CIS). The project is financed by the industry (including EFAMA) and is aimed to make it easier for fund managers to claim tax Treaty benefits independent of the legal structure of the fund. Relief at fund level is in principle – but not always – covered by the OECD Model Tax Convention²⁶ in the case of corporate type funds, but Treaty relief for CIS with a contractual structure must be negotiated individually by the fund manager with the competent authority.

Businesses represented in the project propose, therefore, a threefold objective to be pursued: firstly, CIS should be able to claim full treaty benefits for their investors where a certain level of "qualified" investors eligible for treaty relief is reached; secondly, a CIS that does not have the required level of "qualified" investors should be given the possibility to claim benefits for the proportion of its investors that do fulfil the criterion of being eligible for treaty benefits; thirdly, CIS investors should be treated as "qualified" in all cases where they are resident in

23 Directive 2003/71/EC; See: http://ec.europa.eu/internal_market/securities/prospectus/index_en.htm

24 [Consolidated] Life Insurance Directive of 5 November 2002

25 "Organisation for Economic Co-operation and Development"

26 Model Tax Convention on income and on capital of September 1992 (OECD Committee on Fiscal Affairs)

a country with which the source country has a tax treaty establishing a reduced rate on the relevant income (e.g. a 15% rate on dividends).

1.4.2. VAT on Financial Services

The Commission published in November 2007 two proposals for a Directive²⁷ and a Regulation²⁸ aimed at amending the 1977 VAT Directive. These amendments are very important for the European investment management industry as they redefine the cases in which fund management will be exempt from VAT.

The management of investment funds has always been exempt from VAT. The proposal, aimed to reduce VAT-attributable competitive distortions and to enhance legal certainty, does not change that principle. Nevertheless, defining the exemption in a new way will have an important impact on the industry.

According to the Commission's proposal, one of the new definitions in the context of the exemption of "management of investment funds" will relate to the vehicle ("investment fund") and the other on the activity ("management of investment funds"). Both proposed definitions should be amended.

In particular, the proposal's vehicle definition causes concern as it links the identification of exempt fund vehicles to the fund's underlying investments. According to this definition, only those funds would be exempt that are invested in exempt financial instruments. The consequence would be legal uncertainty in all those cases where a fund is only partially invested in such exempt financial instruments. Also, portfolio management would be rendered an almost impossible task given that fund managers would have to start considering fiscal aspects when making investment decisions.

The definition of the activity of fund management itself should be amended in order expressly to include administrative tasks of fund management, which would be in line with ECJ²⁹ case law.

Further issues relate to the need for clearer language to support the legislator's 'good' intentions, firstly in the context of outsourced fund management services and secondly with regard to sub-intermediation in the distribution chain. In accordance with ECJ case law the exempt character of activities in these contexts should be set out in unambiguous terms.

27 COM (2007) 747

28 COM (2007) 746

29 "European Court of Justice"

1.4.3. Savings Taxation Directive

The Commission in 2007 launched an informal consultation with tax administrations and market operators in order to prepare the first report to the Council on the operation of the Savings Taxation Directive to be published in the second half 2008. (The Directive requires that the Commission draw up such a report every three years.)

The current consultation has been carried out with a view to present amendments to the legislation. It has become clear that the Commission intends to extend the scope of the current rules in order to ensure effective taxation and with the aim of mitigating distortions of competition.

EFAMA has asked the Commission to assess operational weaknesses that contribute to “un-level” the playing field between funds and competing products. Furthermore, after only three years of the Directive effectively operating, no new weighty administrative cost burden should be imposed on the industry. In any case, if the scope of the Directive is to be extended to cover non-UCITS, similar competing products, e.g. unit-linked life insurance contracts and structured products, must be included also, in order to avoid distortions of competition. However, the preferred outcome in the current situation would be the abstention from any amendments of the legislative provisions given the fact that it seems impossible to render the Directive’s scope of application “waterproof”.

If, however, there is to be an adaptation of rules, it is important that any amendments and new definitions be carefully written to avoid divergences in interpretation and subsequent new distorting effects. Should non-EU territory funds be defined in order to specify further the funds outside the EU that should also be included into the scope of the Directive, this should be done with particular regard to already existing definitions, in order to avoid the unnecessary creation of ‘special purpose definitions’ of investment funds.

Under no circumstance should the current review of the Directive entail the extension of its scope to other forms of income payments such as dividends.

1.5. Towards Regulation for Hedge Funds?

The Commission created in July 2005 a group of experts on alternative investment aimed to describe how they “see the future development of the hedge funds and private equity funds in Europe, and whether there are any European-level regulatory or other obstacles which hold back the efficient organisation of the business in Europe”. The Expert Group published in 2006 two Reports entitled “Developing European Private Equity” and “Managing Servicing and Marketing Hedge Funds in Europe” which attracted much notice from the European Parliament. The Parliament’s Socialist Group (PES) set up its own Expert Group (chaired by Ieke van den Burg MEP and Poul Nyrup Rasmussen MEP) and published a report in March 2007.³⁰

30 “Hedge Funds and Private Equity – A critical analysis”;
See: <http://www.socialistgroup.eu/gpes/searchdisplay.do?id=38708&lg=en&targetsite=main&type=11>

The Group's "critical analysis" draws a very negative picture of hedge and private equity funds and is very critical of the Commission based on the 2006 reports of the Commission's Expert Groups.

The PES seemed particularly concerned about the level of investments in these products by pension funds and argued that pension funds in particular would need *"more transparency and disclosure (...) since in most cases they have no real chance of judging the accuracy of asset evaluation or the net risk connected to their investments."*

The Parliament adopted in July a Resolution on the Financial Services Policy 2005-2010 (Rapporteur: Ieke van den Burg MEP) calling on the Commission "to launch a debate on hedge funds so as to be prepared for international and European discussions." Parliament as a whole is far more neutral regarding alternative investments/hedge funds than its Socialist Group. Nevertheless, the Plenary also:

- calls on the Commission to launch a debate on hedge funds;
- regrets that the reports of the Expert Groups have so far focused only on barriers to growth of hedge funds;
- emphasizes the need for sector-specific work by regulators (CESR & IOSCO);
- asks for a broader and more critical approach with regard to the risk of market abuse;
- invites the Commission to review the differences in Member States' regimes for retail access to these investments and to define the qualification for distributors of such products to retail investors;
- urges the Commission to assess the quality of supervision in offshore locations.

Parliament is currently working again on this issue in the context of an own initiative report based on Article 192 (2) of the Treaty obliging the Commission to act.³¹ As not only financial stability, but also corporate governance of hedge funds and private equity are at stake, two committees deal simultaneously with these questions.

The Committee on Legal Affairs (JURI) concentrates on the relationship between hedge funds and companies in which hedge funds invest. The aim of Rapporteur Klaus-Heiner Lehne MEP (EPP, Germany) is to foster transparency in this respect. In his opinion, self-regulation is not sufficient. Hence, he asks the Commission to propose directives or modifications to existing directives to increase the level of transparency, for example by lowering the notification threshold of the Transparency Directive from 5 to 3% or by calling for a European shareholder identification system.

The Committee on Monetary Affairs (ECON) focuses in particular on the link between hedge funds/private equity and financial stability. In this respect, the Parliament commissioned two studies on "Hedge Funds and Financial Stability" and on "Hedge Funds: Transparency and conflict of interest" which were presented in December 2007. The Rapporteur Poul Nyrup

³¹ In connection with Rules 39 and 45 of the Parliament's Rules of Procedures, it is a rather "powerful" procedure going far beyond "normal" Parliament own initiative reports.

Rasmussen MEP (SPE, Denmark) argues that the impact of hedge funds and private equity on financial markets and on the real economy have grown considerably. To establish a level playing field with other already regulated sectors, such as the banking or insurance sectors, the so far unregulated sector should also be regulated with the aim of obtaining a coherent European legislative framework. He observes a negative impact of hedge funds on financial stability, in particular if they use excessive leverage.

Other MEPs do not share this opinion and, based on the first study of European Parliament, claim that “whether hedge funds create or reduce financial market volatility the jury is still out and the question may never be answered given the diversity of strategies and as this may vary over time”.³² MEP Rasmussen’s proposals are far-reaching and many Members of European Parliament doubt that they are the right way forward. In particular, criticisms have been levied against the proposal of establishing an EU Public Credit Rating Agency, creating an EU supervisory authority, setting an upper limit on leverage for hedge funds and founding an EU Registration for structured products.

