

For immediate release

Fund and User groups urge EU Antitrust Commission to step up its protection of European ISIN data users as S&P falls short of meeting Commitments

Brussels, 29 September 2014- The European Fund and Asset Management Association (EFAMA) in conjunction with leading investment fund and information user associations have called upon the EU Antitrust Commission to step up its protection of European ISIN data users believing Standard and Poors (S&P) to have fallen short of meeting EU obligations around International Securities Identification Numbers (ISINs).

While EFAMA, AFG, BVI, COSSIOM, IPUG, and SIPUG have all welcomed Standard & Poor's CUSIP Global Service announcement to waive the 15.000 USD annual ISP fee on its US ISIN Basic Service, they believe Standard & Poor's offer - based on a royalty deal with the American Bankers Association - falls short of settling the case. The associations now call on all ISPs to swiftly implement the service with their customers.

The announcement follows complaints by EFAMA and the five fund and information user associations to the European Commission that S&P had not implemented in full the EU competition authorities 2011 Commitments Decision on ISIN use. The European Commission decision allows European data customers to exercise their unconditional right to early termination of their existing S&P licensing agreements and to receive US ISIN records via a market data vendor free of charge.

The Groups believe that the European financial services industry is now one step closer to reaching the goal that the use of all ISINs issued by S&P by indirect end users who are European customers of market data vendors becomes free of charge.

However, EFAMA maintains that the use of the global securities identifier ISIN should be not only be free but also license (contract) free around the world as the applicable ISO 6166 standard does not require ISIN end-user agreements. The S&P model agreements limit ISIN usage considerably by creating unnecessary legal risks and liabilities as well as administrative burden. The EC expressly states in its decision that the model agreements can be changed at any time by the parties:

"Financial institutions should not, as a result of the Commitments, be required to accept contractual terms that are less favorable than those which they could have achieved, in the absence of the Commitments, through negotiations with S&P" and

"The parties remain free to negotiate different terms, and conditions, including the applicable law and jurisdictional clause, should they so choose".

EFAMA now calls on S&P as the US National Numbering Agency (US NNA) for the ISIN to offer an equitable solution to the market in line with other National Numbering Agencies worldwide, which would meet the following minimum requirements:

- Acknowledgement that S&P will allow the free usage of all S&P issued US-ISINs in the normal course of business, without any contractual commitment of the end user independent of the

dissemination channel of the data and without any reference to the US CUSIP identification code.

- Assurance that S&P will not pursue end users based on any proclaimed IP, copyrights and databasing rights, in order to establish legal certainty on free ISIN usage in the entire financial market including that CGS/S&P will respect their customers rights conferred under local data laws.
- Limitations on the definition of Information Service Providers in order to insure that financial services firm reporting activities in the normal course of their business are not considered a licensable "ISP" activity.
- The free use of US ISIN needs to be a global solution and must cover at a minimum all European financial services companies activities outside the EEA territory in order to deal with "follow the trade around the clock situations" and in line with the efforts of the Financial Stability Board and the G 20 to overall reduce risk in the global financial market place.

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Notes to editors:

Background on the case:

The European Commission (EC) launched formal proceedings against S&P on 12 January 2009, investigating whether the fees being charged by S&P for databasing ISINs based on CUSIP numbers were in breach of EU competition law, after receiving a complaint from five European trade associations, the European Fund and Asset Management Association (EFAMA), the French Association Francaise de la Gestion Financiere (AFG), the German BVI, the UK based Information Provider User Group (IPUG) and the Swiss Information Providers User Group, in 2008 (case number 39.592). The EC issued a Commitments Decision on 15 November 2011 and published it on the internet at: http://ec.europa.eu/competition/antitrust/cases/dec_docs/39592/39592_2152_5.pdf.

EFAMA also recalls the European Commission's "statement of objections" of 13 November 2009 against Standard & Poor's (S&P) with respect to its behaviour towards end users of ISINs. The Commission at the time took the preliminary view that S&P is abusing its dominant position by requiring, as the sole-appointed National Numbering Agency (NNA) for US securities, financial institutions and information service providers (ISPs) to pay licensing fees for the use of International Securities Identification Numbers (ISINs) in their own databases. The Commission also took the preliminary view that. This behaviour amounts to unfair pricing and constitutes an infringement of Article 82 EC Treaty.

Furthermore, EFAMA and the other complainants raised a similar complaint against S&P with the Swiss antitrust commission (Wettbewerbskommission - WEKO) on 16 April 2012 (Case Number 31-0404). The results are pending.

Also, the practice of CUSIP licensing is currently re-addressed in the USA by The Bond Dealers of America (BDA), the Investment Adviser Association (IAA) and the Government Finance Officers Association of the United States and Canada (GFOA) with the US Security Exchange (US SEC) and the Regulatory Oversight Committee (ROC) of the Financial Stability Board (FSB) to express concerns on the operation of CUSIP system, and to ask for action and review the requirement to use CUSIP numbers for reporting and regulatory purposes.

The S&P announcement can be obtained at:

http://www.cusip.com/pdf/CUSIPImprovesAccessibilityofUSISINBasicServiceAugust2014_FINAL.pdf .

A copy of the last version of the revised Models Agreements (MA) for ISP/indirect end-users is available at: <http://www.cusip.com/cusip/cgs-services.htm>

Notes to Editors:

EFAMA is the representative association for the European investment management industry. EFAMA represents through its 27 member associations and 63 corporate members almost EUR 17 trillion in assets under management of which EUR 10.6 trillion managed by 55,000 investment funds at end June 2014. Just under 36,000 of these funds were UCITS (Undertakings for Collective Investments in Transferable Securities) funds. For more information about EFAMA, please visit www.efama.org

Association Française de la Gestion Financière (AFG) represents all segments of France's asset management industry, both discretionary and collective. For more information, please visit www.afg.asso.fr.

BVI represents the interests of the German investment fund and asset management industry. Its 81 members manage assets in excess of EUR 2.2 trillion in retail funds, Spezialfonds and assets outside investment funds. As such, BVI is committed to improving the overall conditions for investors, while at the same time promoting a level playing field for all investors across all financial markets. BVI



members manage, directly or indirectly, the assets of 50 million private clients over 21 million households. For more information, please visit www.bvi.de.

COSSIOM (COmité chargé des Services et Systèmes d'Informations destinés aux Opérateurs de Marchés) is the representative of French market data users. For more information, please visit www.cossiom.com.

The Information Providers User Group (IPUG) is the principal organisation in the UK representing users of market data services on a technical, administrative and strategic level. Membership is mainly representative of the London investment market, with nearly 100 institutions drawn from international banks and brokerages, insurance companies, asset managers and the treasury departments of major non-financial companies. Website: www.ipug.org.uk.

SIPUG is the representative of the Swiss Financial Industry. Its members contain representatives from banking and insurance companies throughout Switzerland and Liechtenstein, the latter being a member of the EC. For more information, please visit www.sipug.ch.