



Ref: CESR 06/ 293

FEEDBACK STATEMENT

**STORAGE OF REGULATED INFORMATION AND FILING OF REGULATED
INFORMATION**

June 2006



This feedback statement includes the views that investors' associations expressed during the Investors' Hearing organised by CESR (see below under I) as well as the written responses of the consultees to CESR's consultation paper (see below under II).

I. INVESTORS' HEARING

On the 20th March 2006, CESR organized an investors' hearing in order to have the investors' associations views mainly on the type of information they are looking for and on the functionalities they would expect from a storage system. The discussion with the investors' associations indicated that investors are currently using a number of different sources to gain information on issuers (including the issuer's website, newspapers, the stock exchange's website, the regulator's website, information providers and credit rating agencies). Furthermore, they indicated that they are particularly interested in financial information, forecasts of the issuers and any 'added-value' information (such as, comparative information, sectoral analysis, and financial ratios) which they currently get from various intermediaries. They also confirmed that investors would expect naked regulated information to be available for free.

Investors' associations stressed the need for reliability, integrity and safety of information provided. They also appreciate having a good entry point with many search criteria such as a list of issuers by name (alphabetically) by sector, by regulator, by a Member State (geographically) which could help lead them to the desired information.

On the particular issue of access to the information in all languages, investors' associations replied that the search capacities should be possible to undertake in the national language and the language of international finance (i.e. English). However in relation to the language of the information stored for each issuer, for the time being, they indicated that this need only be available in the national language(s) of the issuer, leaving to the issuers the initiative to translate their information if they want to attract investors from abroad. Moreover, they proposed the use of icons referring to specific types of regulated information that would allow investors to easily identify the regulated information, as a step towards overcoming the language barrier.

All the above views were taken into consideration by CESR in the drafting of its advice. More particularly, in terms of network models, CESR pointed out that Model C which consisting of an EU list of issuers would easily lead investors to the information they are looking for. In relation to the language issue, CESR has proposed in its advice that the searching capabilities of the OAMs should also be available in the language of international finance as well as the national language(s). Moreover, as a result of the investors' association proposals, CESR included in its advice the proposal concerning the development of icons as one of the technical standards which might contribute to easier access for investors.

II. RESPONSES TO THE CONSULTATION PAPER

INTRODUCTORY CONCEPTS

<p>Q1: Do you agree that, taking into consideration the main purposes of the Directive in relation to the OAM, end users of the OAM will be investors seeking information on issuers and that the specific needs of particular investors or users should be tackled by the OAM itself and not require further and more burdensome requirements on issuers or on the OAM itself? Please provide reasons for your answer.</p>



Most of the respondents agreed with CESR when considering that the “end user” of the OAM would be anyone with an interest in having access to the stored information, including retail investors, institutional investors or professional users of the information stored. Most of respondents also agreed that the needs of specific targeted end users should be dealt with by the OAM itself, adjusting the services provided for the benefit of these end users and the fees associated with this.

One respondent suggested having revision clauses for OAMs to keep pace with the technical developments. CESR recalls that all level 2 measures are already subject to a revision clause in accordance with the directive. In addition, the standards are sufficiently high-level, and therefore adaptable to future technical developments. CESR also suggests in its advice that competent authorities should develop the standards within the limits of the level 1 and the level 2 text.

Notwithstanding, one of the respondents suggested that it will not be feasible for OAMs to provide differentiated services. CESR considers that there might be a scope for that, but that should be left for OAMs to decide and not for the legislation to impose.

Other referred that the OAM will be used if the services and fees payable are the best available option. CESR does agree with these comments, but considers that these concerns should be dealt with by the OAM and not by the legislation.

Some respondents considered that CESR should take into consideration the needs of special users, such as news providers and data disseminators. One respondent considered that these entities should not be regarded as end users. CESR thinks that these potential users of the system will have very specific needs and that it will not be easy to deal with these by legislation. Therefore, contractual arrangements may be best suited to deal with those issues.

