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**CESR GUIDELINES FOR THE CONSISTENT IMPLEMENTATION OF THE PROPOSED
COMMISSION REGULATION ON PROSPECTUS**

CALL FOR EVIDENCE

Background:

The European Commission published, on 20 January 2004, a formal draft Regulation implementing the Prospectus Directive (Directive 2003/71/EC). This is based on the advice provided by CESR during the year 2003 (documents CESR/03-208, CESR/03-300, CESR/03-399). It is expected that the European Securities Committee (ESC) will vote the Regulation on 19 April 2004 and the European Parliament will have an additional month to examine the text. The deadline for the European Commission to adopt the Regulation is 30 June 2004.

One of CESR's objectives when producing the above mentioned advice was to focus the information requirements of the level 2 legislative measures on the information that is relevant to the investor, in line with the Lamfalussy Process. Another objective was to avoid any kind of ambiguity that could lead to different interpretations of the rules and, therefore, hamper the functioning of the Single Market. Notwithstanding, in order to facilitate the understanding of certain disclosure requirements, CESR proposes to draft guidelines that will ensure consistent implementation of the future Regulation. This view was shared by respondents to CESR's consultations.

The second interim report monitoring the Lamfalussy Process issued in December 2003 by the Inter-Institutional Monitoring Group also shares this approach and specifically encourages CESR and the national regulatory authorities to intensify and speed up its work at level 3.

When producing a prospectus, issuers and their advisers may have doubts about the extent of the information to be supplied under a certain item in the schedule. In issuing this call for evidence, CESR's intention is to identify from interested parties which areas in the prospectus schedules might benefit from additional clarification. The purpose of these guidelines would be to help issuers and their advisers to make such judgements and to ensure greater consistency across Europe in the way in which these schedules are implemented.

For example, in relation to the schedules relating to Shares Registration Document, some of the disclosure requirements that might benefit from further practical guidance include the following:

- *3. Selected Financial Information;*
- *9. Operating and Financial Review;*
- *12 Trend Information;*
- *14 Administrative, management and supervisory bodies and senior management;*
- *19 Related party transactions;*
- *20.1 Historical Financial Information, clarification of accounting terms and on the information required in particular cases, such as business combinations, qualified or flawed financial information.*

The above mentioned examples are cited only in order to give an indication of the kind of work CESR intends to undertake.



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The elaboration of guidance will ensure not only that the implementation of the rules is consistent across the EU but also that the views from market participants and end-users will be fully considered.

The outcome of CESR's work will be reflected in common guidelines which do not constitute European Union legislation. CESR Members will introduce these guidelines in their regulatory practices, and will publicly disseminate the way in which the guidelines are implemented. In addition, the guidelines will be subject to CESR internal implementation review processes.

CESR guidelines for the consistent implementation of the Commission Regulation on Prospectuses will not prejudice, in any case, the role of the Commission as guardian of the Treaties.

CESR has decided to give this 'level 3 mandate' to the **Expert Group on Prospectus** that was set to deliver technical advice to the European Commission. This expert group will continue to be chaired by Pr Fernando Teixeira dos Santos (Chairman of the Portuguese Comissão do Mercado de Valores Mobiliários [CMVM]) and Mr Javier Ruiz will remain as rapporteur of the Group. A new Consultative Working Group has been established to advise the Expert Group.

The members of the Consultative Working Group are as follows:

Ms Deborah ter Beek, ABN AMRO Rothschild

Ms Catherine Denis-Dendauw, the High Council of the Economic professions and the Commission for Accounting Standards and of the sub-Commission IAS/IFRS

Mr Kevin Desmond, Price Waterhouse Coopers

Ms Carmen Barrenechea Fernandez, Intermoney Titulización, SGFT and member of the European Securitisation Forum Executive Committee

Mr Axel Forster, Luxembourg Stock Exchange

Mr Wolfgang Gerhardt, Sal. Oppenheim jr. & Cie. KgaA, Frankfurt am Main

Mr Alain Gouverneyre, Ernst & Young France

Mr Svante Johansson, Stockholm University and Linklaters, Stockholm office

Mr Spyros Lorentziadis, Ernst & Young Southeast Europe.

Ms Eva Maria Sattlegger, Raiffeisenzentralbank

Mr Nunzio Visciano, Italian Stock Exchange

The part of the work that relates to financial information disclosures where specific technical expertise in the field of financial reporting and accounting issues is needed, will be carried out jointly by the Prospectus Group and **CESR-Fin**.

Call for evidence:

In releasing this information, CESR is inviting all interested parties to submit views as to what CESR should consider in its future work on guidelines for the consistent implementation of the proposed Commission Regulation on Prospectuses. All contributions can be submitted online via our new website at www.cesr-eu.org by **15 April, 2004**.

Timetable:

CESR has set 31 December 2004 as the initial deadline for finalising this work. In order to meet this deadline CESR has set the following indicative timetable: (Please see below.)

Indicative timetable for CESR's work on guidelines for the consistent implementation of the proposed commission Regulation on Prospectus

