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PRESS RELEASE

CESR launches a second consultation on simplification of the cross-border notification procedure of UCITS

Having listened to the comments from market participants during the first round of consultations and following careful consideration, CESR publishes today its second consultation paper (Ref. CESR/06-120) on its draft guidelines regarding the cross-border notification procedure of UCITS funds. CESR requests comments and reactions to its revised proposals by 1 June 2006, from both market participants and from retail investors. A public hearing will also be held in Paris (before the end of May) at CESR's premises and information regarding the date and agenda will be made available on CESR's website shortly.

CESR has worked to develop the draft advice on the basis of the results of the first consultation (Ref. CESR/05-484, see also the press release Ref. CESR/05-620), on which CESR received almost 30 responses, mostly from asset managers and their associations.

Within the boundaries of the existing legal framework of the *acquis communautaire* at level 1, the revised consultation paper has tried to address several of the requests put forward by market participants for greater clarity on the specific tasks of the host country competent authorities regarding the marketing arrangements and advertising of passported funds.

As a consequence of the commitment of CESR Members to implement the guidelines and to act according to them to simplify the notification procedure of UCITS passporting cross-border, it may be necessary for some Member States to amend national laws and regulations. Where such a procedure is necessary, a transitional period may be required for the implementation of the guidelines. To assist market participants, CESR has agreed that CESR members will publish on their websites those guidelines in the documents which require a transitional period.

Especially the following proposals have been developed to address the concerns raised in the first consultation:

- **Language regime of the notification letter:** Many contributors to CESR's first consultation stressed the need to broaden the scope for use of international languages in the sphere of finance. Therefore, CESR has agreed that the UCITS can submit the notification letter to the host authority in a language common in the sphere of finance, where this is not contrary to the domestic legislation or regulations.
- **Checking completeness of the notification letter:** Many respondents to the first consultation expressed the view that CESR should clarify when the two month period would start as regards receipt of the notification. If the notification is incomplete, the competent host State authority shall inform the UCITS about the incompleteness and the missing information and documents as soon as possible and in any case within one month from the date of receipt of the incomplete notification.
- **Certification of documents:** So far, many Member States have required the certification of the documents related to the notification procedure by the home State authority of the UCITS. This has been done to make sure that the documents provided to the host State authorities are the most recent ones approved by, or filed with, the home State authority. To simplify the supervisory



practices in this respect, CESR has agreed to rely on self-certification of copies of original attestations by the notifying UCITS as suggested by the consultation respondents. It has been agreed that the original attestation will be issued in English.

- **Treatment of umbrella funds:** Regarding new sub-funds which are added to the umbrella fund with the intention to be marketed in the host State, where the marketing arrangements are already familiar to the host country competent authority, CESR has agreed that the necessary time for the host authority to check should be significantly less than the two-month period. In addition, in order to simplify the processing by the host authority of the notification of umbrella funds with a large number of sub-funds, some proposals such as the self certification by the UCITS' authorised directors have been agreed.

After the second consultation, CESR shall finalise its guidelines regarding the cross-border notification procedure of UCITS funds by July 2006.



Notes for Editors:

1. Preparation of CESR's guidelines on this mandate is being undertaken by the CESR Expert Group on Investment Management, which is chaired by Mr Lamberto Cardia, Chairman of the Italian securities regulator, the Commissione nazionale per le società e la Borsa (CONSOB). A permanent member of the CESR Secretariat, Mrs Lucie Anna Matolinova assists the Chairman and acts as Rapporteur of the Expert Group.
2. Furthermore, a consultative working group composed of 16 market practitioners and consumers has also been formed to provide technical advice to the Expert Group on Investment Management. The market participants are experts in different fields of investment management drawn from across the European markets. They are not intended to represent national or a specific firms' interest and do not replace the important process of full consultation with all market participants. For a full list of the individuals, please visit the page dedicated to Investment Management on the CESR website.
3. 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.
 - 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.
4. Each Member State of the European Union has one member in 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. Bulgaria and Romania participate in CESR as observers.
5. For further information please contact:

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Indicative CESR work plan on the guidelines on the notification procedure of UCITS

