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**CESR – THE COMMITTEE OF EUROPEAN SECURITIES
REGULATORS**

***CONSULTATION PAPER
THE ROLE OF CESR AT “LEVEL 3” UNDER THE LAMFALUSSY
PROCESS (CESR/04–104b)***

May, 2004

The role of CESR at “Level 3” under the Lamfalussy Process

Coordinated implementation of EU law – The main actors: Member States, European Commission, National competent authorities

1. *Do you agree with the described role of CESR with respect to the coordinated transposition and application of EU law?*

If by “described role” we intend the *current activities* underlined in the document referred to as Cesr /04 –104b, we agree with it. Moreover, we stress the importance of cooperation among the Commission, Member States and national regulators in drawing “transposition guidelines” and we recommend the convenience of *ad hoc* sessions to check how each domestic legislation could match with the European legal framework.

Moreover, with reference to the *proposed new activities* we agree on the circumstance that CESR members have similar rulemaking powers, also because the above represent a condition precedent for the harmonization.

2. *Do you see an “additional role” for CESR under level 3 where CESR could contribute to the coordinated implementation of EU law?*

Pursuant to the current Lamfalussy Report, we do not see any additional institutional role other than those underlined in the consultation paper and mentioned above.

Regulatory Convergence

3. *Do you see any other aspect of regulatory convergence where CESR could play a role?*

We do not see any other aspect of regulatory convergence.

4. *Do you think that CESR could play a role in providing coordinated opinion on new services or products with pan-European scope?*

Yes, we deem that is an essential role to be played by CESR in providing coordinated opinion, overall in the light of the flexibility of the market and of the potential creation of new and different financial services and products; nevertheless, CESR activity has to be strictly connected to EU law already formally adopted and has to be exclusively aimed at implementing it .

5. *Would you consider endorsement by the Commission of the common guidance established by CESR as an helpful tool to ensure consistent application of EU directives/regulations?*

Commission endorsement could be regarded as fundamental in the process of legal framework harmonization; nevertheless, in order to comply with the comitology principle on which the Lamfalussy procedure is based, we deem convenient to use the intervention of the Commission exclusively at level 2, after the consultation with market practitioners.

Supervisory Convergence

6. *Do you see any other aspect of supervisory convergence where CESR could play a role? If so, how and why?*

In our opinion, Member States have to share non only their own experiences related to supervisory activities, but also the principles on which the domestic supervision has been founded. It could be helpful that CESR play a role in setting forth harmonized supervisory principles and rules aimed at interpreting and applying EU law.

7. *What kind of mediation role do you consider would be appropriate for CESR?*

We deem very useful that periodic meetings would be arranged by CESR to allow supervisory authorities to meet and discuss measures to be taken at a harmonized level.

8. *Do you have any comments on the catalogue of all mutual recognition and cooperation obligations under the Directive where CESR is active (see Annex 4)?*

No, we have no remarks.