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PRESS RELEASE

CESR consults on inducements & passporting under MiFID

Following the finalisation of the legislative phase of MiFID, CESR is concentrating on the operational aspects that arise as a consequence of the provisions of the Directive and its implementing measures and in identifying practical solutions to address the regulatory challenges. In this regard, CESR recognises that the success of MiFID is dependent upon an intensification of supervisory convergence between its Members.

Today's announcement launches the third public consultation relating to intermediaries (following the launch of consultations on record keeping and on passporting) under the Level 3 work under MiFID. The full MiFID Level 3 work programme (Ref. CESR/06-550b) is available in the MiFID section on CESR's website, or via the following link: <http://www.cesr.eu/index.php?docid=3884>.

Consultation on Inducements:

This consultation on the inducements provisions under MiFID (Ref. CESR/06-687) provides the opportunity to all market stakeholders to give input on such a key area of the new regulatory framework. Responses are welcomed by **9 February 2007** and can be submitted on CESR's website www.cesr.eu.

In brief, CESR intends to issue recommendations to its members that will set out a common approach in relation to the inducements regime under MiFID. The elaboration of the recommendations will not only facilitate a consistent approach to these supervisory issues across the EU but will also ensure, by way of prior public consultation, that the views of industry and consumers will be fully taken into consideration. The proposals in the consultation paper, together with responses, will assist in developing the recommendations. The consultation paper on inducements provides:

- a general explanation of the inducements regime and its relationship with conflicts of interest;
- clarification of the circumstances in which a fee or other benefit will be considered to be paid or provided to or by the client or a person acting on behalf of the client;
- criteria to help in assessing whether a given payment or benefit is designed to enhance the quality of the service and does not impair the duty of the firm to act in the best interest of the client;
- a discussion of the disclosure requirements for inducements in respect of firms and their tied agents; and
- an opportunity for stakeholders to provide their views on the application of the inducements regime to softing and bundling arrangements.

Consultation on Passporting:

Furthermore, on 15 December 2006, CESR published on its website a public consultation about the use of the Passport under MiFID (Ref. CESR/06-669). Passporting was identified as one of the key priorities in CESR's MiFID Level 3 work programme. This consultation paper sets out a number of practical proposals and questions for a common approach on the notification procedures set out in Articles 31 and 32 of MiFID. It also elaborates proposals on the future collaboration between the home and host authorities that will be necessary in order to ensure that supervision of cross-border



activities under the directive is as clear, efficient and effective as possible. The consultation is open until **January 31 2007**.

A public hearing will be organised to cover both the consultations on passporting and inducements and the date will be announced shortly on CESR's website.



Notes for Editors:

1. 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.

2. CESR has established a 'MiFID Level 3 Expert Group' that will undertake work to deliver supervisory convergence in the day-to-day application of the legislation (i.e. Level 3). This group is chaired by Arthur Philippe, Director and member of the Management Board at the Commission de Surveillance du Secteur Financier, Luxembourg's securities supervisor. The secretariats' rapporteur of this group is Carlo Comporti, Deputy to the Secretary General at CESR and Director of Markets and Intermediaries.

There are two working sub-groups reporting to the MiFID Level 3 Expert Group:

- the 'Intermediaries sub-group', chaired by Antonio Carrascosa, Director General at the Comision Nacional del Mercado de Valores (CNMV), Spain's securities supervisor. The rapporteur of the 'intermediaries sub-group' is Diego Escanero, Senior Officer at CESR Secretariat;
- the 'Markets sub-group', chaired by Hans Wolters, Head of Policy at the Autoriteit Financiële Markten, Holland's securities supervisor. The rapporteur of the 'markets sub-group' is Jari Virta, Senior Officer at CESR Secretariat.

CESR has formed a MiFID Consultative Working Group which draws together technical experts from the markets and types of firms affected to provide advice on the technical practicalities of the guidance developed under the work programme. A list of its members is available on CESR's web site.

3. 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 1 January 2006, the securities supervisors of Romania and Bulgaria attend CESR meetings as observers.

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