CESR

THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

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

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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 then 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 14th 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.

Investment Management 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	X
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**
X			

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
			x	

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

Not at all	Only a little	To a fair amount	Quite well	Very well
			x	

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
			x	

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
				x

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
			x	

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
			x	

B) CESR's role in the EU institutional system

Not at all	Not very well	Adequately	Quite well	Very well
			x	

C) CESR'S priorities

Not at all	Not very well	Adequately	Quite well	Very well
			x	

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

Open answer:

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
			x	

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
			x	

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

Weak quality	Quite weak quality	Acceptable quality	Good quality	Very high standard
		x		

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

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

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
			x	

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

Not useful at all	Limited usefulness	Adequate	Useful	Very useful

[1] 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
				x

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
			x	

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
				x

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

Open answer:

We welcome the fact that CESR has been willing to change its view in light of consultations (eg on inducements in MiFID, Eligible assets under the UCITS directive) – although it would be even better if CESR got it right first time!

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			x		
UCITS				x	

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			x		
UCITS				x	

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, etcetera?)

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

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			x		
UCITS			x		

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			x		
Operational cooperation groups					

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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
		x		

Open answer:

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

Open answer:

As noted above, we welcome the fact that CESR is open to change proposals in light of representations made – it would, however, be better if such changes were not required because it was right the first time! We remain disappointed at the fact that CESR was not more bold in relation to notification requirements for UCITS and note that we have not seen much evidence of the CESR paper being reflected in practice.

We note that CESR was much more active in the investment management arena in the early part of the period under consideration than it seems to be now.

We very much welcome the existence of the Investment Management Consultative Working Group, meaning that CESR has input from practitioners. However, in our view CESR should take greater benefit of the group earlier in the drafting process when there still is a real chance to impact the direction CESR will be taking.

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:

Important part of the convergence in securities markets regulation will need to be done in Level 3, i.e. converging the daily practices of national securities regulators. It is therefore vital that Level 3 really works and is taken seriously by all of CESR's members.

CESR and EU institutions need to put greater emphasis on the role and proper functioning of Level 3.