In summary, it is argued that the various industry sectors are currently working on several codes of conducts and best practices. Before taking legislative action, policy-makers should first allow these self-regulatory initiatives to work. In this context, MEPs refer mainly to the work undertaken by IOSCO.

Indeed, out of all regulatory bodies, IOSCO is probably the one that has worked most on hedge funds and is the most advanced regarding this discussion. In November 2007, the Technical Committee of IOSCO published nine recommendations on principles of the valuation of hedge fund portfolios which should apply to all hedge funds and which are aimed at ensuring appropriate valuation of the assets.

The hedge fund industry itself was also active. In January 2008 the UK Hedge Fund Working Group (HFWG) delivered its final report which sets standards in areas such as investor information, leverage and corporate governance. More recently, in April 2008, two private sector committees established by the U.S. Treasury’s President’s Working Group on Financial Markets, the Asset Managers’ Committee and the Investors’ Committee, proposed best practices for hedge fund managers and investors to enhance investor protection and mitigate systemic risk. The proposals are open for public comment until mid-June.

EFAMA is in this context confronted with a major problem, i.e. the fact that to date there is no common position regarding a possible regulation of hedge funds among EFAMA members.

In 2005 EFAMA carried out together with its Italian member association, Assogestioni, a study on hedge funds which concluded regarding future regulation at EU level that there are at least two options:

32 Policy Department – Economic and Scientific Policy: Hedge Funds and Financial Stability, IP/A/ECON/IC/2007-23, page iii

- to create a specific European hedge fund (beside the others), for example through amendments to the existing UCITS Directive;
- to focus on the type of investor to whom such a fund is offered, for example by harmonising private placement rules for funds.

Indeed, a number of EFAMA member associations are lobbying the Commission for a pan-European hedge fund regime besides existing national regimes.

2. *Industry Standards*

The priority in 2007 was to implement what had been achieved over the past years to increase efficiency through common European technical standards. In this, two important steps were carried out:

- in April 2007 EFAMA's Board of Directors agreed on the EFCF classification;
- in June 2007, EFAMA published a brochure on the fund processing passport.

2.1. *Fund Classification*

Since the European Fund Categorisation Forum (EFCF)³³ in 2005 became a Working Group of EFAMA, and driven by the growth of cross-border fund distribution heightening the need for a true pan-European classification system, EFAMA has been working on the search for a classification system capable of grouping similar funds for the purpose of comparison and providing consistent peer group analysis across European markets. This scheme should be supported and recognized by the fund industry, data vendors and national associations.

The EFCF classification was finally endorsed by EFAMA in April 2007 and since then a number of actions were undertaken to prepare the official launch of the classification, including:

- The beta-release of the classification of 1,305 investment funds from seventeen fund groups participating in the EFCF. The classification was made on the basis of September 2007 holdings. It was performed by FundConnect, who was selected as Classification Administrator in a joint venture with CCLux, a subsidiary of the Luxembourg Stock Exchange. The main responsibility of the Classification Administrator is to collate and review the portfolio holdings of every fund management company interested in adopting the European Fund Classification (EFC) and to monitor on a quarterly basis (for the time being) and free-of-charge their adherence to the classification criteria set by the appropriate sector definitions.
- The extension of the classification towards types of funds falling outside the four main categories defined in 2007 (equity, bond, money market and mixed), i.e. absolute return, total return convertible, real estate, guaranteed, life cycle/target maturity and asset-backed securities.

³³ A joint initiative of industry and rating agencies set up in 2002 to create a clear pan-European fund classification scheme.

- The preparation of a brochure for presenting the classification and a web-interface for publishing the classification results on a regular basis.
- The preparation of the official launch of the classification, which will take place on 23 June 2008.

The EFCF classification will be beneficial to all parties as it will ensure:

- transparent comparisons of cross-border funds;
- less controversial peer group analysis;
- a common language for fund classifications;
- high threshold levels that secure investor protection;
- greater standardization in the production of funds.

2.2. Fund Processing

In order to identify possible actions to move towards more efficient fund processing procedures and bearing in mind the significant potential cost savings that could be achieved in the processing of fund orders, EFAMA published its first set of recommendations in 2005. Since then, the industry has progressed in two important areas.

First of all, industry participants are increasingly recognizing the potential of electronic communications in minimizing operational risks and costs in fund processing, and the benefits of using ISO 20022 as the single European standard for fund messaging in the future. SWIFT – the registration authority for ISO 20022 – has also addressed one important request of EFAMA in this field, i.e. the need to reduce the financial cost and technical complexity of the use of ISO 20022 by small and medium-sized fund managers and distributors. The proposed solution – a “lite” interface tool – should become operational in 2009.

Good progress has also been made in recent months to ensure that the Fund Processing Passport (FPP) becomes the industry standard for the communication of all the key “operational” information that fund promoters should provide about their funds in order to facilitate their trading. Indeed, implementation or pre-implementation are well under way in many fund groups, and numerous initiatives have been undertaken across Europe to centralize the publication of FPPs on dedicated areas on existing and new websites.

Also, drawing on the rich experience accumulated by fund managers, fund administrators and data vendors in completing the FPP version published last year, EFAMA issued an updated Version 2 of the FPP in May 2008.

Furthermore, to take into account the specific needs of multi-domicile fund managers, EFAMA has started to explore the possibility of creating a European database that would be complementary to the local databases to produce and publish FPPs for multi-domicile fund managers and fund managers that are active in countries that would not offer a local database. Possible solutions for the ownership, operation and governance of such databases are tested

against the needs of fund managers and distributors, taking into account the possibilities of co-operation between the local databases, in particular in the area of distributions of FPPs.

3. Pension

The role of investment funds in retirement provision is a strategic priority for EFAMA, from the time the Commission first published its Green Paper on Pensions in 1997.³⁴ The aim is to achieve a level playing field in the second and third pillar pension market and to demonstrate to political decision-makers that pensions are not only insurance, but to a large extent asset management.

In January 2008, EFAMA published a report on defined-contribution (DC) pension schemes. The main findings of the report, which was prepared by the independent economic consultancy Oxera Ltd, can be summarised as follows:

- ▶ DC schemes offer significant advantages to individuals by allowing them flexibility and choice to adapt their pensions saving according to their needs and preferences.
- ▶ Sound governance practices can be implemented and appropriate solutions found to facilitate individual choice. There are also significant economies of scale to be reaped by providing DC schemes collectively in occupational schemes, which would be further accentuated on a cross-border basis.
- ▶ Opting for an investment strategy with low exposure to equity may lead to considerable foregone retirement wealth. Relying on a diversified investment strategy on the basis of the prudent person principle during the retirement saving accumulation phase leads to a superior upside wealth potential. This also implies that regulatory investment restrictions come at a high cost for retirement savers.
- ▶ Asset managers play an important role in DC scheme provision. In a number of European countries, they offer sophisticated DC type products directly or provide external asset management services to other financial institutions that do.

To present the report and stimulate a debate on the role of DC schemes, EFAMA organized a conference which was attended by participants from the industry, European institutions and the media. In his introductory remarks, EFAMA's President, Mathias Bauer, highlighted the challenges faced by Europe as populations grow older and companies are increasingly reluctant to sponsor defined benefit schemes. He also called upon the European Commission to develop a regulatory framework that promotes fully portable pan-European pension products.

Following a presentation of the report by Oxera, a high-level group of speakers and panellists were asked to comment the report. In her intervention, Ieke van den Burg MEP, Member of the Steering Committee of the European Parliamentary Pension Forum, stressed the importance of developing pension products capable of offering adaptability to individuals' preferences, without

34 "Supplementary Pensions in the Single Market" – COM(1997)283 final

sacrificing solidarity or becoming too costly. For his part, Karel van Hulle, Head of Unit, Insurance and Pensions at the Internal Market & Services DG of the European Commission, emphasized the need to offer guarantees to retirees to prevent them from falling into poverty.

