

# **Questionnaire on Assessment of CESR's activities between 2001 and 2007**

## **ASSESSMENT of CESR'S ACTIVITIES BETWEEN 2001 AND 2007**

### **Purpose**

Since the establishment of CESR in September of 2001, CESR has delivered all its mandated level 2 advice in the securities field, and has also delivered level 3 measures, standards and recommendations and guidelines. CESR's work is now increasingly focused on level 3 of the Lamfalussy structure and to fostering supervisory convergence in the day-to-day application of financial regulation.

CESR "should have the confidence of the market participants" as set out in point 6 of the Stockholm Resolution. CESR now considers this an opportune time to assess the extent to which that is the case. CESR wants to know how the market rates CESR's performance to date, to see which areas for improvement the market finds and to consider whether the market believes that CESR is appropriately fulfilling its mandated obligation to involve the market in its activities. 2007 is the year in which the evaluation of the Lamfalussy process and its structures is taking place and an important component of such an evaluation is the markets view on CESR. CESR will report on the results of this questionnaire to the EU institutions within the remits of the Lamfalussy evaluation.

For an explanation of what CESR is and does, and an overview of the Lamfalussy system, please see the annex to the Press release.

### **Key areas of questions**

The questionnaire has five sections. For each question you are asked to mark how well you think CESR has performed against a five grade scaling system. Please mark the relevant box with an X. In the event that further explanation of an answer is necessary, there is also room to do so at the end of each section.

### **Addressees of this questionnaire**

The questionnaire is open to everyone who takes an interest in CESR's work and in particular to all market participants including consumer/retail investor representatives.

CESR has endeavoured to keep this questionnaire as short and to the point as possible, and anticipates that it should not take longer than 30 minutes to complete. CESR thanks you in advance for your time and willingness to participate in this important consultation.

### **Procedure**

This questionnaire is open for answers until the 14<sup>th</sup> of September 2007. All responses should be posted on the CESR web-site function for responding to consultations. <http://www.cesr.eu/index.php?page=consultation&mac=0&id=>

All responses will be made public on the CESR-web-site unless the respondent explicitly states that publication should not take place.

## FIRSTLY

Please fill out the name of the respondent you represent below.

**THE FUTURES AND OPTIONS ASSOCIATION**

### a. Who are you?

Please indicate in which area you are active: (could be more than one):

|                                                              |   |
|--------------------------------------------------------------|---|
| Banking                                                      |   |
| Insurance, Pension, Asset Management, Institutional investor |   |
| Legal & Accountancy                                          |   |
| Issuers                                                      |   |
| Investment Services                                          | √ |
| Investor Relations                                           |   |
| Government regulatory & Enforcement                          | √ |
| Regulated markets, Exchanges & Trading systems               | √ |
| Sovereign Issuers                                            |   |
| Individuals or consumer association                          |   |
| Credit Rating Agencies                                       |   |
| Press                                                        |   |
| Others                                                       |   |

### b. Where are you active?

Please indicate your principle area of activity geographically

| In one EU/EEA member state only | In two-three EU/EEA member states | In multiple EU/EEA member states | Outside EU, with headquarter, with or without a permanent presence in the EU/EEA |
|---------------------------------|-----------------------------------|----------------------------------|----------------------------------------------------------------------------------|
|                                 |                                   |                                  |                                                                                  |

*UK mainly, EU generally. Outside the EU (eg Asia Pacific, US) but with no particular presence other than in the UK.*

## Section I Understanding the role of CESR

This section is meant to assess your understanding of the role of CESR.

1. How clearly do you understand CESR's objectives, (namely the role given to CESR and reflected in the Stockholm resolution, the Commission decision setting up the CESR and the CESR Charter)?

|            |               |                  |            |           |
|------------|---------------|------------------|------------|-----------|
| Not at all | Only a little | To a fair amount | Quite well | Very well |
|            |               |                  | √          |           |

2. How clearly do you understand CESR's priorities?

|            |               |                  |            |           |
|------------|---------------|------------------|------------|-----------|
| Not at all | Only a little | To a fair amount | Quite well | Very well |
|            |               |                  | √          |           |

3. How well do you understand the specific role given to CESR in relation to its position in the EU legislative framework?

|            |               |                  |            |           |
|------------|---------------|------------------|------------|-----------|
| Not at all | Only a little | To a fair amount | Quite well | Very well |
|            |               |                  | √          |           |

4. How would you assess the influence of CESR in the EU legislative framework?

|          |           |                            |            |           |
|----------|-----------|----------------------------|------------|-----------|
| Very low | Quite low | A fair amount of influence | Quite high | Very high |
|          |           | √ to                       | √          |           |

*Depending on the issue*

5. How well do you understand the function CESR performs in facilitating the day-to-day application of financial regulation in the EU?

|            |               |               |            |           |
|------------|---------------|---------------|------------|-----------|
| Not at all | Not very well | Only a little | Quite well | Very well |
|            |               |               | √          |           |

6. How well do you think CESR has been in explaining its objectives (A), role in the EU institutional system (B) and its priorities (C)?