One respondent suggested that a definition of the “end user” of the OAM should be included in the Level 2 legal text. CESR considers that such legal definition is not needed since “end user” can be anyone using the OAM services.

Q2: Do you agree that, taking into consideration the main purposes of the Directive in relation to the OAM, what needs to be stored and to be accessed in the OAM is just the regulated information, as produced and disseminated by the issuer or more than that? If so, please provide reasons for your answer and indicate what kind of facilities you would expect and indicate how to cover the costs of such value added facilities.

Most of the respondents agreed with CESR that what needs to be stored is naked regulated information as disseminated by the issuer. Respondents commented that value added information should not be regulated and the offer of such services should be left to the OAM to decide. One respondent commented that all information regarding issuers should be stored as it is considered of interest to investors. CESR thinks that if this falls under the category of regulated information in accordance with the transparency directive, it will have to be stored.

Q3: Do you agree with the views above or do you envisage a more ambitious approach to “easy access”? If so, please indicate what facilities you would like to see in place and detail the additional estimated costs of implementing them, how to cover those costs and explain the advantages of such an approach.

Most of the respondents agreed with CESR analysis on this subject.

One respondent suggested clarifying that the “classification” and “categorization” of information should be minimal. CESR considers that some degree of categorization and classification will be required and is, in fact, required already by the storage systems in place.

Another respondent suggested that the access for data consolidators and data vendors should be considered also under the “easy access” concept as these contribute to the proper access of investors to information. CESR considers that the needs of these specific potential professional users of the system will have to be dealt with by the OAM itself.

One respondent commented that the OAM system may not be ready on time. CESR expects the Commission to take into account the time needed to implement the systems and yet the Commission



has already signaled that it will follow a flexible approach to OAMs in the interim period. Notwithstanding, the time required may be less than anticipated by this respondent because, in accordance with the information collected by CESR, all Member States have already some storage system in place and these may be used as the basis for the OAM, properly adapted to meet the level 2 and level 1 requirements.

A respondent argued that XBRL will facilitate easy access. CESR supports a flexible, open architecture system in terms of storage and filing formats and templates for the reasons described in the relevant parts of its advice and of the present feedback statement.

Q4: Do you agree with the views above or do you envisage a more developed approach for the network? If so, please detail what additional functionalities you would like to see and if possible, provide your opinion on the implications, namely in terms of costs, of setting up such a network. In considering the above, please take into account the alternative funding implications.

Most of the respondents agreed with CESR views on the above.

Some respondents commented the fact that the network should allow the OAMs to share data and requested rephrasing that sentence to refer to “make available”. CESR considered this point but wishes to refer that this reference does not mean that the OAMs will be sharing the regulated information, but that they will be sharing reference data relating to the regulated information or be somehow linked to a search mechanism that would allow searching for the relevant regulated information. The regulated information will be available from the national OAMs and not from any central site at the network level. Notwithstanding, for the purpose of clarification of the above issue, CESR took the respondents’ comment into account and changed the wording in the advice to refer to the access of data.

Another respondent suggested a network consisting of a link between all the existing reliable information providers’ websites’. CESR would like to point out that the transparency directive provides that there should be at least one OAM in each member state. Therefore, information providers can be part of the EU network in case they are appointed as OAMs.

One respondent commented on the need to have good searching functionalities from the start. Another suggested that the searching facility or services should not be located at the network level but at the level of each OAM. CESR considers that this last respondent may be pointing out to model B as a preferred network model. This respondent also suggested that OAMs develop a clear model of the message traffic. CESR considers that this may be handled in the interoperability agreement.

Q5: Do you see alternative technical solutions to those envisaged in this consultative document and permitting to reach the same goal, both for the designing of OAM’s and for creating an EU “one stop shop”? If yes, please describe those solutions and provide estimates of costs and indications on the best way to cover them.

Most of the respondents did not provide additional thoughts on this. Some respondents suggested reconsidering the idea of a unique central storage mechanism across Europe, but CESR considers that the mandate does not give room for that and the idea was rejected by the European Securities’ Committee. One respondent suggested that Member States should adopt consistent approaches to setting up the OAMs. CESR points out that it has little influence on such decision under the Directive and that it already recommends that Competent Authorities be involved in the appointment of such OAMs at national level.

