

**REPORT BY THE COMISIÓN NACIONAL DEL MERCADO DE VALORES
CONSULTATIVE PANEL ON THE DRAFT WORKPLAN FOR 2007 – 2008 PROPOSED
BY THE CESR MiFID LEVEL 3 EXPERT GROUP**

The CNMV's Consultative Panel has been set by the Spanish Securities Market Law as the consultative body of the CNMV. This Panel is composed by market participants (members of secondary markets, market operators, issuers, retail investors, intermediaries, the collective investment industry, etc) and its opinions are independent from those of the CNMV.

COMMENTS ON THE DRAFT

We welcome the CESR's continuing policy of consultation on the various channels by which it operates.

Based on that assessment, below are the comments on the various facets of the draft work plan.

1. Mandates from the European Commission. While it is entirely justified that they should be given the maximum priority, it should be noted that such mandates require a considerable investment of resources; accordingly, efforts should be made to ensure that work on mandates focuses on issues that are already very clearly defined.

For that reason, it would be advisable to combine the two consultations in connection with tied agents and streamline the consultation on article 4 of MiFID. For the same reasons, it would appear to be premature to commence a review of the regulations on systematic internalisers in March 2008.

Conversely, the work on equivalent third-country markets (for which the draft provides no date) should be expedited.

2. Establishment of a CESR MiFID Q&A. MiFID and the Prospectus Directive are at very different stages of development, even though both are the result of applying the Lamfalussy method to approve EU regulations on securities markets.

For that reason, applying to MiFID a Q&A system similar to that which CESR implemented for the Prospectus Directive would require the necessary resources be allocated to it so as to ensure that the mechanism is really useful for its target audience.

3. Thematic work. The list of issues for this line of work is extensive and is apparently too much to address in the period to which the work plan refers (4Q07-2008); accordingly, we suggest that work be concentrated on what are considered to be the principal issues.

This need for streamlining is particularly evident in connection with the issues relating to intermediaries. Regarding markets, it would appear to be premature (or, at least,

not a priority) to address changes in market structure, the practical application of MiFID in one quarter, and management of MTSSs.

In line with previous comments about making the best possible use of available resources, there would appear to be some overlap between some of the consultations announced by the European Commission (European consolidation of trading information and review of annex II of the level 2 regulation under MiFID) and the issues proposed for some CESR documents relating to markets (transaction reporting and procedures and formats for the calculation and publication of data).

4. Supervisory aspects. We applaud the proposal that supervisors review and assess the use of the protocols signed between them as well as operating aspects and their supervisory practices. To ensure that such work is as useful as possible, it should be considered how market participants can best contribute to that review and, in any case, how the results of the review should be published.

5. On-going technical work in the implementation of the Level 2 Regulation on markets. Such work should be suitably delimited from other areas proposed for CESR work with an impact on the same Regulation, such as some consultations announced by the European Commission and some issues suggested for future CESR documents.