

Barclays Response to CESR's Consultation on its role at Lamfalussy Level 3

Barclays is a UK-based financial services group engaged primarily in banking, investment banking and investment management. In terms of assets employed, Barclays is one of the largest financial services groups in the United Kingdom. The Group also operates in over 60 countries around the world, including many EU member states, such as France and Spain, and is a leading provider of co-ordinated global services to multinational corporations and financial institutions in the world's main financial centres.

We welcome the opportunity to comment to CESR on its role in Level 3 of the Lamfalussy Process. We have seen the submissions of the British Bankers Association and London Investment Banking Association on this consultation and broadly agree with the points they make. In addition, we would like to emphasise our views on some of the key issues.

The Importance of CESR in Regulatory Convergence and Understanding

We set great store in a thorough analysis and comparison of existing national regulatory regimes in areas that CESR is harmonising. This will enhance understanding of other members' positions and difficulties in the harmonisation process. It can also be a useful way of gauging best practice for benchmarking purposes. In the interest of transparency, these analyses should be made public.

In addition, however, to its focus on the convergence of supervisory and regulatory practices, CESR should encourage its members to accept the principle of mutual recognition.

We can envisage some role for the members of CESR as an advisory mediator in cases of bilateral disputes or disputes between a small number of CESR members in order to find consensual solutions.

We very much support CESR's proposal on the exchange of personnel between national regulators as a valuable way of gaining insight and understanding into the regulatory practices and cultures of other member states.

Consultation of Industry at Level 3

Transparency and consultation are as vital to CESR's role at Level 3 as they are at Level 2. Market participants should be consulted about any guidance CESR proposes (both for market participants and for CESR members that is likely to have an impact on market participants) before it is finalised.

A formalised mechanism for pre-consultation with industry could be a useful way of achieving this, enabling industry to provide technical advice at an early stage.

Scope of CESR's Role

In the first instance we would encourage CESR to put on a sound footing work within its existing remit before expanding into other areas. Its current role can be supported by closer co-operation between relevant national ministries or departments to ensure more uniform transposition of EU legislation into national law.

CESR should commit to conducting and publishing cost-benefit and impact analyses before proposing new measures. This said, we support indications from CESR that it is considering work in relation to the convergence of transaction reporting as an area where CESR could add real value.

We see some role for CESR and the Commission in developing clarification and guidance on some of the less clear aspects of key EU financial services laws and appreciate the authority this would have. However, we anticipate the instances where such action might be necessary to be few and would expect full consultation of market participants if such a course of action were followed.

We are wary of CESR's suggestion that it could play a role in product approval on a pan-European basis. We feel that the costs in terms of additional bureaucracy and slowing down of the process would not be outweighed by any tangible benefits. It is very important that innovation and product development in the EU is not stifled and that continuing primacy is given to the home state principle – or at least to the regulator of the member state where the product is to be first introduced. Individual member state regulators have more resources and expertise than CESR for such a task.

If you wish to discuss further any of the comments raised in this response, please do not hesitate to contact either:

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