Following the comments of the invited speakers, a panel chaired by Fabio Galli, Director General of Assogestioni, highlighted three aspects:

- ▶ Regulation that allows DC schemes to operate effectively across European borders should be developed. The various national interpretations of the IORP Directive hinder asset managers from offering products on a cross-border basis.³⁵ This is not only due to regulatory differences per se, but also to information constraints regarding applicable laws and regulation.
- ▶ The Commission should assist in bridging the information gap and disclosing the relevant regulatory requirements financial institutions would need to follow when offering occupational pensions products in different Member States.
- ▶ There are several examples of how DC schemes can be, and indeed are, structured to offer outcomes tailored to individual preferences, with strong governance mechanisms, solutions to facilitate individual choice and appropriate default options.
- ▶ In another area, in order to contribute effectively to the IORP Directive review, EFAMA has conducted a survey with its members to collect information about the implementation of the IORP Directive at national level and the clarifications/changes that would be helpful from the perspective of our industry. This information will strengthen EFAMA's ability to provide concrete suggestions for modernizing the IORP Directive and defending its views on how occupational pension regulation should evolve. The questionnaire covered four theme areas representing the areas of the IORP Directive with the largest implications on the investment management industry: asset management, level playing field, capital requirements and single pension market.

4. Communication/ Promotion of the UCITS Standard

EFAMA successfully launched a series of initiatives in 2006 for a more efficient communication of important messages to a variety of audiences (e.g. *"EFAMA on the Road"* and *"Breakfasts for MEPs"*, namely on the subject of UCITS). They were complemented by regular meetings of EFAMA Corporate Members and by a new initiative aimed to promote the UCITS brand outside Europe. This initiative and EFAMA's visits to Hong Kong, Shenzhen, Singapore and Taipei are dealt with under *"International issues"*.

4.1. EFAMA on the Road

"EFAMA on the Road" was first launched to improve contacts with members and to learn more about the concerns of EFAMA member associations and companies. The idea was to spend

³⁵ The "IORP" Directive refers to "The Institutions for Occupational Retirement Provision" Directive (2003/41/EC).

one day in a country and to meet the national member association, its member companies, authorities and the media.

The idea quickly caught on and in 2007 EFAMA visited three member countries: Switzerland (Zürich), Spain (Madrid) and Luxembourg. The visits were very successful and brought together a significant number of industry representatives.

4.2. EFAMA Corporate Members' Meetings

EFAMA corporate members felt that regular meetings (typically, 3 per year) on business issues of mutual interest would make their contribution towards the work undertaken by EFAMA's secretariat more efficient and thus increase EFAMA's efficiency in the interest of the whole industry. The past year saw meetings in Vienna (hosted by RCM), Brussels (hosted by Invesco), Istanbul (hosted by IS Asset Management) and more recently again, in Brussels (hosted by the Bank of New York Mellon).

Besides discussing topical regulatory issues (UCITS IV, MiFID, Private Placement) corporate members agreed on an action plan regarding risk management procedures, structured products, challenges from the liquidity crisis, fund processing, statistics and the promotion of public understanding and political awareness of EFAMA's agenda.

5. International Issues

Increased globalisation of the investment management industry also increases the impact of international issues and agendas on the European industry.

5.1. Promoting the UCITS Brand Globally

Following a mission to Hong Kong and Shenzhen (China) in April 2007, EFAMA returned to Asia in November 2007 and visited Singapore, Taipei and Hong Kong.



EFAMA promoting the UCITS brand globally: Sally Wong, Executive Director, Hong Kong Investment Funds Association and Mathias Bauer

In preparing the meetings with local industries, supervisors and media, EFAMA received strong support from the concerned national associations. The collaboration proved to be very effective. All three associations contributed significantly towards the success of the events. In each of the three countries visited, EFAMA's delegation had very interesting and productive discussions with members of the national associations and the competent authorities as well as extensive discussions with journalists.

The national associations and supervisory authorities all underlined how important it was for them to meet with EFAMA and to discuss regulatory issues. In fact they were extremely keen to hear about the European fund industry and its regulation, supervisory practices, how EFAMA works and organises itself with its member associations.

Regarding the distribution of UCITS in the three markets, the situation is in general very similar to the distribution of non-harmonised funds in Europe:

- Asian markets are still fragmented, as each country and local regulator continues to be driven by local conditions, politics or economic factors. There is therefore no effective cooperation between the various Asian regulators who continue to act independently;³⁶
- However, the registration of UCITS is not as difficult or complex as it is sometimes seen. In principle markets are open to UCITS independent of the jurisdiction where they are set up;
- Simply put, one could say that regulators in Singapore and Taiwan use a notification procedure for UCITS (they only control that documentation is complete and trust the European home country authorities regarding the registration of funds) while Hong Kong uses a full registration procedure (they want to know “what is behind”);
- For the future, a clear understanding of variances between local regulations and UCITS III would be very helpful. In this context, involving the local regulators' concerns in a focused way seems to be key for the progress of UCITS in the region, in particular by engaging non-EU regulators in the UCITS development process; developing mechanisms for accountability; raising levels of regulator confidence; and communicating with investors with varying levels of sophistication.

Questions from the investment management community in the three market places focused on issues such as hedge fund regulation and supervision in Europe; supervisors' concerns regarding risks linked with fund investment in derivatives; how fund managers and supervisors deal with these risks; and how would European regulators react if a fund manager from Hong Kong, Singapore or Taiwan would ask for permission to distribute his funds in a EU jurisdiction? What would be the major issues? What are the procedures?

Being in Hong Kong, an important topic is of course Hong Kong's role as hub for mainland China. The so-called QDII (“Qualified Domestic Institutional Investors”) regime allowing approved banks, asset managers and insurance companies to invest within certain quotas in overseas capital markets, including investment funds is particularly important. Hong Kong will serve as a platform for mainland China investors as qualified banks, fund management companies and insurance companies (the latter up to 15% of their total assets) are allowed since the summer in 2007 to invest in equities listed in Hong Kong and Securities and Futures Commission (SFC) authorised investment funds. For overseas asset managers this regime paves the way to mainland China investors through Hong Kong. It is expected that the total QDII quota will expand to US\$ 90 billion in the next few years.

36 The cooperation between Hong Kong and Macau being an exception.

In this context, more recent developments need to be monitored closely: for example the three Memoranda of Understanding signed in early 2008 between the China Banking Regulatory Commission (CBRC) on the one hand and the Singapore (MAS), UK (FSA) and Luxembourg (CSSF) authorities on the other, allowing Chinese commercial banks that offer wealth management services to invest in equities, including investment funds issued in these jurisdictions. The next partner of the QDII program will probably be the U.S. as the CBRC is already in discussion with the SEC.

5.2. *International Organisation of Securities Commissions (IOSCO)*

Besides its extensive work on hedge funds, IOSCO started to work in the second half 2007/early 2008 on a number of issues of significance to the European investment management industry³⁷, in particular with respect to the so-called “liquidity crisis”:

- Final Report of the Technical Committee on Soft Commissions Arrangements (Nov. 2007);
- Report of the Emerging Market Committee on CIS in Emerging Markets (Dec. 2007);
- Report of the Emerging Market Committee on CIS Administration in Emerging Markets (Dec. 2007);
- Report of the Emerging Market Committee on Corporate Governance Practices in Emerging Markets (Dec. 2007);
- Consultation Document of the Technical Committee on the Role of Credit Rating Agencies in Structured Finance Markets (March 2008);
- Updated IOSCO Report on Objectives and Principles of Securities Regulation (April 2008).

5.3. *The 22nd International Investment Funds Conference*

The 2007 conference was held in November in Sydney, hosted by the Australian Investment and Financial Services Association (IFSA) and brought together a great number of delegates from across the world.

The range of issues discussed was very broad: investment fund trends and developments in global markets; pension developments; audit and compliance issues; fund classification and a continuation of the dialogue with IOSCO. Besides these business issues the agenda included a broad discussion about the future structure of the International Investment Funds Association (IIFA) with the aim of strengthening the global voice of the investment fund industry.

³⁷ See under <http://www.iosco.org/library/>

3. Outlook 2008/09

Looking ahead, EFAMA will be confronted with a rather challenging agenda:

The UCITS Review

The review of the UCITS Directive remains of course top of the agenda. Since the Hearing in April 2007, no decisive steps have been taken. It will be EFAMA's greatest challenge to convince and support the Commission to move forward, to present a proposal and to ask CESR for advice with respect to the functioning of the Management Company Passport.

