EACB Answer to the Questionnaire on Assessment of CESR's Activities between 2001 and 2007 (*Ref: 07-460*)

14 September 2007

The **European Association of Co-operative Banks** (EACB) is the voice of co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 members and co-operative banks in general. With 60,000 outlets and 4,500 banks, co-operative banks – which are privately owned entities- are widely represented throughout the enlarged European Union and play a major role in the financial and economic system. In Europe, one out of two banks is a co-operative. Co-operative banks have a long tradition in serving 130 million customers, mainly consumers, retailers and SMEs. Quantitatively, co-operative banks in Europe represent 45 millions members, 700,000 employees with a total average market share of about 20%.

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Introductory Remarks

The EACB welcomes the opportunity to participate in the assessment of CESR's activities since the creation of the Committee in 2001.

Cooperative banks have been following the development of the Lamfalussy process for EU financial services regulation with a lot of interest. The EACB already commented on the overall process on a number of occasions (see for example our Answer to the second Interim Report of the Inter-Institutional Monitoring Group Monitoring the Lamfalussy Process in March 2006[1]).

In its answers to the Questionnaire below, the EACB focuses on the specific role and contribution of CESR in the Lamfalussy process. Although a number of aspects can be improved, especially in terms of transparency and clarity of CESR's mandate, the recent efforts to promote an open dialogue with stakeholders must be acknowledged.

The EACB trusts that its comments will be taken into account by CESR in its future work and would like to stress its support for the goal of supervisory convergence within the European Union.

For any questions on this paper, please contact:

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[1] http://www.eurocoopbanks.coop/GetDocument.aspx?id=2141

FIRSTLY

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

European Association of Co-operative Banks (EACB)

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**
		✓	

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
			✓	

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:

The role of CESR should be to develop guidelines which clarify and harmonise the interpretation of financial services regulation across the EU. These guidelines should not lead to the creation of additional requirements compared to Level 1 and 2 legislation. Besides, CESR should only act based on a mandate from the European Commission.

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
		✓		

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

Weak quality	Quite weak quality to a limited extent	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?[2]

Directive / Regulation	Very poor	Poor	Average	Quite high	Very high
MAD				✓	
PD				✓	
TD				✓	
IFRS				✓	
MiFID				✓	
UCITS				✓	

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?

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
			✓	

[2] 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

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

Open answer:

In terms of transparency, four remarks can be made:
1- Consultations must give stakeholders sufficient time to answer (e.g. 3 months);
2- CESR should publish feedback statements after each consultation;
3- CESR's website should be more user-friendly and disclose more information, for example on the dates and outcome of CESR's meetings (e.g. operational groups...);
4- Q&As or other published forms of CESR advice should not be produced without prior consultations with market participants (cf. Q&As on the PD, on MiFID inducements).

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 / Regulation	**Very poor**	**Poor**	**Average**	**Quite high**	**Very high**
MAD			✓		
PD			✓		
TD			✓		
IFRS			✓		
MiFID			✓		
UCITS				✓	

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 / Regulation	**Very poor**	**Poor**	**Average**	**Quite high**	**Very high**
MAD			✓		
PD			✓		
TD			✓		
IFRS			✓		
MiFID			✓		
UCITS			✓		

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 forseeability, ii) big market participants and small market players, iii) the securities industry and the consumers, etc.?)

Directive / Regulation	Very poor	Poor	Average	Quite high	Very high
MAD			✓		
PD			✓		
TD			✓		
IFRS			✓		
MiFID			✓		
UCITS				✓	

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 / Regulation	Very poor	Poor	Average	Quite high	Very high
MAD			✓		
PD			✓		
TD					
IFRS					
MiFID			✓		
UCITS				✓	

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 / Regulation	Very poor	Poor	Average	Quite high	Very high
Q / A documents Databases of cases			✓		
Mediation					
Review Panel			✓		
Operational cooperation groups			✓		

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 importance	Acceptable quality	Good	Very good
			✓	

Open answer:

The EACB believes that CESR has made and continues to make an important contribution to the development of a common 'European supervisory culture and practice'. Supervisory convergence is however an ongoing process and more can be done.

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

Open answer:

For the EACB, the three main aspects of CESR's work which should be improved are:
1- Increasing the **transparency** of CESR's meetings and of the outcome of the consultations, including by making more information available on the public website;
2- Ensuring that CESR's initiatives are in line with the mandate received from the Commission and follow the **'better regulation'** principle. Level 3 recommendations in particular should avoid creating overlaps and imposing additional requirements;
3- If possible, CESR should try to allow **several acceptable options EU-wide** to provide more flexibility for investment firms.

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:

No comments.