A) CESR's objectives

|            |               |            |            |           |
|------------|---------------|------------|------------|-----------|
| Not at all | Not very well | Adequately | Quite well | Very well |
|            |               |            | √          |           |

B) CESR's role in the EU institutional system

| Not at all | Not very well | Adequately | Quite well | Very well |
|------------|---------------|------------|------------|-----------|
|            |               |            | √          |           |

### C) CESR'S priorities

| Not at all | Not very well | Adequately | Quite well | Very well |
|------------|---------------|------------|------------|-----------|
|            |               |            | √          |           |

7. Please provide comments and suggestions for any improvements you may have regarding questions raised in Section I.

Open answer:

*Consultation, open meetings and information releases have improved. BUT the process for reaching conclusions is more opaque.*

## Section II Openness, transparency and consultation practices

This section seeks to assess the openness, transparency and quality of CESR and its consultation processes.

8. Would you say that CESR is an open and transparent organisation?

| No not at all | Only to a limited extent | To a certain extent | Yes quite open and transparent | Yes fully transparent |
|---------------|--------------------------|---------------------|--------------------------------|-----------------------|
|               |                          | √                   |                                |                       |

9. How do you think the consultation process of CESR is working overall?

| Not working at all | Works only to a limited extent | Works adequately | Works quite well | Works very well |
|--------------------|--------------------------------|------------------|------------------|-----------------|
|                    | √ to                           | √                |                  |                 |

*Depending on the extent to which a particular outcome has already been broadly agreed*

10. What is your overall assessment of the consultation papers CESR publishes?

| Weak quality | Quite weak quality | Acceptable quality | Good quality | Very high standard |
|--------------|--------------------|--------------------|--------------|--------------------|
|              |                    |                    | √            |                    |

11. What is your assessment of the comprehensibility of the consultation papers CESR publishes in relation to each of the following Directives/Regulation? <sup>1</sup>

| Directive/Regulation | Very poor | Poor | Average | Quite high | Very high |
|----------------------|-----------|------|---------|------------|-----------|
| MAD                  |           |      | √       |            |           |
| PD*                  |           |      |         |            |           |
| TD*                  |           |      |         |            |           |
| IFRS                 |           |      | √       |            |           |
| MiFID                |           |      | √       |            |           |
| UCITS                |           |      | √       |            |           |

\* N/A

12. How do you think that your written contributions to consultations are dealt with by CESR?

| Poorly | Not very well | Acceptably | Mostly fairly and accurately | Absolutely fairly and accurately |
|--------|---------------|------------|------------------------------|----------------------------------|
|        |               | √          |                              |                                  |

13. How do you rank the usefulness of the open hearings that CESR holds?

<sup>1</sup> MAD= Market Abuse Directive, PD= Prospectus Directive, TD Transparency Directive, IFRS= International financial Reporting Standards, MiFID = Markets in Financial Instruments Directive, UCITS= Units in Collective Investment in Transferable Securities

| Not useful at all | Limited usefulness | Adequate | Useful | Very useful |
|-------------------|--------------------|----------|--------|-------------|
|                   |                    |          | √      |             |

14. What is your assessment of the CESR web page in terms of its usefulness for transparency and openness towards markets participants and consumers/retail investors?

| Very poor | Poor | Adequate | Good | Very good |
|-----------|------|----------|------|-----------|
|           |      | √        |      |           |

15. How would you describe the change in the nature and level of transparency and openness of the legislative process in the EU's securities sector since the establishment of CESR (i.e. before and after September 2001)?

| Less transparent and open | Slightly less transparent and open | There is no difference | More open and transparent | Much more open and transparent |
|---------------------------|------------------------------------|------------------------|---------------------------|--------------------------------|
|                           |                                    |                        |                           | √                              |

16. Please provide any other comments you may have regarding questions raised in Section II, regarding openness, transparency and consultation practices?

Open answer:

*The process by which decisions are reached can be unclear.*

### Section III Rule making activity

This section of the questionnaire seeks to assess CESR's rule making quality in the course of the last five and a half years.

