



Ref.: CESR/02-039b

**INTERIM REPORT ON THE ACTIVITIES OF
THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS
TO
THE EUROPEAN COMMISSION
AND SENT TO:
THE EUROPEAN PARLIAMENT
THE EUROPEAN SECURITIES COMMITTEE**

MARCH 2002



1. The establishment of CESR

The resolution of the Parliament on the implementation of financial services legislation complements the framework for a constructive co-operation between the EU institutions and all the parties involved to achieve the Financial Services Action Plan and the appropriate regulation of the EU Financial Markets.

Since the decision of the European Commission establishing the Committee of European Securities Regulators (CESR) as an independent body in the Community, CESR has adopted a Charter setting out its own operational arrangements. The Committee will ensure that in undertaking its work, it acts in conformity with the conceptual framework of overarching principles identified in Final Report of the Committee of the Wise Men.

Member States have designated the members of the Committee and the competent authorities in the securities field of Norway and Iceland (countries of the European Economic Area) have designated representatives to participate in meetings without, however, decision making powers (see annex). In September 2001, Mr Arthur Docters van Leeuwen, Chairman of the Netherlands Authority for Financial Markets, and Mr Kaarlo Jännäri, Director General of the Finnish Rahoitustarkastus, have been elected Chairman and Vice-Chairman of CESR for a two-year term. The Committee has also appointed Mr Fabrice Demarigny, full time Secretary General. In the course of the first half of 2002 CESR will establish its permanent secretariat.

In view of the enlargement of the Union, CESR has decided to establish close links with the Securities Regulators of applicant countries to the EU. FESCO has been regular in inviting these authorities to present their legal and regulatory systems and several CESR members are active participants in Phare-Twinning programmes and peer-reviews conducted by the EU Commission. Appropriate forms of co-operation, to involve these authorities in the work of CESR, will be defined shortly.

2. Consultation and Transparency

After a fruitful consultation, CESR has published a Public Statement on Consultation Practices (Ref. CESR/01-007b) to give more details to its commitment to work in an open and transparent manner with practitioners, end-users and consumers. As suggested by the Lamfalussy Report and the European Parliament, CESR will, in addition, establish a high level Market Participants Consultative Panel. The purpose of the Panel will be to provide comments on the way in which CESR is exercising its role, in particular in implementing its Public Statement on Consultation Practices, assist the Committee in the definition of priorities and finally, alert CESR on regulatory inconsistencies in the Single Market and on major financial evolutions. It is expected that the members of the Panel will be nominated by June 2002.

On an on going basis, the Chair of CESR, the Chairs of Expert Groups and the Secretary General of CESR meet the major market participants associations (at the international, European or national level) in order to maintain a permanent dialogue and provide an update on the work in progress within CESR.

3. On going work

CESR has taken over all FESCO activities.

- *A European investor protection regime:*

The work undertaken to harmonise the conduct of business rules under the investment services directive, is reaching its conclusive phase. CESR has approved the retail regime as set out in of an amended version of the paper "A European Regime of Investors Protection: the Harmonisation of the



Conduct of Business Rules” (Ref. CESR/01-014d). This set of Standards and Rules provides harmonised core conduct of business rules for retail investors in the following areas: standards and rules of general application, information to be provided to customers, the “know your customers” standards and the duty of care, customers agreements, dealing requirements (including the “best execution” standards) and individual discretionary portfolio management. The professional and counterparty regime, including the categorisation of investors paper, requires further work by CESR.

- *Standards for Alternative Trading Systems (ATS's)*

A last round of consultation is under way on the paper proposing additional standards for investment firms operating Alternative Trading Systems (ATS's). The Chair of the Expert Group, Howard Davies, Chairman of the UK Financial Services Authority (FSA), has conducted an additional open hearing on 19 March with all interested parties. It is anticipated that CESR will adopt these standards in June 2002 for implementation by the members and forward them to the EU Commission to input the work on the revision of the Investment Services Directive (ISD).

