



ASSOGESTIONI

associazione del risparmio gestito

Milan, 9th March 2005

Mr. Fabrice Demarigny
Secretary General
CESR- The Committee of
European Securities Regulators

Dear Mr. Demarigny,

Re: Assogestioni comments on CESR analytical paper “Which supervisory tools for the EU securities Market”

In replying to the invitation to produce observations and comments on the above mentioned report, Assogestioni, the Italian Association of the Investment Management Industry, would like to thank you for the opportunity to contribute to the current debate on the challenges faced by the regulators and the best tools to face such challenges as the single market for financial services develops.

In our view, the document offers a valid assessment of the current level of integration of the financial markets and of the demands that will be placed on the network of regulators and on CESR in the coming years as the FSAP directives are implemented.

In general terms, we agree with the “step by step” or “adaptive” approach suggested by CESR according to which the priority should be to fully exploit the means of cooperation offered by level 3 of the Lamfalussy process before putting in place new tools to further strengthen cooperation when and if required. The so called “adaptive” approach will prevent burdening the evolution of the internal market with unnecessary regulation before it is actually required by the reality of market developments.

Assogestioni also supports the view that, as the internal market becomes more integrated, there may be circumstances under which it would be more efficient and effective to delegate to CESR certain regulatory powers now entrusted to national regulators.



Along the same line, we support CESR's suggestion that a delegation of power from the national regulators to CESR should occur, in line with the subsidiarity criteria, only when certain conditions are met and in particular if there is evidence that the more decentralized mutual recognition system has failed and that a centralized approach would lead to higher efficiency. Particular attention should be put in defining not only the "checks" that could trigger such possibility but also define the areas in which this would be possible.

While we agree on the overall analysis and approach, on more specific issues, we would like to raise some concerns.

On promoting coordination and decision making convergence - Identification of emerging issues

An "early warning approach" requiring that all significant innovation be subject to a pan-EU assessment at an early stage and a pre-clearance at CESR level would risk hindering development and innovation and would go against the spirit of the "adaptive" approach. It would be advisable to leave to the market the selection of the products that are "bound to travel" and only at that stage should the assessment of the product be subject to pan-European assessment; this does not exclude CESR from monitoring new products coming onto the market at national level.

On fair implementation and application of directives

Assogestioni agrees with the objective of CESR to monitor the way directives are implemented at national level and with the benefit that would arise from a more active and systematic role for the Market Participants Consultative Panel. It would be however more cautious in envisaging the setting up of investigative teams in a systematic way and would rather see the setting up of such committees as a tool to be used on an ad hoc basis when the need arises.

On granting to CESR more extensive power over the internal market

This would be acceptable as long as:

- accountability of CESR and its governance are properly monitored and regulated
- the danger of over-regulation is monitored through cost-benefit analysis
- an effective process is put in place to maximize consistency between CESR decisions and national regulatory framework

Beyond the above remarks, we firmly believe that CESR's future action should rely always and foremost on the active involvement of market participants.

Yours sincerely,



The Director General

Fabio Galli