17. How would you rate the quality of the work CESR has done in relation to each of the Directives/Regulations for which CESR has given advice to the Commission during the last five and a half years, using the parameters A) to C) below?

A) Workability – How would you rate the workability of the rules in the sense of fit for their practical purposes in their day-to-day application?

| Directive/<br>Regulation | Very poor | Poor | Average | Quite high | Very high |
|--------------------------|-----------|------|---------|------------|-----------|
| MAD                      |           |      | √       |            |           |
| PD*                      |           |      |         |            |           |
| TD*                      |           |      |         |            |           |
| IFRS                     |           |      | √       |            |           |
| MiFID**                  |           |      | √ to    | √          |           |
| UCITS*                   |           |      |         |            |           |

\* N/A

\*\* *Depending on the topic*

B) Accuracy/Technical soundness – How would you rate the accuracy in the sense or being correct and detailed enough and do they capture the relevant issues?

| Directive/<br>Regulation | Very poor | Poor | Average | Quite high | Very high |
|--------------------------|-----------|------|---------|------------|-----------|
| MAD                      |           |      | √       |            |           |
| PD*                      |           |      |         |            |           |
| TD*                      |           |      |         |            |           |
| IFRS                     |           |      |         | √          |           |
| MiFID**                  |           |      | √ to    | √          |           |
| UCITS*                   |           |      |         |            |           |

\* N/A

\*\* *Depending on the topic*

C) Striking the right balance – How would you rate the rules in striking the correct balance between different opposing interests?

(For example between i) flexibility in adaptation to changing markets and legal foreseeability, ii) big market participants and small market players, iii) the securities industry and the consumers, etcetera?)

| Directive/<br>Regulation | Very poor | Poor | Average | Quite high | Very high |
|--------------------------|-----------|------|---------|------------|-----------|
| MAD                      |           |      | √       |            |           |
| PD*                      |           |      |         |            |           |
| TD*                      |           |      |         |            |           |
| IFRS                     |           |      |         | √          |           |
| MiFID                    |           |      | √ to    | √          |           |
| UCITS*                   |           |      |         |            |           |

\* N/A

#### IV Supervisory convergence

18. How would you rate the quality of the level 3 measures (standards, guidelines, recommendations) that CESR has produced in relation to each of the following Directives/Regulations?

| Directive/<br>Regulation | Very poor | Poor | Average | Quite high | Very high |
|--------------------------|-----------|------|---------|------------|-----------|
| MAD                      |           |      | √       |            |           |
| PD*                      |           |      |         |            |           |
| TD*                      |           |      |         |            |           |
| IFRS**                   |           |      | √ to    | √          |           |
| MiFID**                  |           | √ to | √ to    | √          |           |
| UCITS*                   |           |      |         |            |           |

\* N/A

\*\* A mixed group here

19. How do you value the usefulness for the achievement of supervisory convergence of the tools that CESR has developed for strengthening supervisory convergence among EU/EEA supervisors?

The tools in question are:

- The guiding recommendations: for increasing legal foreseeability and harmonisation of day-to-day supervisory practices (Q/A-(Questions & Answers) Documents and databases of cases)
- Review Panel – documents as well as activities
- Mediation system
- Operational cooperation – there are operational groups in the Prospectus contact group, ad-hoc groups under CESR-Pol and CESR-Fin

| Directive/<br>Regulation              | Very poor | Poor | Average | Quite high | Very high |
|---------------------------------------|-----------|------|---------|------------|-----------|
| Q/A documents<br>Databases of cases   |           |      |         | √          |           |
| Mediation*                            |           |      |         |            |           |
| Review Panel*                         |           |      |         |            |           |
| Operational<br>cooperation<br>groups* |           |      |         |            |           |

\* *No experience*

#### V Overall assessment

20. What is your overall rating of CESR's contribution to the creation of a genuine single market for financial services (FSAP and the Lamfalussy approach)?

Please provide an overall grade as well as a written response.

| Weak | Of limited<br>importance | Acceptable<br>quality | Good | Very good |
|------|--------------------------|-----------------------|------|-----------|
|      |                          |                       | √    |           |

Open answer:

*Care needs to be taken to give greater differentiation between different groups of markets, services and customers. There is a tendency to harmonise for harmonisation's sake.*

21. Which aspects of CESR' work do you think CESR should further improve and why?

Open answer:

*More open meetings for face-to-face debate on issues. More insight into the cost regulation places on firms and of “real world” practicalities.*

22. Which aspects of CESR’s legal and institutional framework do you think the EU institutions and Member States should further improve and why?

Open answer:

*A more open (directive-based) commitment to the principles of better regulation.*