- *Primary Market Practices*

The work to elaborate a European supervisory approach on Stabilisation and Allotment has been finalised, following an intense consultation, supplemented by an open hearing, by the Expert Group chaired by Kaarlo Jännäri. CESR has approved an amended version of its the paper “Stabilisation and Allotment, a European Supervisory Approach” (Ref. CESR/02-020b). This paper provides harmonised standards for Stabilisation practices in the context of a public offer and an harmonised disclosure regime for the Allotment of securities as well as some basic principles of the Allotment process. This work has not been elaborated under a formal mandate of the EU Commission in the context of the future Directive on Insider Dealing and Market Manipulation or the future Directive on Prospectuses. However, these standards represent an important “acquis” for any future work to be undertaken on the same subject.

- *Clearing and Settlement*

A joint Expert Group formed with the European System of Central Banks (ESCB) and co-chaired by Eddy Wymeersch, Chairman of the Belgian Financial Banking Commission from CESR and, Jean-Michel Godeffroy, Director General of the ECB, has started its work. The interest of central banks raised from the relevance of the systems for the smooth execution of monetary policy, the correct functioning of payment systems and the financial stability. Securities regulators are interested in maintaining confidence in the safety and reliability of systems in order to preserve market efficiency and ensure investor protection. The elaboration of Standards and/or Recommendations both for central counterparties and securities settlement systems may be part of the joint work. The final product of this work will favour open and efficient systems and ensure a level playing field for these activities. A call for contributions (Ref. CESR/02-005b) has been published recently to invite all interested parties to provide input to the group's work.

4. Supervisory co-operation

The day to day co-operation between CESR members on enforcement matters is facilitated by the operational work undertaken by CESR-Pol. The permanent group is composed of Senior Officials of each authority responsible for the surveillance of securities activities and the confidential exchange of information. CESR-Pol is chaired by Ms Susanne Bergsträsser, Director of Enforcement of the German Bundesaufsichtsamt für den Wertpapierhandel (BAWe). As an example, CESR, has facilitated the co-operation between securities regulators after the 11 September terrorist attacks. A preliminary report on the investigations related to unusual price movements in the market before that date was sent in October 2001, to the ECOFIN. The areas of work of CESR-Pol covers the speeding up of the provision of information (in particular as regard information from remote members of exchanges), improvement of exchange of information with uncooperative jurisdictions and the review of market abuse cases.



CESR-Fin is composed of Senior Officials of CESR members in charge of the enforcement of compliance with financial reporting and disclosure requirements. The main task of CESR-Fin is to coordinate the work in the area of endorsement and enforcement the International Accounting Standards and other financial disclosure requirements in the EU. CESR-Fin is chaired by Henrik Bjerre-Nielsen, Director General of the Danish Finanstilsynet. The sub-group on enforcement is chaired by Angelo Apponi, Chief Accountant of the Italian Commissione Nazionale per le Società e la Borsa (CONSOB), and the sub-group on endorsement is chaired by Philippe Danjou, Chief Accountant of the French Commission des Opérations de Bourse (COB). As part of its work on enforcement, CESR-Fin tries to develop quality control systems among regulators for enforcement on accounting as well as best practices for the use of auditors as a first line of defence for the monitoring compliance. In this area, CESR-Fin will carefully follow the regulatory consequences of the ENRON case and propose to CESR any action that might be necessary. Regarding endorsement, CESR-Fin has an observer in the Technical Expert Group of EFRAG, who expresses the views of securities regulators on IAS. The sub-group on endorsement is working on the various issues related to the transition in 2005 from national GAAP (based on European Directives) to an IAS/IFRS-based accounting framework. This pre-transition coordinated work is of crucial importance if a consistent application throughout the Union and an orderly transition are to be obtained.

5. Future Work and initiatives

In anticipation of possible requests to advice from the EU Commission for the preparation of implementing measures of the future directives on Insider Dealing and Market Manipulation and Prospectuses, CESR has established two Expert Groups.

