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PRESS RELEASE

CESR completes its final advice on dissemination of financial information and other implementing measures of the Transparency Directive

CESR published today its final advice (Ref. CESR/05-407), in response to the European Commission's mandate on possible implementing measures covering five aspects of the Transparency Directive:

- dissemination of regulated information;
- notification of major holdings of voting rights;
- half yearly financial reports;
- equivalence of transparency requirements for third countries issuers;
- the procedural arrangements whereby an issuer may elect its 'home Member State' competent authority for the purposes of the Directive.

The content of this final advice reflects comments received during the consultations on CESR' draft technical advice on dissemination and storage of regulated information published in October 2004 (Ref: CESR/04-511), and CESR's proposed advice regarding notification of major holdings of voting rights, half yearly reports, equivalence and procedural arrangements published in December 2004 (Ref: CESR/04-512c). Furthermore, the final advice also takes into account comments received during the consultation on CESR's revised draft Technical Advice on Possible Implementing Measures of the Transparency Directive (Ref: CESR/05-267). The responses to the three consultations have been largely supportive of CESR approach. CESR has modified its advice in response to significant issues raised by respondents in the course of its work and publishes today a Feedback Statement (Ref: CESR/05-408) covering all three of the consultations. This sets out how the issues raised during the consultation have been considered and reflected in the final advice.

Regarding:

- **Dissemination of regulated information** (such as price sensitive information, half yearly financial reports, interim management statements, major shareholdings information):

Dissemination, in CESR's understanding, is the process by which regulated information enters into the public domain. CESR advice now proposes a single set of minimum standards that issuers should meet when disclosing regulated information. CESR had originally proposed two sets of advice, one for the issuer and one for third parties (so called 'service providers'). However, as the issuer is responsible for his service provider being able to meet the requirements, it seemed appropriate to synthesize these requirements into one set of minimum standards for issuers. These principles include that the information should be made available without delay (particularly if the information is of a price sensitive nature), to all potential investors and across the European Union, free of charge to investors.

CESR has chosen to remain neutral regarding which type of media should be used to publish regulated information. Nevertheless, CESR specifies the types of media connections an issuer is normally expected to have, in order to achieve its obligations under the Directive. These include press agencies, at least key national and European newspapers with a wide readership, and websites dedicated to financial matters.

CESR also recommends that issuers be free to choose to disseminate all regulated information themselves, or to use a third party such as a service provider to carry out this function. Minimum dissemination standards have also been developed, to deal with handling of regulated information from different aspects. Some information will be price sensitive. The standards therefore include requirements for security and separation of functions, as well as other requirements that are related to the security of the mechanisms for dissemination of information. Issuers must also make sure that



a service provider is capable of providing support and has a separation of functions if it performs more than one service. In such cases, its charges should also be broken down clearly.

- **Notifications duties of major holding of voting rights** in companies whose securities are admitted to trading on regulated markets (Chapter II). The key aspects of this part of the advice includes:
 - o clarification as to how shareholders and other holders of voting rights should fulfil their notification duties when the voting rights attached to their shares have been passed to someone else, so called ‘Article 10 situations’.
 - o CESR proposes in its advice that one should have learned of an acquisition or disposal no later than one day after the transaction was actually executed.
 - o greater convergence regarding the information requirements that shall be required in the standard notification forms.
 - o greater clarity in relation to the question of independence to be complied with by a management company wishing to benefit from the exemption of aggregating holdings. CESR therefore develops practical guidance on how to demonstrate that the test of independence is fulfilled.
 - o for financial instruments that qualify for the purposes of the Directive, CESR sets out a list of those not covered (such as, money market instruments or UCITS). CESR also provides additional details as to which types of financial instruments are covered, for example, transferable securities and derivative contracts related to securities.
- **Specific implementing measures on half yearly reporting** (Chapter III) CESR proposes implementing measures in relation to the definition of the minimum content of half-yearly financial statements not prepared in accordance with IAS/IFRS: In this context, CESR proposes that the minimum content should be defined by reference to the principles of IAS 34 on Interim Financial Information. Secondly, CESR provides advice on the definition of ‘major related party transactions’ that have to be reported on in half-yearly reports. CESR proposes that the definition of related party transactions that is given in IAS 24 should apply both when an issuer prepares consolidated accounts and when he does not.
- **Equivalence of third countries’ requirements with those disclosure requirements established under the Transparency Directive.** This part of the paper develops further the concepts that will be used to establish equivalence. Briefly, CESR’s proposed approach is to test equivalence by looking first at the key principles and objectives of the different disclosure requirements of the Directive, and then to establish what a third country’s framework has to include in order to be deemed to be equivalent. The key principal is that the requirements of the third country do not need to be identical, equivalence can be declared when general disclosure rules provide investors with understandable information which will lead to a broadly equivalent assessment of the issuer’s position.

