

Milan, 11th September 2006
Prot. 110/06/GG/mco

CESR
11-13 Avenue de Friedland
75008 Paris
France

Re: ASSOSIM's remarks on CESR's Consultation Paper containing its draft work programme for MiFID level 3 work – Ensuring convergence amongst supervisors. CESR/06-415 18th July 2006)

ASSOSIM¹ welcomes the opportunity to express its views on the draft work programme for Mifid Level 3 work.

We welcome in particular the proposal to establish a MiFID Consultative Working Group composed of technical experts from the market. In our view, this Group should be composed of market participants from all European Countries and represent intermediaries of various sizes and involved in the provision of various activities. An effective cooperation between authorities and market practitioners will necessarily smooth the implementation process.

It might also be worth considering forms of cooperation and interaction between this group and other consultative groups currently active within CESR. In particular we would like to refer to the implementation fora held by CESR and composed by representatives of the European Competent Authorities.

Coming to CESR's work, Assosim considers that level 3 is a key moment for a proper functioning of the entire Lamfalussy Process. As a matter of fact, a lack of convergent implementation would nullify the efforts so far carried out at the previous levels 1 and 2 of the Process.

We believe that the first category of level 3 work is of particular importance in order to favour consistent interpretations by national authorities and thereby prompt convergent implementation and application of the provisions adopted at levels 1 and 2. In this context, one significant example of an issue which would require attention, although not mentioned in CESR's consultation paper, is the interpretation of the definition of systematic internaliser, based only on qualitative criteria.

As to the Work Programme, at this stage it is extremely difficult to provide a definitive assessment of both its content and the time-schedule proposed, especially with respect to the second and third categories of work identified. In general, aiming at making the

¹ ASSOSIM (*Associazione Italiana Intermediari Mobiliari*) is the Italian Association of Financial Intermediaries, which represents the majority of financial intermediaries acting in the Italian Markets. ASSOSIM has nearly 80 members represented by banks, investment firms, branches of foreign brokerage houses, active in the Investment Services Industry, mostly in primary and secondary markets of equities, bonds and derivatives, for some 82% of the total trading volume.

ASSOSIM

legislation enter into force on time, we believe that priority should be given to those issues that require firms to undertake significant organisational and technological changes to be MiFID-compliant.

At the same time, however, CESR should carefully monitor MiFID implementation by national regulators so as to avoid the risk of member states introducing super-equivalent provisions and tackle the introduction of new barriers to the proper functioning of the single market or failure to remove old ones. Finally we believe that CESR work at level 3 needs to conform with the better regulation approach, which should be adopted by all EU institutions and national regulators.

As for the third category, in particular, we believe that additional issues are likely to come up during the implementation process. CESR should provide for these upcoming issues (which might be reported by national authorities or practitioners) to be extensively debated within the above-mentioned MiFID Consultative Working Group.

Without prejudice to the above, as to the list of work proposed, we consider that priority should be given to issues pertaining to the passport of investment firms and regulated market, publication and consolidation of market transparency information, best execution and transaction reporting. We also attach a great deal of importance to the work which CESR proposes to carry out in order to clarify the scope of the newly introduced provisions and thereby avoid the risk of diverging implementation/enforcement by member states (list of financial instruments, execution only, marketing communication, compliance, information to clients, etc.).

Finally, as regards the deadlines envisaged in the schedule and which are mainly imposed in level 1 or level 2 legal texts, it is important that the work be organised so as to allow each of the parties involved in the work, including the public which will be consulted during this process, to be granted adequate time to provide useful contribution to the work.

We remain at your disposal for any further clarification.


Il Segretario Generale
Gianluigi Gugliotta

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