The Expert Group on Market Abuse is chaired by Stavros Thomadakis, Chairman of the Hellenic Capital Market Commission. Previous work in the area has led to the publication of an orientation paper, published recently: "Measures to Promote Market Integrity" (Ref. CESR/01-052h).

The Expert Group on Prospectuses is chaired by Pr Fernando Teixeira dos Santos, Chairman of the Comissao do Mercado de Valores Mobiliarios of Portugal. Previous papers published by FESCO proposing the creation of a "European Passport for issuers" will serve as a starting point for the work of the group.

CESR will continue to contribute to the ongoing work undertaken by the EU Commission on the revision of the ISD. For this purpose, CESR has decided to create an Expert Group on Market Transparency and Efficiency with a remit to explore the interactions between four elements: Transparency, Price Formation, Best Execution and Market Structure of secondary markets. The group will be chaired by Claes Norgren, Director General of the Swedish Finanzinspektionen. A preliminary report is expected to be tabled at CESR's June meeting.

Finally, several areas of work that require careful consideration by CESR have been identified, in particular:

- In conformity with the EU legislations adopted by the European Institutions, the need to carefully understand and contribute to the debate on the appropriate level (2 or 3) where harmonised regulatory implementing measures or standards should be introduced according well identified regulatory objectives;
- This question is directly linked to the capacity to evaluate the way in which these measures and/or standards are implemented. In this respect, without prejudice of the level 4 work undertaken by the European Commission, CESR will define procedures to review the way in which members transpose these harmonised rules in their regulations and regulatory practices;



- CESR will organise in the course of the second half of 2002, an internal informative session on the recent jurisprudence on the European Convention of Human Rights, to evaluate the consequence of these juridical decisions on their supervisory and sanctioning powers;
- As a medium term project, CESR will explore ways of enhancing co-operation between members of the regulatory network.

*

Complete information and all documents published are available on the CESR Internet Home page:
www.europecesco.org



CESR Meetings

Mr. Arthur DOCTERS VAN LEEUWEN, Chairman of CESR

Mr. Thomas GOLDMANN, Director of the Austrian Securities Authority (ASA)

Mr. Eddy WYMEERSCH, Chairman of the Commission bancaire et financière, (Belgium)

Mr. Henrik Bjerre NIELSEN, Director general of the Finanstilsynet, (Denmark)

Mr. Kaarlo JÄNNÄRI, Director general of the Rahoitustarkastus, (Finland)

Mr. Michel PRADA, Chairman of the Commission des opérations de bourse (COB), (France)

Mr. Georg WITTICH, Chairman of the Bundesaufsichtsamt für den Wertpapierhandel(BAWe), (Germany)

Mr. Stavros THOMADAKIS, Chairman of the Ε Π Ι Τ Ρ Ο Π Η € Κ Ε Φ Α Λ Α Ι Α Γ Ο Ρ Α Σ / Capital Market Commission, (Greece)

Dr. Liam O'REILLY, Assistant Director general of the Central Bank of Ireland

Mr. Luigi SPAVENTA, Chairman of the Commissione Nazionale per le Società e la Borsa (CONSOB), (Italy)

Mr. Jean-Nicolas SCHAUS, Director general of the Commission de surveillance du secteur financier, (Luxembourg)

Mr Jacob KAPTEIN, Commissioner, Netherlands Authority for Financial Markets

Pr. Fernando TEIXEIRA dos SANTOS, Chairman of the Comissao do Mercado de Valores Mobiliarios (CMVM), (Portugal)

Mr. Blas CALZADA, Chairman of the Comision Nacional del Mercado de Valores (CNMV), (Spain)

Mr. Claes NORGREN, Director general of the Finansinspektionen, (Sweden)

Mr. Howard DAVIES, Chairman of the Financial Services Authority, (United Kingdom)

Mr. Páll G. PÁLSSON, Director general of the Financial Supervisory Authority, (Iceland)

Mr. Erling SELVIG, Chairman of the Kredittilsynet (Norway)

Mr John MOGG, Director General (DG Markt), European Commission