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Rome, 1st June 2004

Mr Fabrice Demarigny
SecretaryGeneral CESR
11/13 Avenue de
Friedland

Re. N. 493/04

Dear Mr. Demarigny,

Re: THE ROLE OF CESR AT "LEVEL 3" UNDER THE LAMFALUSSY PROCESS

Assogestioni welcomes the opportunity to comment on the consultation paper "*The role of CESR at level 3 under the Lamfalussy process*". Assogestioni represents Italian mutual fund and asset management companies which manage assets of more than euro 900 billion, and welcomes the possibility to comment on the building of the new framework for the EU securities regulation.

As a member of FEFSI, Assogestioni supports the response submitted to the consultation paper by the *Fèdèration Europèenne des Fonds et Sociètès d'Investissement*. Nevertheless, we wish to express specific comments for the purpose of the present consultation.

The CESR document focuses on three substantive areas: i) coordinated implementation of EU law by CESR members; ii) regulatory convergence; iii) supervisory convergence.

1) Coordinated implementation of EU law by CESR members

We consider that the consultative paper has rightly identified the role of CESR at level 3.

We welcome the fact that CESR is giving serious consideration to how Level 3 should operate and be used. In particular we appreciate the work of Review Panel, established by CESR, to assist the Committee in its task of ensuring more consistent and timely implementation of Community legislation in Member States.

2) Regulatory convergence

Given the importance of the convergence of national systems, we encourage CESR to create a system of mediation to resolve any conflicts between national regulators that arise because of the implementation of level 3 measures.

Assogestioni endorses the recommendation of the Committee of Wise Men that level 3 should encompass a "framework of enhanced and strengthened cooperation and networking between (national) regulators with a view to ensuring consistent and equivalent transposition of Level 1 and Level 2 legislation". We note that the CESR investor protection standards and ATS standards have clearly played an important role in shaping the content of the new ISD. We consider that this is the right way in which CESR standards should develop in the financial services legislation.

We consider that endorsement by the Commission of the common guidance established by CESR would, in difficult cases, constitute a helpful tool to ensure consistent application of EU directive/regulation. On the other hand, the voluntary approach introduced by CESR members appears, non-conflicting under normal situations, more suitable for the purpose of a consistent application of EU legislation.

3) Supervisory convergence

As a general remark, we note that effective enforcement requires support from Member States and regulators. The Lamfalussy process requires a change in the mindset of all parties involved.

Assogestioni is in favour of closer cooperation between national regulators. Joint working programmes and exchanges of information between Member States' regulators contribute to the harmonisation process.

We wish to point out that there are substantial differences in the powers and jurisdiction (competence) of the various regulators making up CESR. Some of them have very wide ranging powers and discretions while others have a relatively narrow jurisdiction which may be subject to a powerful legislature. This creates a significant natural barrier to the potency of CESR – but also to the effectiveness of CESR as a pan-European network. For that reason, we reckon that the work on level 3 measures, which addresses the need for flexibility so as to accommodate differences between Member States, requires a degree of pragmatism, both from CESR and from national regulators.

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We would like to conclude by reiterating our support for the Lamfalussy process. We fully endorse the objectives of the consultative paper and the transparent working methods adopted by CESR, and firmly believe in the usefulness of this consultation in improving the implementation of the Lamfalussy Process.

We appreciate the opportunity to illustrate our position.

Kindest regards.

General Director

Fabio Galli