Q6: Do you agree with the above? If not, please provide reasons for your answer.

Most of the respondents agreed with CESR proposals regarding electronic filing and storing with the OAM. Most of them requested a stronger message regarding functioning of the OAM in a strictly electronic environment, namely the prohibition of paper filings and banning of fax as a method of filing with the OAM. CESR would like to point out that the definition of electronic means of the transparency directive (art. 2, par. 1.1) is a quite vague one and includes the fax. Therefore, in any case, fax could not be ruled out because the level 2 text could not restrict the definition of the level 1 text. However, CESR considers that whenever paper filing is used, additional cost may be implied since the OAM will have to convert the paper filing into electronic format. Conversion could be considered as added-value service and the cost could switch to end-users thus creating a disincentive for paper filings. One respondent suggested the use of the internet protocol instead of the public internet, at least for some of the users. CESR considered this proposal and came to the conclusion that this needs to be dealt with by the OAM itself when considering the specific needs of these users. It would be rather complicated to deal in general terms with all the peculiarities that may occur.

Q7: Do you agree with the above? Please provide reasons for your answer.

CESR received mixed responses in relation to whether filing formats should be standardized.

From one side, respondents argued that formatting makes filing easier to both filers and the OAM; others requested the specific use of XBRL as a format, due to its advantages; others referred that formatting is essential to achieve interoperability among the OAMs and to obtain easy access to the information; others suggested that specific formats may be required for security reasons; increased costs were also referred as a consequence of allowing multiple formats.

On the other side, some respondents argued that OAMs should be free in establishing the formats allowed for filing, thus imposing those formats upon issuers.

In relation to these contradictory comments CESR considers that imposing specific file formats at this stage might be premature and onerous for issuers. Nevertheless, CESR clarified in the explanatory text of its advice that XML based languages are appropriate for filing purposes.

Some respondents requested further clarification on what can be considered “non proprietary standards” and that would obviate the use of PDF or Excel files. CESR has considered this issue and as a response to that has added “generally accepted” and “at least” to its advice. Some respondents argued that the formats and templates for the storage of the information in the OAM should be aligned with the formats and templates of the filing of the same information with the competent authorities so that filers avoid the duplication of procedures and the relevant cost. CESR took into account these comments and clearly states in its advice that the templates to be used by the OAMs need to be aligned with those used for the filing of the same information with the competent authority, if such templates are available.

Q8: Do you agree with the above minimum standards of security?

Q9: Are there any additional standards on security CESR should consider?

Most of the respondents agreed with CESR proposals regarding the security standards. CESR has therefore kept its proposals with only minor drafting changes.

One respondent suggested that CESR should clarify whether the OAM could impose additional security standards. Based on the responses received, CESR sees no need for “additional” security standards. OAMs are, notwithstanding, obliged to comply with the high level standards defined, therefore they are obliged to define the specific security mechanisms they will have in place. CESR considers that this proposal is flexible enough to allow OAMs to implement the security systems deemed more adequate to their own characteristics.

A respondent requested clarification on the liability regime applicable to OAMs. CESR considers that there are some provisions in the level 1 text on liability issues but neither the EC nor CESR are mandated to propose the liability regime.

Some respondents asked CESR to clarify the level and extent of the OAM's responsibility when receiving information from the issuers. CESR took into account these requests and made the necessary adjustments to its text according to which an OAM is under the obligation to ensure the completeness of the regulated information it holds as received from the issuer and to ensure that regulated information is not editable while stored.

Other respondent suggested that incorrect information could be taken out if authorized by the Competent Authority. CESR considered this issue but still thinks that investors need to be able to find all issued statements of issuers, and adequate mechanisms will have to be in place to ensure the completeness of the information. On this issue, other respondent suggested that the incorrect information should be taken out, to avoid confusing investors. CESR considers that the correction should make this clear. On this issue, CESR considers that all the information (correct and incorrect) should be available in the OAM for reasons of completeness of information. Therefore, end users will have access to a complete track record for each issuer. Moreover, CESR considers that it would be beneficial for the market to know the number of incorrect information an issuer files in the OAM.