There are many hurdles to overcome in order to achieve Level 1 legislation in time (i.e. before Members of Parliament start their electoral campaigns). Much will depend on the mandate and timeframe that the Commission will give to CESR. Indeed, European supervisors would have to propose in a rather short timeframe a plausible solution regarding their needs with respect to the supervision of funds if the management company is situated in a different jurisdiction. But Member States might also be confronted with the challenge of having to compromise on the scope of the UCITS IV package. It is in the industry's interest to avoid a complete failure of the UCITS IV project; which would be the worst-case scenario.

The European Commission's credibility towards the European investment management industry is also stake: never was a piece of European legislation – at least in the field of financial services – so well prepared as UCITS IV, never was the industry so heavily involved and never have so many high level representatives contributed towards the crafting of a significant piece of legislation.

Level Playing Field

The European Parliament will adopt its report on the key issue of a level playing field in June 2008, to be followed in July by a Public Hearing. The discussions seem to be going in the right direction and the European investment management industry will have to support the Commission in any action towards the realisation of a level playing field. In its January 2008 statement, EFAMA showed possible ways forward and the Commission added support for this idea in the discussion about a possible modification of the Savings Taxation Directive.

Capital Requirements Directive (CRD) Revision

In response to the market turmoil that emerged mid-2007 and to the "Roadmap" adopted by the ECOFIN Council in October 2007, subsequently confirmed by the European Council on 14 March 2008, the Commission will propose changes to the Capital Requirements Directive (CRD)³⁸ in autumn 2008. To prepare this forthcoming proposal, the Commission has initiated a Consultation which will close mid-June 2008.

38 Directive 2006/49/EC of 14 June 2006

The review will include changes to provisions on large exposures, hybrids, securitization and cooperation between supervisors. It envisages, moreover, the extension of the waivers for co-operative bank networks and some technical changes of the CRD annexes.

EFAMA will participate in the Consultation and concentrate on the indirect impact on the fund industry as credit institutions are an important investor group. In 2004/2005 when the CRD draft was first discussed, EFAMA had pointed out that the regulation does not sufficiently consider the practical situation of fund management companies and investing banks. Therefore, EFAMA will put forward a proposal with the aim of avoiding own funds arbitrage between direct investments and fund investments.

Taxation

The modification of the Directives on VAT and Taxation of Savings will continue to demand the industry's full attention. In the context of the Savings Taxation Directive, there are in particular three issues of interest to our industry that have to be discussed further in the consultation process:

- level playing field with structured products on the basis of a 'look-through' concept called "substance over form" approach;
- definition of investment funds for the purpose of the Savings Directive;
- extension of the scope of the Savings Directive to dividends and capital gains.

Regarding the modification of the 1977 VAT Directive, we must carefully monitor the Commission's work to avoid that recent rulings of the European Court of Justice be endangered by the (in principle very positive) present initiative.

Industry Standards

Continuing the work on technical industry standards to increase the efficiency of the European investment management industry will continue to be one of EFAMA's top priorities.

► *Fund Processing*

In its resolution of 13 December 2007 on Asset Management II, prepared by MEP Wolf Klinz, the European Parliament asked the European Commission to undertake action itself if the industry had not made substantial progress towards greater use of electronic and standardized fund processing by the end of 2009. EFAMA is mindful of the Parliament's motivation and resolute to keep up the momentum towards greater efficiency in fund processing.

To achieve this goal, and in line with the review of the progress made in recent months, EFAMA will seek to achieve five objectives:

- the publication of a new FPSG report with updated recommendations and new recommendations on holding and transaction reporting and commission reporting;
- the publication of a new brochure updating the business case for ISO 20022, with electronic version for easy up-to-date information;

- the adoption of an official EFAMA position on whether or not the infrastructure for the distribution of FPPs should be expanded by the creation of a complementary central database to better serve the needs of fund managers and FPP users;
- the adoption of a set of Key Fund Processing Standardization Indicators to monitor progress towards fund processing standardization on a regular basis;
- the development of ISO 20022 messages for the FPP. SWIFT as the standard registration authority has created a FPP Validation Group that has started to work together to create the ISO submission, business model and XML message equivalents to be incorporated into the ISO 20022 Standard for Investment Funds.

► *Fund Categorization*

Following the official launch of the classification on 23 June 2008, the priority for EFAMA will be to prepare a B2B campaign targeted at fund associations and fund managers. The promotion of the classification will include meetings with stakeholders (national associations, corporate members and regulators) to inform them about the benefits and the use of the classification.

► *Asset Management Report*

To broaden the scope of its data collection to discretionary asset management, EFAMA circulated last year a questionnaire to collect statistics on asset management split by investment funds and discretionary mandates. With the data received from a core group of its member associations, EFAMA will publish its first Asset Management Report in 2008 to provide a comprehensive overview of the size of the European asset management industry, the location of the activity of asset management, the industry's clients and the asset allocation of European asset managers.

Pensions

To implement EFAMA's strategic goal in the area of pensions (i.e. strengthening the role of investment managers in servicing the pensions industry and providing pension products) EFAMA's Board of Directors adopted in February 2008 an action plan that included the following priorities for the months ahead:

- finalize a position paper on the IORP Directive review aimed to emphasize the need for abolishing existing national restrictions that are hampering IORP investment in UCITS as well as the problems that an extension of the Solvency II rules to all pension products/institutions would raise;
- publish in the autumn the study on the asset management solutions for the pay-out (decumulation) phase. This study was commissioned to Professor Maurer of the Goethe University in Frankfurt. Its main goal is to challenge the desirability of mandatory annuitization over investment-linked and help push for a new regulatory framework for pay-out solutions. To present the main results of Professor Maurer's study, EFAMA will organize a conference on pensions in Brussels;

- prepare a new version of its paper on the European Personal Pension Account (EPPA) in early 2009.³⁹ Drawing on the Oxera and Maurer studies, the new position paper will address criticisms of the EPPA. It will also make a strong case for a regulatory framework that effectively supports the creation of a European market for fully-portable occupational pension products. In this perspective, EFAMA will highlight the contribution that European investment managers could make towards greater efficiency in pension savings management if they were allowed to play a bigger role in pension provisioning.

Lamfalussy Follow-up & Future Structure of Supervision

Another topic high on the pan-European regulatory agenda in 2008 and very important for our industry is the review of the Lamfalussy process and the reform of the EU supervisory framework. While discussions in 2007 were concentrated on the work of the Inter-Institutional Monitoring Group and the medium term working programme of the 3L3 Committees⁴⁰⁻⁴¹, discussions now are moving towards the implementation of the conclusions.

In light of last year's liquidity crisis, ECOFIN Ministers agreed at their meetings of October and December 2007 on a Roadmap for the review of the Lamfalussy process, later confirmed and updated by the May 2008 ECOFIN. A number of crucial topics for the period running from June 2008 to end 2009 are on the agenda:

- the 3L3 Committees to foster convergence and cooperation;
- the 3L3 Committees to explore the possibilities to strengthen the national application of their guidelines, recommendations and standards, without changing their legally non-binding nature;
- the 3L3 Committees to enhance consistency and effectiveness of supervision of financial groups operating in more than one Member State independent of legal form, sector or location;
- the 3L3 Committees to introduce the possibility of qualified majority voting;
- the 3L3 Committees to propose timetables for the introduction of EU-wide reporting formats for single data requirements and reporting data;
- Member States to ensure that their supervisors are able to take into account the EU dimension in the performance of their duties;
- EFC⁴² to conduct an EU wide crisis simulation exercise.

39 For information on the EPPA concept, see EFAMA's report EPPA: The European Personal Pension Account; See: www.efama.org/30Documents/80Pensions/1025Regulation/EFAMA%20Documents/eppareport

40 CESR, CEBS (Committee of European Banking Supervisors) & CEIOPS (Committee of European Insurance and Pension Supervisors)

41 EFAMA comments of April 2007 and February 2008; See: <http://www.efama.org/55PositionPapers/82007/impactassessmentlevel3cttees>, and <http://www.efama.org/55PositionPapers/2008/3l3medtermworkprog>

42 Economic and Financial Committee, currently chaired by Xavier Musca, France

Also, the European Parliament has started to work under the lead of ECON and with Icke van den Burg MEP as Rapporteur and Daniel Daianu MEP as Co-Rapporteur on an own initiative report on the *"Lamfalussy follow-up: future structure of supervision"*. The starting point seems to be the opinion that the liquidity crisis which started in August 2007 shows that *"we are not only witnessing a massive market failure, but also a severe regulatory and supervisory failure"* and that both *"call for strong responses from policy makers and regulators"*.

