



Date: 22 October, 2007
Ref.: CESR/07-726

PRESS RELEASE

CESR takes final steps before MiFID goes live:

CESR welcomes progress in MiFID implementation and takes steps to facilitate firms' cross-border business by streamlining supervision of branches and issues practical arrangements to ease transition for firms

CESR welcomes the successful implementation of MiFID in nearly all EU Member States. MiFID will become applicable on 1 November, 2007 and will benefit issuers and investors by opening up markets and cutting the costs of securities trading. MiFID will simplify and streamline the passporting regime for firms doing cross-border business, increasing competition and enabling greater EU financial integration. (For information on Transposition please refer to the [Commission's MiFID Transposition State of Play](#) in the Internal Market's Commission Website, following the hyperlink.)

Reflecting the high priority given by CESR to *deliver supervisory convergence*, CESR today announces important steps to provide clarity and assist market participants in the transition toward smooth implementation of the MiFID Directive on 1 November 2007.

CESR announces a common protocol for the supervision of branches under MiFID (Ref. CESR/07-672)

MiFID improves the 'passport' for investment firms by describing more clearly the allocation of responsibilities between the home state and the host state for passported branches.

Building on CESR's recommendations on the passport under MiFID, published in May 2007, CESR unanimously agreed on a protocol for the supervision of branches under MiFID (Ref. CESR/07-672). The protocol marks a major advance in fostering greater co-operation between CESR members in the exercise of their core supervisory functions over entities with cross-border activity. The protocol sets out a framework for co-operation between competent authorities under two different models; (i) joint supervision conducted through common oversight programmes, and (ii) requests for assistance based on efficient allocation of supervisory tasks.

This new framework is designed to achieve efficient, effective and transparent supervision of branches of investment firms and credit institutions that provide investment services. This will make it easier for firms to do business across Europe and will foster competition. Consumers will benefit from the increased competition as well as from supervisors' increased ability to monitor and enforce the consumer protection provisions of MiFID through greater co-operation amongst supervisors.

CESR's statement to ensure continuity of current passports granted to investment firms under the Investment Services Directive (ISD) in cases of late transposition of MiFID (Ref. CESR/07-337b)

CESR today publishes a statement by all CESR members to give reassurance regarding the continuity of the current passports granted to investment firms based in the limited number of countries that will be late in transposing MiFID. This statement is contained within the revised version of the CESR recommendations on the passport under MiFID published originally in May 2007 (Ref. CESR/07-337b). The guiding principle of the statement is to provide business continuity and minimise the potential disruption to business that might be caused by late



transposition of MiFID. Indeed, transposition after 1 November 2007 in some Member States could potentially raise questions about the ability of firms to keep their current passports under the Investment Services Directive. The practical arrangements adopted by CESR today clearly state that the passports of investment firms originating from late implementing States continue to be valid for any branches established in other Member States and for services they provide abroad without establishment. It is also understood that firms that wish to exercise their rights under MiFID in late implementing States are allowed to do so.

Jean Paul Servais, Chair of the CESR MiFID Level 3 Expert Group and Chairman at the Belgian CBFA, said:

“CESR has greatly contributed to the preparation of MiFID and I welcome the fact that almost all Member States will have implemented MiFID before 1 November 2007, when the Directive is to become applicable. I’m also pleased to announce today a major advance which will facilitate firms’ cross-border business by more streamlined supervision by CESR members, as well as a number of practical arrangements to ease the transition for firms. The MiFID Expert Group within CESR will continue its efforts to make MiFID a success, to the benefit of all market participants.”

The attached “Overview of MiFID Documents” contains a summary of all MiFID-related documents published today. It also refers to the future draft work programme for MiFID which is intended to deliver further supervisory convergence. Responses to this consultation are requested by 19 November 2007 and can be submitted on-line through CESR’s Website in the section ‘Consultations’.



OVERVIEW OF MiFID DOCUMENTS PUBLISHED TODAY

CESR takes steps to facilitate the smooth transition to MiFID implementation and provides an overview on progress made

CESR announces today important steps to provide clarity and assist market participants in the transition towards smooth implementation of the MiFID Directive on 1 November 2007.

Reflecting the high priority given by CESR to *deliver supervisory convergence*, CESR has developed the following elements which are published today:

- *a common protocol for the supervision of branches under MiFID*. This protocol formalises, under two frameworks, the means of collaboration between competent authorities undertaking joint supervision, and handling of requests for assistance amongst supervisors. This protocol therefore seeks to avoid potential day-to-day home/host conflicts through practical arrangements (whilst not changing the allocation of legal responsibilities between the Competent Authorities established under MiFID);
- *a common agreement amongst CESR Members which will ensure the continuity of current passports* granted to investment firms under the Investment Services Directive (ISD), where these could have been potentially *impacted by late transposition of MiFID in some Member States*;
- *an overview of how the various discretions allowed under the MiFID Directive have been applied* by each of the CESR's members when implementing MiFID.