Some respondents suggested that CESR should clarify the sentence "waivers of late filings due to IT issues" included in paragraph 66 of the consultation paper so as to be more precise as to whether it refers to IT issue of the filer or of the storage mechanism. CESR took these comments into account and clarified in its advice that it refers to the late filings due to IT issues of the storage mechanism.

On the issue of additional standards CESR should consider, one respondent suggested requiring a system capability able to support a high number of contacts (as a security and easy access standard), that the editing may be required for security reasons and that the mechanism should be able to validate information filed as regards prescribed format, weight and readability. CESR considered these issues carefully and still considers that these should be left to the discretion of the OAM. CESR also considers that the OAM will have to be able to develop systems that fulfill the requirements of easy access, meaning that are able to support the estimated high amount of traffic.

Some respondents suggested the use of XBRL.

Q10: Do you agree that there is no need for special or additional security standards if an electronic network of national OAMs at EU level is created?

Most of the respondents agreed that additional security measures would not be necessary if a network is set up. While agreeing, one respondent commented that this would depend on the model chosen.

One respondent suggested that the network should have additional means to ascertain reliability and identification of the source. CESR would like to clarify that each of the EU network models proposed by CESR regulated information will be stored centrally at the national and not at the EU level. In fact in the proposed models only reference data will be centrally stored. Therefore, there is no need for additional security standards at the EU network level.

Another respondent suggested that CESR should define safe harbor rules regarding data protection. CESR considers that this is outside the scope of the mandate.

Q11: Do you agree with the above? Please provide reasons if you do not agree

Most of the respondents agreed with CESR in what concerns the standards regarding certainty as to the information source.

Another respondent suggested ensuring also authentication of users. Bearing in mind that end users will be all that will retrieve information from the system, CESR considers that requiring their authentication might be difficult. However, it may be necessary depending on the fee structure to be set up by the OAM. But that matter should be addressed by the OAM itself and not by legislation.

Another respondent suggested using external auditors to check the e-filing procedure. CESR does not consider this to be a minimum requirement that should be imposed on all OAMs across Europe. Some respondents requested clarification as to ensure that authentication could be met by a third person. CESR considers that the authentication needs to be ensured. The way this is achieved is up to



the OAM, and therefore CESR is not considering detailed requirements as to how authentication can be achieved.

Q12: Do you agree with the above? Please provide reasons for your answer if you do not agree.

Q13: Are there any additional standards on time recording CESR should consider?

Most of the respondents agreed with CESR proposals regarding time stamping and considered that the standards dealt adequately and sufficiently with the issue.

Some respondents suggested that specific formats for time stamping should be mandated. CESR considers that this is too detailed for level 2 legislation, but recommends that an agreed standard is reached. Some work has already been done in that respect by CESR IT Task Force in relation to MiFID transaction reporting and therefore input can be obtained from the work of this group.

A respondent argued that the time stamping should be made after the integrity check has been accomplished. In relation to this comment, CESR considers that date and time stamping should take place as the information enters in the OAM because this is when the issuer complies with his storage obligation and not when the information is made available because normally the information will be made available immediately.

Q14: Do you agree with the above? Please provide reasons for your answer.

Most of the respondents agreed with CESR suggestions not to have different requirements depending on the type of regulated information.

One respondent commented that differentiation between naked and value added information would be complicated. CESR considers this to be essential to ensure that users understand the regime that applies to the information retrieved from the system, insofar only regulated information benefits from the status of “regulated information”.

Another respondent commented on the need to further develop the requirements for categorization of information. CESR tried to achieve a sound balance between the level of detail and the requirement imposed, to comply with the better regulation agenda, and therefore considers that this might be dealt at a different level. CESR considers that this issue should be dealt with at the level of the interoperability agreement.