Five options are listed by the co-rapporteurs:

- improvements within the present fragmented structure (leaving the 3L3 Committees as they are);
- transforming the 3L3 Committees into European regulatory agencies;
- a European system of supervisors with a two-tier supervisory system (for major cross-border financial groups);
- a single European supervisor;
- a EU financial oversight authority.

Discussions in Parliament, Member States and the industries concerned promise to be "animated". Sooner or later EFAMA will also have to take a position. The draft report will be presented in the Committee in June and adopted by the Plenary in October.



Regulators panel at EFAMA conference, September 2007: Hubert Reynier (AMF), Nicoletta Giusto (CONSOB), S. Matthias, Dan Waters (FSA), Oren-Olivier Puder (EBK)



Mathias Bauer, David Wright, Deputy Director General, Internal Market DG, European Commission, taking questions from the floor at EFAMA conference, September 2007



Eddy Wymeersch, Chairman of CESR at EFAMA conference, September 2007



European Investment Fund Developments in 2007

Introduction

European investment fund assets grew by 4.8% in 2007 to reach €7,924 at the end of the year (Chart 1). As a result, total net assets under management increased by €360bn in 2007.

Overall, UCITS captured an estimated €168bn in new money in 2007, or 2.8% of UCITS assets at end 2006. This means that 67% of asset growth was driven by net sales, with the remainder attributable to market appreciation.

Investor reaction to the liquidity/credit crisis and the prolonged volatility in the stock markets had a strong impact on the European investment fund industry in 2007. Whereas UCITS and non-UCITS continued to record hefty net inflows and asset growth in the first half of 2007, the collapse in the U.S. subprime mortgage markets and the resulting stock prices corrections triggered sharp outflows from bond and equity funds in the second half of the year. Strong demand for balanced funds, funds of hedge funds and special funds reserved for institutional investors, as well as buoyant demand for UCITS in Asia, contributed however to confine the consequences of the turmoil in financial markets.

Reflecting these developments, the amount of investment funds per inhabitant continued to increase in 2007, albeit at a slower pace than in 2005 and 2006. On the other hand investment fund assets in relation to GDP decreased slightly in the EU-15 from 67.2% in 2006 to 66.7% in 2007.

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

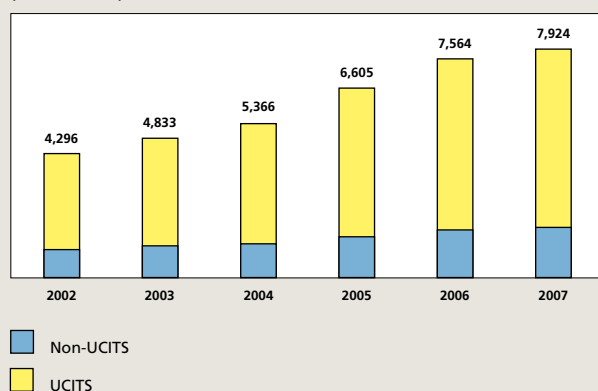
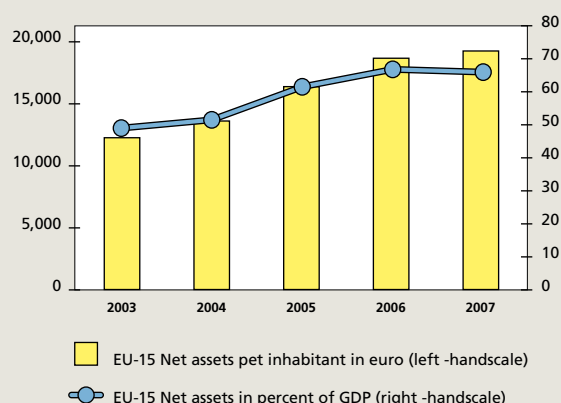


Chart 2. Trends in Investment Funds in EU-15

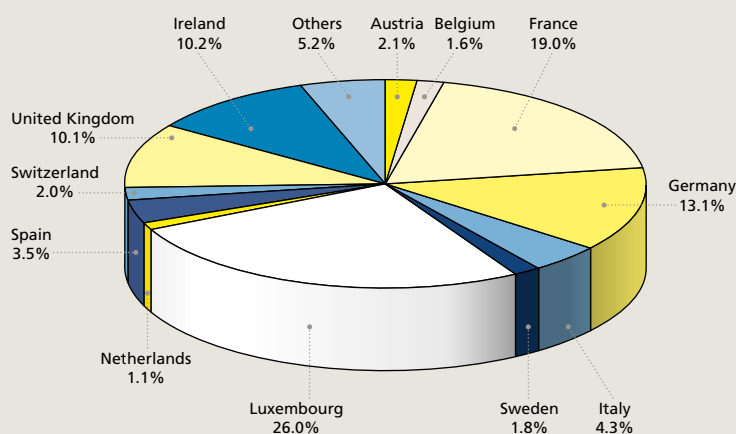


Source¹: EFAMA, European Commission

¹ Except noted otherwise, EFAMA is the source of data.

Three countries – Luxembourg, France and Germany – held a cumulative share of 58.1% of the industry's assets at end 2007. Ireland, the United Kingdom and Italy followed in this ranking (Chart 3).

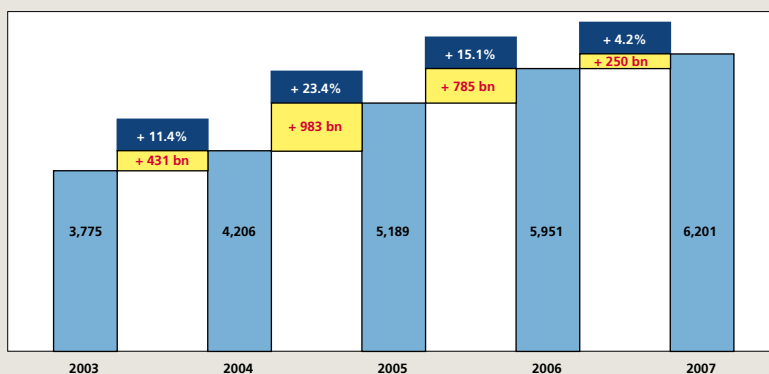
Chart 3. The European Investment Fund Market
(Breakdown of nationally domiciled funds at end 2007)



Trends in the UCITS Industry

Total assets in the UCITS² market reached €6,201bn at end 2007. Compared with end 2006, total net assets increased by 4.2%, or €250bn (Chart 4).

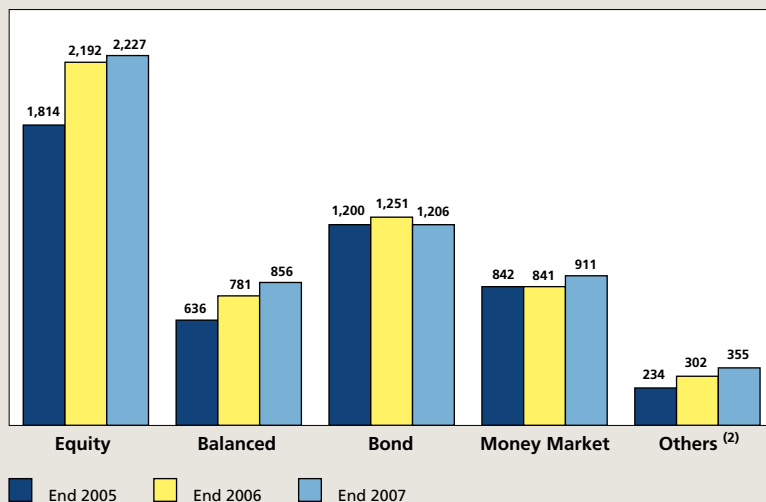
Chart 4. Total Net Assets of UCITS
(EUR billions)



UCITS assets enjoyed positive growth for all fund categories in 2007, except for bond funds (Chart 5). Other UCITS, which include funds of funds, funds of hedge funds and all funds whose investment strategy fall outside the four main UCITS categories, enjoyed the highest growth (17.5%), followed by balanced funds (9.6%) and money market funds (8.3%). Assets of equity funds also increased, but only slightly (1.6%), whereas bond funds assets were down by 3.7%.

