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PRESS RELEASE

CESR publishes joint responses to commonly asked questions on prospectuses

CESR publishes today a guide for market participants which establishes a convergent response from all EU securities supervisors to commonly asked questions on the day-to-day application of the EU legislation regarding the preparation of prospectuses (Ref. CESR/06-296d). The purpose of this guide is to provide market participants with greater certainty and quick answers to their most common queries.

This 'Q and A' guide that CESR members have developed focuses on responses to queries that are likely to have an EU-wide impact on market participants or end users, and therefore on the smooth functioning of the Single Market. Some of the agreements aim at facilitating the correct functioning of cross-border offers (for example, information from the issuers to host competent authorities or passport of the supplements). The rest are responses to questions on the application of the legislation that have been arising frequently in most Member States (for example, how to treat employee share option schemes, free offers or offers of convertible or exchangeable securities).

CESR has been very active in the area of prospectus over the last four years, providing the European Commission with technical advice on the implementing measures of the Prospectus Directive. CESR completed this initial work in 2003 and continued its activity in this area during 2004 to ensure the consistent application of the Prospectus legislation. To this end, the CESR expert group prepared a set of recommendations (Ref. CESR/05-054b) which gave guidance on how to produce a prospectus. In addition, in 2005, CESR delivered its advice to the EC on how to deal with those circumstances where the historical financial information to be included in the prospectus might not sufficiently reflect the issuer's whole business throughout the required period ("complex financial histories"). In a parallel manner, CESR members have been coordinating procedures to assist a seamless operation of the passport and to deliver supervisory convergence. These have contributed to the smooth functioning of the passport since 1 July 2005.

The Prospectus Directive and the Commission's Regulation on prospectuses became effective on 1 July 2005. During the course of the 2005 and 2006, regulators and market participants have responded to practical application and operational issues arising from the implementation of this Community framework into national law. The need for a 'common approach' is compounded by the fact that the Prospectus Directive is a maximum harmonisation Directive and that the scope for interaction between competent authorities has increased because of the passport that it provides for issuers. It is therefore essential for CESR members to achieve convergence in their approaches. To this end, prospectus experts from CESR members have been holding practical and operational meetings to discuss specific implementation and application issues and, to the extent necessary, agreed common solutions. This Expert Group is chaired by Mr Gérard Rameix, Secretary General of the French Autorités des Marchés Financiers and supported by Mr Javier Ruiz of the CESR Secretariat. The European Commission has also participated at the meetings of the group as an observer.

CESR does not intend to issue new standards, guidelines or recommendations on prospectuses. Rather, the purpose of this publication (and the subsequent updates of this that may follow) is intended to provide quick answers to the questions market participants channel to the relevant CESR members and/or to CESR secretariat (placing either in copy). The common approaches reached are not set in stone. The Group



operates in a way that will enable it to react efficiently if any aspects of the published 'common positions' needs to be modified or adapted for greater clarity.

The European Commission Services have provided very useful input on some of the questions discussed in the paper. However, these views do not bind the European Commission as an Institution, who will be entitled to take a different position.

The CESR group will continue to meet regularly to discuss the questions that might be raised by market participants. The pace of the future publications will depend on the amount of new questions identified and how long it takes to analyse the issues and to develop common positions. **Should market participants have further questions of this nature they can directly email the relevant competent authority with whom they are dealing with on a regular basis, placing the CESR secretariat (prospectus@cesr.eu) in copy.**

Finally, as the Prospectus Directive will have been in place for a year, it now seems an appropriate juncture for CESR to undertake an assessment of its practical functioning. To this end, CESR is currently working on an analysis of the impact that the Directive is having on the EU markets and is seeking to identify any practical day-to-day difficulties encountered with the passport and other relevant provisions of the Prospectus Directive. **CESR will seek input from market participants through an open hearing that will take place in Paris before the end of 2006, the date for this will be announced on CESR's website under 'news'.**



Notes for Editors:

1. The work that CESR is carrying out in this capacity forms part of the four level approach to European legislation for financial services. The four level approach was proposed in the report by the working group chaired by Baron Lamfalussy (available on the CESR website as described in para. 5). The approach can be summarised very briefly as follows: Level one measures set out the high level objectives that the legislation must achieve. Level two measures set out some of the technical requirements necessary to achieve these objectives. Level three measures are intended to ensure common and uniform implementation by the use (amongst others) of common interpretative guidance and standards agreed amongst regulators in CESR. Level four measures relate to the enforcement of the legislation.

Page 6 of the Lamfalussy report illustrates diagrammatically how these four levels of legislation fit together and the procedure to adopt these measures. The Level 3 'strengthened co-operation between regulators to improve implementation' including the conditions for their adoption are described in more detail on page 37 of the report.

2. The European Commission published the Prospectus Directive (Directive 2003/71/EC) on 31 December 2003. This set out the high level policy objectives that the legislation must achieve and established the areas and scope of what should be included in the implementing measures which later took the form of a Regulation. The Regulation on Prospectus No 809/2004 implementing the Directive (2003/71/EC) was published on 30 April 2004 and this set out the technical implementing measures. The technical measures developed by the European Commission followed a request to CESR for its advice. CESR completed this initial work to provide the European Commission with technical advice for the legislative measures in 2003 and continued its activity in this area during 2004 to ensure the consistent application of the Prospectus legislation. To this end, the CESR expert group prepared a set of recommendations (Ref. CESR/05-054b) which gave guidance on how to produce a prospectus. In addition, in 2005, CESR delivered its advice to the EC on how to deal with those circumstances where the historical financial information to be included in the prospectus might not sufficiently reflect the issuer's whole business throughout the required period ("complex financial histories").

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, chaired by Baron Alexandre Lamfalussy. The report itself was endorsed by the European Council and the European Parliament. The relevant documents are available on CESR's 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. From 1st January 2006, the securities supervisors of Romania and Bulgaria attend CESR meetings as observers.

4. For further information please contact:

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