Some respondents asked for clarification of paragraph 88 of the consultation paper as they considered that the drafting of this paragraph suggests an obligation (and not an option) of the OAMs to provide value added services if they do have them. CESR took into account this comment and clarified in its advice that the provision of added value services is a choice and not an obligation for the OAMs.

Q15: Would you require searching capabilities in the language of international finance to be able to have “easy access” to the information stored?

Most of the respondents agreed that “easy access” would require that the searching capabilities of the OAM be available at least in the local language and in the language of international finance. Therefore, CESR will recommend that these be available.

Some respondents commented on the need to distinguish between the searching facilities and the documents themselves. CESR agrees and considers that: any translation of the regulated information itself can be provided by the OAM, but is not considered a requirement that can be imposed on the OAM. CESR clarified in its advice that whenever an issuer disseminates regulated information in more than one language, it should make available to the OAM all these linguistic versions of the regulated information.

One respondent commented that XBRL would offer unlimited language solutions. Other commented that this would not be necessary because at least one OAM would have as a local language the language of international finance and investors could then access the information through this OAM and search the others using the network. This is in fact true, but it will depend on the configuration of the network. In fact, if models C or D are used, it will not be possible to search several OAMs at the same time because they will not be interconnected.

One respondent requested the searching facilities available in all languages. CESR considers this to be too burdensome, although the OAM may decide to offer this service.

Q16: Do you agree with the above standards in relation to technical accessibility? Please provide reasons for your answer if you do not agree.

Most of the respondents agreed with the standards for technical accessibility proposed by CESR.

Some respondents suggested defining operational hours and the level of service support. Others, on the contrary, requested straight through processing. CESR considers that its proposals do balance the needs of investors with the burdens on OAMs to ensure a certain level of service.

Some respondents plead for a definition of the time between receipt and making the information available, which should be as short as possible. CESR considers that this is better left for OAMs to define, as their systems may be quite different, and for competent authorities to monitor. CESR does not intend to set very detailed requirements.

Q17: Do you agree with the above in relation to the format of information to be accessed by end users? Please provide reasons for your answer.

Most of respondents agreed with CESR proposals regarding the format in which information could be accessed by end users.

Some respondents suggested that CESR issued more details about the categorization of information. As already stated, CESR does not want to set very detailed rules, as these are unsuited for a level 2 text.

Some respondents argued that there is a problem with the identification of the issuer since there is no established identification system for issuers (equivalent to ISIN for the securities) and it is difficult to decide which of the issuer's names (official name or commercial name) would be more appropriate for the storage mechanism. CESR considers that issuers should be identified in the storage mechanism by their official name. Moreover, CESR acknowledges the problem of the issuer's identification and that is why CESR in its advice suggests several searching criteria.

Other respondents reflected whether the words "interrogate" meant being able to search for the content of the information; others referred to the need to clarify that the legal basis of the information would not be required. CESR considers that these facilities are important for end users. Interrogate the information is used to describe the facility to search for the information. Clarification of the legal basis is dependent upon the applicable law to the content of the piece of information.

Q18: Do you agree with the above? Please provide reasons if you do not agree.

Most of the respondents agreed with CESR proposals regarding costs and funding, especially on the assumption that the fee structure would be dependent upon national implementation. Some of them regretted the fact that there were no estimates on costs of setting up and operating the OAM.

Some respondents questioned whether "users" would include issuers as well. CESR considers that "users" in this sense, will include all those imputing or accessing information on the OAM, therefore issuers would also be users of the system in this sense. CESR clarified this issue by adding separately the "issuers" in the column of possible funding sources.

Others respondents questioned the use of public funding and whether this would affect free competition. CESR considers that this issue can only be dealt looking at each OAM in particular.

Q19: What are your views in relation to the issues being discussed above?

Most of the respondents referred in this question their preferred model from the ones suggested by CESR. There was a preference for the simpler models (model C or D and among them C was the preferred one), but models A and B also got some supporters. Other respondents suggested modified versions of model C or A. After internal discussion, it was considered that model C should be pointed out as the preferred network model, although CESR had not been requested to specifically point out to a preferred model. This model is the simpler that attains the objectives of the directive, has been supported by the majority of those who expressed views in this respect and, in accordance with the preliminary cost assumptions made by CESR, will offer the best advantages without incurring in excessive costs.