2 UCITS defined as publicly offered open-ended funds investing in transferable securities and money market funds.

Chart 5. Net Assets by type of UCITS ⁽¹⁾
(EUR billions)

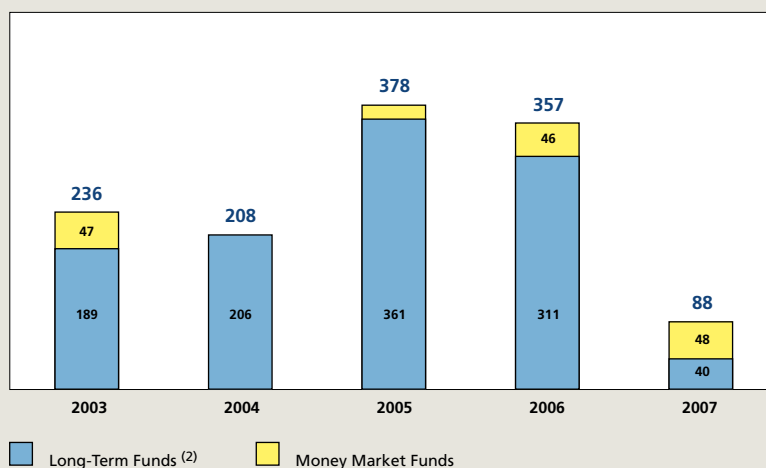


(1) Excluding Ireland for which no asset breakdown by type of funds is available.

(2) Including funds of funds.

Taking into account estimates for Ireland, for which no net sales data are available, UCITS collected positive flows of about €170bn in 2007, compared to €452bn in 2006. Two main set of factors relating to financial market conditions explained this outcome: first, the rise in stock market volatility to unusually high levels which dampened investor demand for equity funds; second, rising interest rates in 2006 and 2007 which depressed bond returns and, consequently, investor demand as well. These adverse developments led to a sharp fall in inflows into long-term UCITS (Chart 6).

Chart 6. Net inflows into UCITS in 2003-2007 ⁽¹⁾
(EUR billions)



(1) Excluding Ireland.

(2) All UCITS excluding money market funds.

In contrast to the situation in the equity and bond segment of the market, balanced funds continued to attract new money in 2007, albeit at a slower pace than in 2006, whereas inflows into money market funds increased slightly. The net sales of “other” UCITS also remained buoyant.

Chart 7a. Net sales into UCITS
(EUR billions)

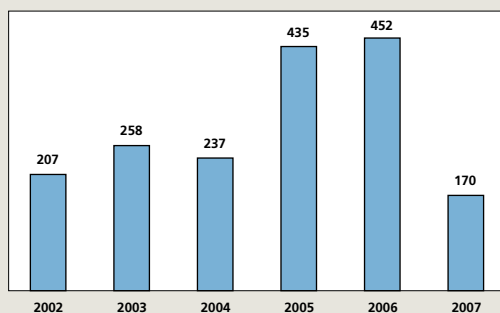


Chart 7b. Net sales into Equity-Linked Funds
(EUR billions)

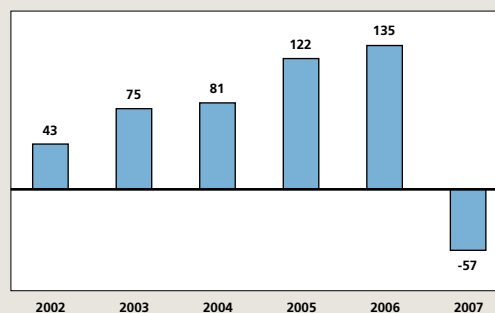


Chart 7c. Net sales into Equity Bond Funds
(EUR billions)

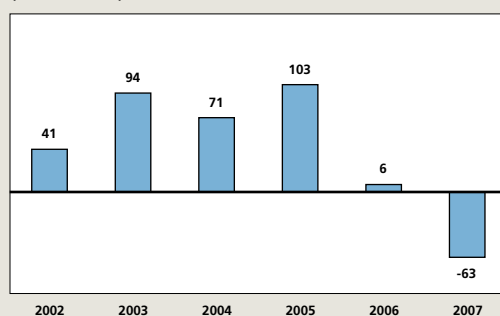


Chart 7d. Net sales into Equity Balanced Funds
(EUR billions)

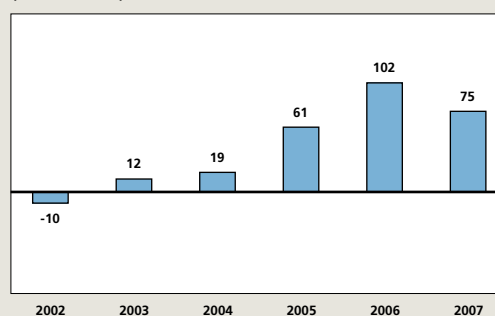


Chart 7e. Net sales into Money Market Funds
(EUR billions)

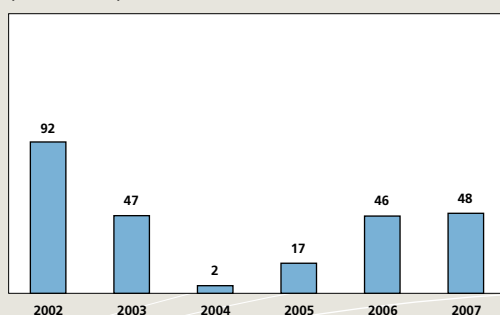
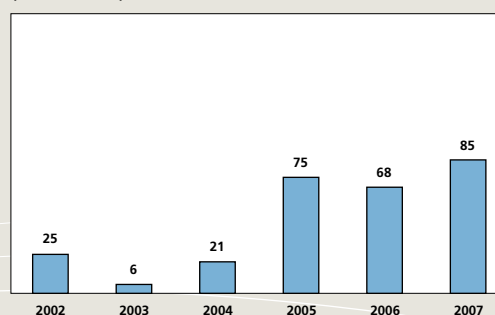


Chart 7f. Net sales into Other UCITS
(EUR billions)

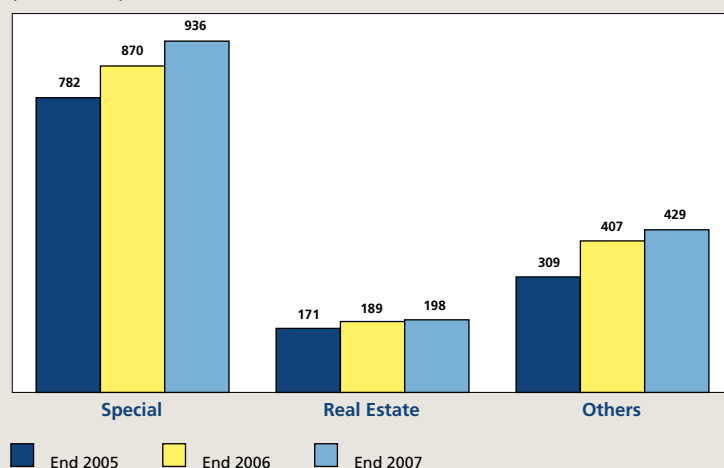


Trends in the Non-UCITS Industry

Total assets in non-UCITS increased by 6.8%, reaching €1,723bn at end 2007. Special funds collected €76bn in new money, compared to €68bn in 2006. Inflows were the largest in Luxembourg (€38bn), followed by Germany (€27bn), Denmark (€6bn), and the United Kingdom (€4bn).