It is worth noting here again that the advice proposed by CESR in this paper should be seen as separate, although consistent, with the advice that CESR will in parallel develop on GAAP equivalence.

A second aspect of the mandate from the Commission on equivalence, relates to the issue of independence requirements for third countries’ management companies and investment firms. Following support in the consultation for CESR’s initial suggestions, CESR does not propose a separate test of equivalence in this regard, and therefore these firms are under the same test of independence as EU firms.

CESR anticipates undertaking further work in relation to this Directive in the next 12 months, regarding minimum standards for the officially appointed mechanism for the central storage of regulated information (Article 21(2) of the Transparency Directive). Further information will be announced on CESR’s website (www.cesr-eu.org) as soon as more details (such as a mandate from the European Commission) are available.



Notes to Editors

1. CESR received on 29 June 2004 a mandate from the European Commission requesting CESR's technical advice on implementing Level 2 measures of the Transparency Directive. CESR now delivers its final advice to the Commission under the mandate. In the work leading up to this advice, CESR has consulted extensively and has held a number of open hearings for the public. CESR has received in excess of 140 written responses during three consultation periods.
2. There were two elements in the request of the European Commission.

This **first element** was a mandate given to CESR for technical advice on priority measures that are needed to complete the Directive. This advice must be delivered by June 2005. This mandate covered a number of different technical issues which can be grouped as follows:

- a) Different technical issues related to **notifications of major holdings of voting rights** in companies whose shares are admitted to trading on regulated markets.
- b) The minimum standards for the **dissemination of regulated information** and implementing measures on the conditions under which periodic financial reports of issuers must be kept available.
- c) Different technical questions related to **half-yearly financial reports** and to **equivalence of transparency requirements** for third countries issuers.

The **second element** of the Commission's request was presented through a letter of the Commission to CESR, inviting CESR to present a progress report on the conditions for officially appointed mechanisms for storage of information and on possible electronic networks of information about issuers. A first progress report was delivered by CESR on 30 March 2005. Based on this progress report, the Commission will consider whether a second mandate should be sent to CESR requesting technical advice on these issues.

3. CESR's work on Transparency is taken forward by an expert group chaired by Andres Trink, Chairman of the Estonian Financial Supervision Authority
4. CESR is an independent Committee of European Securities Regulators. The role of the Committee is to:
 - Improve co-ordination among securities regulators;
 - Act as an advisory group to assist the EU Commission, in particular in its preparation of draft implementing measures in the field of securities;
 - Work to ensure more consistent and timely day to day implementation of community legislation in the member states.
5. The Committee was established under the terms of the European Commission's decision of 6 June 2001 (2001/1501/EC). It is one of the two committees envisaged in the Final Report of the group of Wise Men on the regulation of European securities markets. Baron Alexandre Lamfalussy chaired this group. The report itself was endorsed by the European Council and the European Parliament. The relevant documents are available on the CESR website. Each Member State of the European Union has one member on the Committee. The members are nominated by the Member States and are the Heads of the national public authorities competent in the field of securities. The European Commission has nominated the Director General of the DG Market, as its representative. Furthermore, the securities authorities of Norway and Iceland are also represented at a senior level.

6. For further information please contact:

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