A number of respondents argued that CESR should also put under consultation the cost estimates for the OAMs and the four (4) proposed models of the EU network and that they could not have an opinion on the storage paper without taking into account the cost evaluation of the storage project. On these general comments, CESR would like to point out that the paper on cost estimates represents a first estimate of what each member state should take into account when implementing the directive at the national level. The cost estimates depend upon decisions to be taken by different entities (Member States in appointing the OAMs, decisions on the type of network to be set up, etc) and therefore represent just a sort of internal estimates based on a number of assumptions. On the other hand, time constraints to produce the preliminary report by the end of April and the time needed to adjust the values to be presented made it impossible to have a full and open consultation. Nevertheless, this paper has been discussed with the Consultative Working Group for the transparency directive. It is also recalled that a previous paper issued by CESR on cost issues was also subject not to consultation. CESR would also like to stress that the cost estimate should not be intended as the main criteria to judge and select one of the proposed models. From the transparency directive, it is far more important to provide the end users of such a system with the most appropriate model, and therefore widening the access to regulated information and promoting transparency, than selecting the cheapest solution.

CESR has been mandated to define means by which interoperability could be achieved. From those who commented on this issue, CESR got some support for the preferred approach. Notwithstanding, others commented that the preferred approach would lead to uncertainty and therefore preferred agreements among member States to reach interoperability.

CESR has clarified how this preferred approach could work, by reflecting on the content of the binding provision (anchored in the concept of “easy access” in the level 1 text) and an interoperability agreement, to be drafted under article 22.

The binding provision would need to cover the following aspects:

- (i) the definition of a model of network and assignment of responsibility for its oversight;
- (ii) require Members States to impose abeyance by appointed OAMs to the interoperability agreement;
- (iii) establish a mechanism for ongoing supervision and management of the system, which is closely linked to (i) above.

CESR has further clarified the possible content of the interoperability agreement.

CESR has also reflected further on the governance issues of the network, by adding additional details on governance of the network at the level of (i) and (iii) above and in relation to the possible content of the interoperability agreement.

Q20: Do you agree with the above approach? Please provide reasons for your answer if you do not agree.

Most of the respondents agreed with the views of CESR regarding the general roles of competent authorities, namely with the proposal for the involvement of competent authorities in the appointment of OAMs.

Some respondents questioned how this role could be achieved if the competent authority would also run the OAM. CESR considers that the competent authority is, under the Directive, directly responsible for the supervision, therefore it will be able to deal with the issues arising from their double function. One respondent suggested that certifying agents could be assigned with the task of verifying compliance with the standards. CESR considers in its advice that competent authorities will be conducting supervision on OAMs, therefore leaving no room for such agents.

Q21: Do you agree with the above approach? Please provide reasons for your answer if you do not agree.

Most respondents agreed with CESR views in relation to the roles of competent authorities sharing the same OAM, recalling the need of consistent supervision. One respondent questioned the need for the OAM to be based in one of the member states involved. CESR considers that this is fundamental to ensure proper enforcement of the standards.

Q22: Do you consider that a competent authority can, within the limits set out above, change the standards over time in case new technological evolutions occur?

Most of the respondents agreed with the proposals put forward by CESR on this issue. One respondent, notwithstanding, referred that the standards should be updated directly by level 2 legislation.

Q23: Do you agree with the above approach? Please provide reasons for your answer if you do not agree.

Most of the respondents agreed with the proposals made in relation to the need for increased cooperation when supervising the network.

Q24: Do you agree with the above interpretation of the purpose of filing and the conclusions made on basis of the interpretation? Please provide reasons for your answer.

Most of the respondents agreed with CESR views in relation to the purpose of filing and the conclusions thereto.

Q25: Do you agree with the above conclusion? Please provide reasons for your answer.