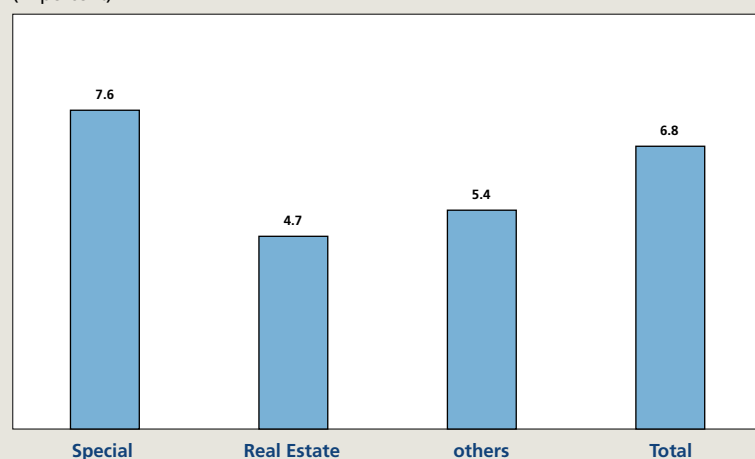
Assets in real estate funds grew by 4.7% in 2007. The highest increase was observed in Germany (from €75bn at end 2006 to €83bn at end 2007), reflecting inflows of €6.4bn in 2006. The increase in "other" non-UCITS assets reflected strong investor demand for non-UCITS domiciled in Luxembourg, alternative management funds in Italy and Switzerland, and venture capital in France.

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



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

Chart 9. Growth Rates by Type of Non -UCITS in 2007 ⁽¹⁾
(in percent)



(1) Excluding Ireland, except for the total.

Trends across Europe

With total net sales of funds domiciled in Luxembourg and Ireland estimated at €268bn, cross-border fund sales represented about 160% of total industry net inflows in 2007, reflecting the success of UCITS as a global brand and the growth of the fund business in Asia. In relation to UCITS assets at end 2006, net inflows were also well above European average in Ireland and Luxembourg, as well as in Central European countries, Liechtenstein and Norway.

In Southern European countries strong competition came from structured products and bank deposits, particularly in Italy, which also suffered from net outflows from round-trip funds (€3bn in 2007). In Germany the evolution in 2007 was less worrisome than suggested by the outflows from domestic funds (€13bn). Indeed, taking into account net inflows into round-trip funds, net sales reached €34bn in 2007, 40% more than in 2006 (€24bn). Among the other countries, France was the worst affected by the liquidity crisis, which led to heavy outflows from dynamic treasury funds and absolute return funds. Contagion effects, as well as enhanced competition from bank issuing debt securities, severely impacted net inflows into money market funds.

Net inflows to UCITS in 2007			
COUNTRY	NET INFLOWS (in EUR bn)	COUNTRY	NET INFLOWS (in % of end 2006 assets)
Luxembourg	188.5	Romania	36.9
Ireland (est.)	80.0	Hungary	26.2
Switzerland	11.0	Liechtenstein	20.4
Norway	5.1	Slovakia	19.7
United Kingdom	4.6	Ireland	13.7
Liechtenstein	2.9	Norway	12.4
Finland	2.8	Luxembourg	11.3
Denmark	2.2	Czech Republic	9.2
Sweden	2.1	Switzerland	9.1
Hungary	1.9	Finland	5.4
Slovakia	0.6	Slovenia	4.6
Czech Republic	0.5	Denmark	3.1
Belgium	0.1	EUROPE	2.8
Slovenia	0.1	Sweden	1.6
Romania	0.1	United Kingdom	0.8
Greece	-3.4	Belgium	0.1
Austria	-3.5	France	-2.1
Netherlands	-4.1	Austria	-3.1
Portugal	-4.6	Netherlands	-5.0
Germany	-13.6	Germany	-5.0
Spain	-16.3	Spain	-5.8
France	-28.8	Greece	-14.3
Italy	-59.7	Italy	-17.4
EUROPE	168.4	Portugal	-17.8

Among the fund industry's leading countries, Luxembourg and Ireland recorded the highest asset growth in the European investment fund market in 2007 (11.6% and 10.6% respectively). The United Kingdom and Germany followed in this ranking, with an asset growth of 5.9% and 2.3% respectively.

Elsewhere in Europe, the greatest growth rates were observed in Central Europe, which recorded as a region total fund asset growth of 34.8% with Poland and Slovenia enjoying the strongest growth. Asset growth was also above European average in the Nordic countries, except in Sweden, which suffered more severely from the credit crisis. Reflecting poor net sales and adverse financial market conditions, asset levels decreased in Southern European countries.

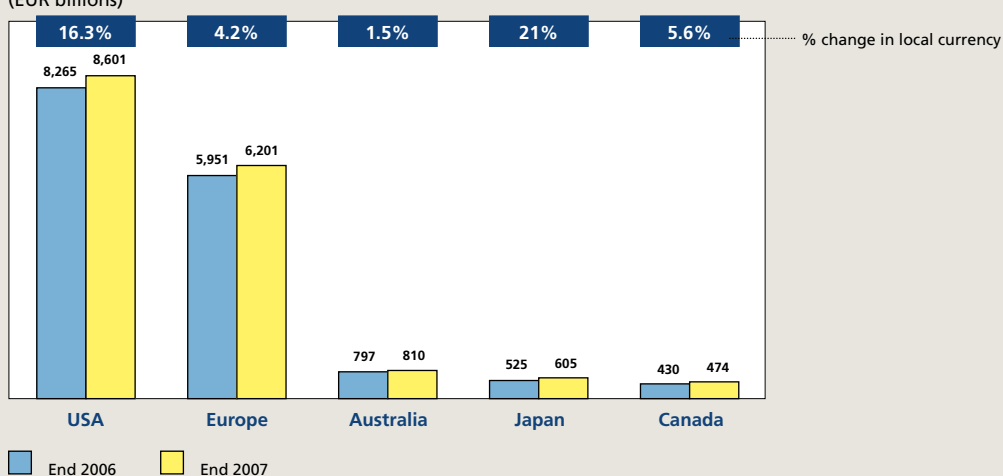
Three countries (Luxembourg, France and Germany) held a market share of 58.1% at end 2007. Ireland, the United Kingdom and Italy followed this ranking. In the UCITS market, Luxembourg, France and United Kingdom ranked at the top with a total market share of 61.6%.

Net Assets of Nationally Domiciled UCITS and Non-UCITS (EUR billions, at end 2007)				
Members	Total Assets	% chg ⁽¹⁾	UCITS Assets	% chg ⁽¹⁾
Luxembourg	2,059.4	11.6%	1,824.0	9.8%
France	1,508.3	0.9%	1,351.6	0.6%
Germany	1,040.9	2.3%	266.1	-2.0%
Ireland	806.8	10.6%	646.3	10.9%
United Kingdom	797.0	5.9%	685.1	12.0%
Italy	339.7	-11.4%	285.1	-17.1%
Spain	278.8	-3.1%	269.4	-3.6%
Austria	165.6	-1.9%	111.4	-3.0%
Switzerland	159.9	6.7%	119.7	-1.1%
Sweden	139.4	-1.1%	136.4	-1.0%
Belgium	126.5	-1.1%	120.4	-0.1%
Denmark	132.2	7.9%	71.5	-1.5%
Netherlands	91.1	-10.5%	77.4	-6.1%
Finland	66.0	8.3%	55.1	7.1%
Norway	50.7	23.6%	50.7	23.6%
Portugal	36.2	-6.9%	21.7	-15.8%
Poland	36.9	43.1%	31.0	39.8%
Greece	22.9	-7.7%	21.7	-9.3%
Liechtenstein	20.5	37.1%	18.7	32.7%
Turkey	18.1	34.8%	15.4	30.9%
Hungary	12.6	24.6%	9.8	32.2%
Czech Republic	6.1	12.5%	6.1	11.6%
Slovakia	4.0	29.0%	3.8	27.4%
Slovenia	4.1	47.6%	2.9	52.9%
Romania	0.3	58.0%	0.3	33.0%
TOTAL	7,923.9	4.8%	6,201.3	4.2%

Trends in Worldwide Investment Fund Assets

Worldwide investment fund assets under management grew by 7.7% in 2007 to €17,797bn. Measured in U.S. dollar terms, fund assets increased by 20.4% to \$26,199bn. The strengthening of the euro vis-à-vis the U.S. dollar explained why fund asset growth measured in euro terms was smaller than in U.S. dollar terms. Measured in local currency and taking into account funds of funds, U.S. mutual funds grew by 16.3% (Chart 10). The other markets in the world also showed positive growth with a remarkable 21% increase in Japan, reflecting a significant increase in equity funds and funds of funds assets.

