

To:
Mr.
Fabrice Demarigny
Secretary General
CESR

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Ihr Zeichen, Ihre Nachricht

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BSBV 64/2003
Dr. Rudorfer/Ne

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The role of CESR in the regulation and supervision of UCITS and Asset Management activities in the EU

Dear Mr. Demarigny,

the Bank and Insurance Division of the Austrian Federal Economic Chamber, representing the entire banking and investment industry would like to comment on the proposal as follows:

Financial stability and supervisory concerns have prompted the Economic and Financial Committee (EFC) to evaluate existing mechanisms and to propose in its *“Report on financial regulation, supervision and stability”*, dated 9 October 2002, to extend the Lamfalussy procedure to all financial sectors in line with the arrangements in force since February 2002 *“based on existing inter-institutional agreements, whilst also recognising sectoral specificities”*. The EFC argues that these sectoral specificities *“would be best recognised by three separate committees each at Levels 2 and 3: for banking, insurance (including pensions) and securities (including UCITS)”*. A fourth Level 2 Committee would be added to deal with financial conglomerates.

CESR QUESTIONS: Do market participants share the views of CESR on the need for its future involvement in the areas of UCITS and asset management? Do market participants agree with the proposed role of CESR in facilitating convergence of the regulation and supervision on the „buy side“?

Ad 1.1. Background

The four arguments set out on p. 3 need further consideration:

- The distinction between collective and individual portfolio management activities don't seem to be as clear as necessary. However, clear definitions of what is understood by both forms of investment exist. For the regulatory environment at least, one can state that for collective investment management not only the manager is regulated and super-

vised, but also the product. More or less stringent investment rules and comparable supervision are widespread. Europe, furthermore, has the requirement for a depositary not only regarding safekeeping, but also control functions.

- Again, the distinction between collective and individual portfolio management activities is very clear in the UCITS Directive. On the other hand, CESR's call for a more harmonised regulation of investment management surely merits further consideration. But this is a different matter and will almost certainly be on the agenda when discussing the new Financial Services Action Plan with the European Commission.

Ad 2.1. and 2.2 Areas of work by CESR - Priorities

2.1.

We agree with CESR's global vision of the so called buy side (point B.) and confirm that asset management, partly is already covered by the Austrian investment fund management activities. The Austrian investment fund industry supports this global view as far as management companies act in the only interests of their clients. In order to avoid any interests of conflict, a separation between the "buy side" and the "sell side" should be achieved.

Regarding the general principles, laid down by CESR (point C.), we want to call for a proper functioning of the UCITS Contact Committee in all its aspects to maximise chances of a coherent and uniform interpretation of the new UCITS Directive throughout the present and future EU/EEA countries. Integration of the Contact Committee into other regulatory bodies may be called for but this should not distract from the overriding goal: the coherent and uniform implementation of UCITS III within the allotted timeframe.

2.2.

Concerning the areas of priority on which CESR should concentrate, one issue mentioned in the paper is not very clear: collection of data by supervisors.

Best regards,

Dr. Herbert Pichler
Bank and Insurance Division
Austrian Federal Economic Chamber