



**Committee of European Securities Regulators**

**Commodity Futures Trading Commission**

20 May 2005

***Subject: CESR-CFTC Communiqué requesting comment on a common work programme to facilitate trans-Atlantic derivatives business***

Dear Sirs,

Euronext welcomes the announcement by CESR and the CFTC of a common work programme to facilitate the conduct and supervision of trans-Atlantic derivatives business. This initiative is indeed to be applauded for it addresses a real need of the industry. In the context of internationalization of financial flows, and in order to allow market participants to be able to develop trans-Atlantic businesses and increase the number of transactions on exchange-traded derivatives products, it is crucial that businesses are compatible when conducted across the European Union and the United States, and therefore that the regulatory environment allows for such compatibility.

In that perspective, and as a general comment, we are of the opinion that the intention of CESR and CFTC to consider the views of market participants in order to explore potential cooperative strategies and the related proposed work programme is a very positive development. As concerns the determination and implementation of such programme, we would insist on the three following main issues:

- First of all, we would urge CESR and the CFTC to **devote sufficient resources** to make real progress in this cooperative area. Indeed, the proposed programme is ambitious and requires to benefit from sufficient human and technical resources in order to fulfil its objectives.
- It seems also essential to **concentrate on practical issues** faced by market participants rather than grand gestures. In that view, we particularly appreciate and applaud the concern shared by CESR and the CFTC to place the emphasis of this cooperation on practical, operationally achievable improvements.
- Then, it remains crucial to continue **consulting at all stages with market participants** in order to identify genuine problems and practical solutions.



All market participants in Europe, as presumably in the United States, are likely to benefit from any effort aiming at facilitating greater cross-border business in financial markets. Market operators would of course ultimately have an interest in seeing trans-Atlantic operations facilitated, as well as would investment firms.

Such regulatory cooperation would be likely to enhance financial exchanges between the European Union and the United States, as they would provide investment firms the simplicity of operation that they are ultimately looking for. Indeed, in order to allow for a simple and efficient trans-Atlantic business, firms should be able to treat all their clients equally, not just from a natural justice perspective but also from an administrative point of view; which means, among other things, applying them the same due diligence, benefiting from a common categorisation of retail/wholesale customers, and being able to provide the same common risk warnings and disclosures. In addition, trading arrangements tending to be as uniform as possible across the world's markets would allow firms to concentrate more on trading rather than to focus on local differences imposed by the local markets or their regulator(s).

From that perspective, we consider that the two most important issues to be focused on and developed on the work programme are likely to be those relating to on-going requirements for licensed and recognised persons and the targeted consultation on cross-border issues.

Furthermore, regulatory considerations should today not be a brake on allowing market participants to develop trans-Atlantic business. Indeed, the European Financial Services Action Plan and its numerous provisions - notably relative to transparency - has settled a structured and harmonised European legal framework in that respect and pleads for mutual reliability between Europe and the United States on a regulatory standpoint. Therefore, regulators should seek to avoid imposing unnecessary and/or duplicative regulation.

Finally, and as we took notice of the will of enhanced cooperation announced a year ago by CESR and the American Securities and Exchange Commission, we would like to highlight the importance for CESR and the CFTC to **coordinate** their actions within this cooperation scheme **with the SEC**, for many of the concerns and difficulties faced by non-US investment firms doing business in the United States arise from the different but overlapping regimes of the CFTC and the SEC.

We hope that these elements will be of some interest and remain at your disposal to discuss further those issues.

Sincerely,

Olivier Lefebvre