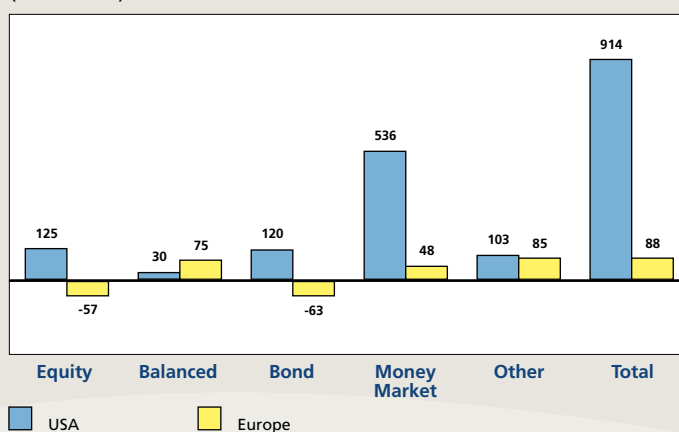
Chart 10. Trends in Worldwide Investment Funds Assets
(EUR billions)



Source: EFAMA, ICI

Worldwide net inflows into investment funds reached €1,294bn in 2007, with Europe attracting €168bn, compared to €914bn in the United States (Chart 11). The strong increase in net flows to money market funds in the United States from €242bn in 2006 to €536bn in 2007, as well as an opposite evolution in the equity and bond segment of the market, explained the contrasted development across both sides of the Atlantic Ocean.

Chart 11. Net Cash Inflows to Investment Funds in 2007 ⁽¹⁾
(EUR billions)



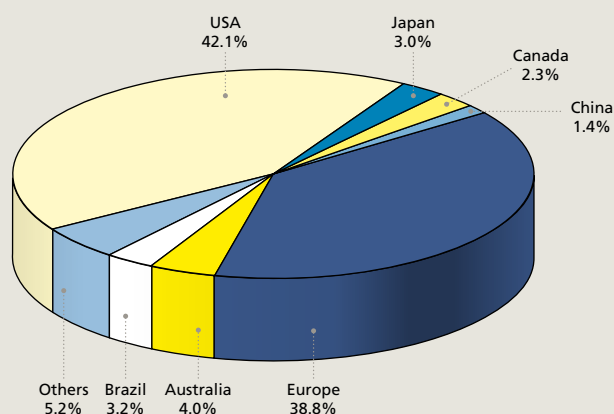
(1) Including estimates for Ireland, total net inflows reached €168bn in Europe in 2007.

Source: EFAMA, ICI

Whereas the liquidity crisis directly impacted “dynamic” and “enhanced” money market funds and had a contagion effect on the money market fund universe in Europe, U.S. funds continued to receive new net cash flows following the disruption in the credit markets. The lack of liquidity in these markets indeed prompted institutional investors to redirect a portion of their liquid assets away from direct purchase of short-term instruments, towards institutional money market funds.

Looking at the worldwide distribution of investment fund assets, the United States and Europe held the largest share in the world market, with 46% and 33% respectively at the end of 2007. Australia, Brazil, Japan, Canada and China followed in this ranking. Taking into account non-UCITS assets, the market share of Europe reached 38.8%, compared to 42.1% for the United States (Chart 12).

Chart 12. Worldwide Investment Fund Assets ⁽¹⁾
(Market share at end of fourth quarter)



(1) Taking into account non-UCITS.

Source: EFAMA, ICI

EFAMA Membership 2007/08

EFAMA Membership 2007/08

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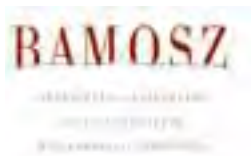
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dutch fund and asset
MANAGEMENT ASSOCIATION



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Verdipapirfondenes forening

Norwegian Mutual Fund Association

Verdipapirfondenes Forening

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Global Investors

Allianz Global Investors AG
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Barclays Global Investors Ltd.
www.barclaysglobal.com



BBVA Gestión S.A. S.G.I.I.C.
www.grupobbva.com



BlackRock Investment Management (UK) Limited
www.blackrock.co.uk



BNP PARIBAS Investment Partners
www.bnpparibas-ip.com



Capital International
www.capitalinternationalfunds.com



Carmignac Gestion
www.carmignac-gestion.com



Crédit Agricole Asset Management
www.ca-assetmanagement.fr



Credit Suisse
Asset Management
www.credit-suisse.com



DekaBank Deutsche Girozentrale
www.dekabank.de



DWS Investment GmbH
www.dws.de



Ecureuil Gestion (Groupe Caisse d'Épargne)
www.caisse-epargne.fr



Eurizon Capital SGR S.p.A.
www.eurizoncapital.com



FRANKLIN TEMPLETON INVESTMENTS
Franklin Templeton Investments
www.franklintempleton.com



Asset Management

Goldman Sachs Asset Management International
www.gs.com



HSBC Investments
www.hsbcinvestments.com



INVESTMENT MANAGEMENT

ING Investment Management Europe
www.ingim.com



INVERSEGUROS Gestión S.A., S.G.I.I.C.
www.inverseguros.es



INVESCO
www.invesco.com



IS Asset Management
www.isasset.com



JP Morgan Asset Management
www.jpmorgan.com

Julius Bär

Julius Bär Asset Management
www.juliusbaer.com



KBC Asset Management N.V.
www.kbcam.be
www.kbcassetmanagement.com (from 1/10/08)



Lombard Odier Darier Hentsch

Lombard Odier Darier Hentsch & Cie
www.lodh.com



Lyxor Asset Management (Société Générale Group)
www.lyxor.com



M&G Investments
www.mandg-investments.com



Monte Paschi Asset Management Sgr S.p.A.
www.mpsam.it



Nordea Investment Funds
www.nordea.com



Pictet Asset Management SA
www.pictet.com



Pioneer Global Asset Management S.p.A.
www.pioneerinvestments.com



Raiffeisen Capital Management
www.rcm.at

ROBECO

Robeco
www.robeco.com



Santander Asset Management
www.santander.es



Schroders
www.schroders.com



SKAGEN Funds / Skagen AS
www.skagenfunds.com



Société Générale Asset Management
www.sgam.com



The Bank of New York Mellon
www.bnymellon.com



Threadneedle Asset Management Limited
www.threadneedle.com



Union Asset Management Holding AG
www.union-investment.de

EFAMA Photo Gallery



New EFAMA Board of Directors elected on 22 June 2007 in Copenhagen:

From left to right,

Back Row: Stefan Seip, Mathias Voigt, François Delooz, Dietmar Rupar

Middle Row: Lasse Ruud, Marian Matusovic, András Temmel, Martin Hanzlík, Jens Jørgen Holm Møller, Matthäus Den Otter, Markus Miederhoff, Robert Hoffmann, Dick Saunders

Front Row: Hans Janssen Daalen, Eva Broms, Karmen Rejc, Pierre Bollon, Steffen Matthias, Mathias Bauer, Jean-Baptiste de Franssu, Gür Çağdas, Josette Leenders (not shown: Markku Savikko, Marina Vassilicos, Gary Palmer, Fabio Galli, Antoni Leonik, Joao Santos, José Pomarón, William Nott)



Election of a new Presidency, 22 June 2007, Copenhagen: Mathias Bauer (P), Jean-Baptiste de Franssu (VP)



Stefan Bichsel, outgoing President and Steffen Matthias, Copenhagen 2007



President Bauer opens the EFAMA Investment Management Forum, Brussels, September 2007



M. Bauer and JB de Franssu chairing EFAMA Conference, Brussels, September 2007



Slovenia joins EFAMA as a new member association. Here: Žiga Lavrič, State Secretary at the Ministry of Finance of Slovenia, Dinner Speaker at EFAMA conference, September 2007



EFAMA on the Road, Zurich, March 2007, S. Matthias, S. Bichsel, Gérard Fischer, Chairman of the Swiss Funds Association

EFAMA's Secretariat



Peter De Proft
Director General



Steffen Matthias
Senior Advisor



Graziella Marras
Senior Policy Advisor



Annette von Osten
Policy Advisor



Larissa Fiedler
Regulatory Policy
Advisor



Bernard Delbecq
Director, Head of
Economics & Research



Elias Bengtsson
Senior Economist



Francesco Natalini Raponi
Economist



Miriam Brunson
Administration &
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Isabelle Van Acker
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The team



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