Although some of the respondents agreed with the proposals, quite a lot of respondents questioned the use of the fax as “electronic mean” for the purposes of filing. On the particular issue of fax and its inclusion in the electronic means, see CESR’s views under question 6.

Some respondents argued that the issuer should be considered to fulfill its obligation of filing the regulated information with the competent authority as soon as it stores the same information with the OAM. On this issue, CESR would like to point out that according to the transparency directive, the issuer’s obligation to file the regulated information with the competent authority is separate from the issuer’s obligation to store the same information in the OAM. Of course, the alignment of these two separate obligations is possible and CESR deals with this issue in a different section of its advice.

Q26: Do you agree with the above approach? Please provide reasons for your answer.

CESR got mixed responses in relation to electronic filing with the competent authorities. Some respondents considered that electronic filing should be mandatory, while others recalled the need to consider infrequent filers and small issuers. E-filing was considered by some consultees as the appropriate approach and called for although by others it was considered as burdensome. Therefore CESR has decided to keep its cautious initial approach to require competent authorities to receive electronic filings and to recommend particular caution when competent authorities implement an e-filing procedure.

Q27: Do you agree with the above?

Q28: Is there a need for an additional level of detail? Please provide reasons for your answer.

Most of the respondents agreed with the proposals put forward by CESR relating to the standards on security and certainty as to the information source. Most of the respondents also considered that there was no need for further additional standards or details. Some respondents commented that service providers should be used for the filing of the regulated information. CESR considers that the use of service providers and the extent of their involvement in the filing procedure will depend on national implementation.

Q29: Do you agree with the above or do you envisage particular issues that need to be dealt in relation to the validation procedure and the time stamping of regulated information? Please provide reasons for your answer.

Most of the respondents agreed with CESR proposals in relation to validation procedure and time stamping. One respondent recalled that the time stamping and the validation should not require any content checking. CESR considers that the nature of the checking will have to be dealt at national level, in the implementation measures of the Directive. As a consequence, CESR clarified in its advice the distinction between content checking and technical adherence to the standards.

Q30: Do you consider that CESR should require specific forms to be used to file regulated information with the competent authority? Please provide reasons for your answer.

Q31: Do you consider that CESR should require specific input standards to be used to file regulated information with competent authorities? Please provide reasons for your answer.

There were mixed responses to the above issues, but most of the respondents agreed that it should be left for each competent authority to define whether specific forms should or should not be used. CESR clarified in its advice that when the competent authorities impose specific templates for the filing of the regulated information, they should disclose such templates. Some respondents suggested some level of coordination among competent authorities, especially in cases of dual listings, while others suggested a deeper coordination to ensure that the same formats can be used for dissemination, filing and storage. CESR considers that in the future there might be a deeper harmonisation of the formats.

Q32: Do you agree with the above concepts of “alignment”?

Q33: Are there additional ways of alignment CESR should consider?

Most of the respondents agreed with CESR views in relation to alignment, especially when it referred to making easier for issuers to fulfill their obligations under the Directive. Some respondents suggested that alignment could also be achieved if the same formats could be used. As CESR will not be mandating formats, this option is not, at the moment, a viable one. Other respondent questioned whether the 3 obligations (dissemination, filing and storage) were separated or the same obligation. CESR considers that there are three different obligations as these have different objectives under the Directive.

Some respondents suggested that alignment should also be achieved through the delegation of tasks by the competent authority to the OAM. Under this scenario, the OAM will receive the regulated



information on behalf of the competent authority and the competent authority will have access to the information them automatically as a “special end- user” of the OAM via a link with the OAM. In that case, the OAM will act as an interface for the competent authority. In relation to this proposal, CESR would like to point out that delegation of tasks is covered by article 24 of the directive and depends on each Member State.

Some respondents suggested that CESR should provide the approval of the service providers to be used by issuers for the fulfillment of their storage, dissemination and filing obligations. On this issue, CESR would like to point out that there is no EU provision covering the statute of the service providers.

Q34 – Do you consider that CESR needs to expand this idea to properly address the mandate?
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Most of the respondents considered the explanations provided as sufficient.