The second context of CESR's work has been to provide technical advice to the European Commission. Following the Commission's request for advice in relation to Commodities, CESR will publish the second part of its advice in relation to questions 7-10 (of the 10) questions sets out in the Commission's Mandate.

Finally, looking ahead, in two parts, CESR updates on work to implement the various databases necessary for MiFID to function. This includes for example, its work to develop a transaction reporting mechanism, a database of liquid shares to facilitate market transparency and a database of systemic internalisers. Furthermore, CESR sets out for consultation its draft work programme for MiFID which is intended to deliver further supervisory convergence and to respond to a number of requests for technical advice from the European Commission. CESR notes it will also work on developing a guide for retail investors to explain the new legislative framework. Responses to the consultation on CESR's 2007/2008 work programme are requested by 19 November 2007 and can be submitted through CESR's website in the section 'Consultations'.

A more detailed summary of each of the elements to be published today under the three contexts, is set out below.

- *Elements to deliver greater supervisory convergence and provide transparency and greater certainty on implementation, where possible:*

CESR announces a common protocol for the supervision of branches under MiFID (Ref. CESR/07-672)

CESR also publishes the revised Protocol on the MiFID Passport Notifications (Ref. CESR/07-317b), adopted by CESR in May 2007 and amended to take into account the protocol for supervision of branches.

For further information on the content of the protocol for the supervision of branches, see the Press Release above.



CESR's statement to ensure continuity of current passports granted to investment firms under the Investment Services Directive (ISD) in case of late transposition of MiFID (Ref. CESR/07-337b)

For further information on the content of the Statement, see the Press Release above.

CESR provides an overview of how CESR Members will implement the discretions allowed under MiFID (Ref. CESR/07-703)

As part of its efforts to encourage supervisory convergence, CESR publishes today a summary of the different approaches taken by Member States in respect to the options and discretions embedded in the MiFID Level 1 & 2 texts. This overview is intended to assist market participants and those affected by implementation cross border, providing greater transparency.

- ***CESR delivering technical advice to the European Commission, acting in its advisory capacity:***

CESR responds to the European Commission's request for assistance on commodity derivatives (Ref. CESR/07-673)

In August 2007, CESR published its initial response to the European Commission's request for assistance regarding the regulation and operation of commodity and exotic derivatives in Member States (Ref. CESR/07-497). The Commission's mandate came in the form of 10 questions. CESR's submission in August covered questions 1-6. CESR announces on today the completion of a second phase of work in this area (questions 7-10), which analyses the way in which Member States have interpreted and applied MiFID exemptions under Article 2 and Article 38 of the Implementing Regulation. The work on this Technical Advice has been undertaken as a fact finding exercise, in the form of a questionnaire to CESR Members and has therefore not been subject to consultation. The purpose of this mandate is to provide the European Commission with technical advice that will assist the Commission in its assessment of whether the regulatory framework within MiFID is appropriate for commodities and exotic derivatives (as set out in Article 65 of the MiFID). CESR expects to receive a further mandate from the European Commission by late 2007, on which CESR will work closely with the Committee of European Banking Supervisors (CEBS). This mandate is likely to focus on transparency of derivatives in contracts for energy, electricity and gas markets. For further information on the timetable and scope of this stream of work, please refer to page 24 of the [Commission's feedback statement](#), published on 14 August 2007 (following the hyperlink in blue).

- ***CESR implements the MiFID through a number of databases and IT tools:***

Market Transparency Database

CESR published the first version of the MiFID market transparency database on 3 July 2007. As specified in the implementing regulation (No 1287/2006, of 10 August 2006), the information contained in the database covered the period of 1st April 2006-31st March 2007. In order to ensure that the data is up-to-date for the entry into force of the MiFID Directive on 1 November 2007, CESR members have updated the information and CESR published on Friday 19 October a revised version of the database, accompanied by a press statement (Ref. CESR/07-718). The press statement sets out in further detail the different modifications which have been made to the database, which fall into three categories: correcting existing entries, adding new admissions and removing de-listed shares.

CESR also launched the web-service for the database, as announced on 3 July 2007. This web-service provides users with an XML feed for automatic retrieval of the data. In order to access this web-service, users can refer to the updated developers' guidelines (Ref. CESR/07-370b).



Further work to improve this database is foreseen in 2008 and a consultation regarding its functioning will be launched by no later than early December. For further information please see the Press Statement (Ref. CESR/07-718).

Systematic Internalisers

The MiFID implementing regulation (No 1287/2006, of 10 August 2006) requires a list of systematic internalisers to be made available to, and published by, CESR. CESR will be publishing a first version of this list in the form of a database on 2 November 2007. As systematic internalisers will begin registering on and around 1st November, information will be added to this list on an on-going basis for the first month. Further information concerning the modalities for updating this database will be published on 2 November 2007.

- ***Consulting on CESR's future work to deliver supervisory convergence:***

CESR consults on its MiFID work-programme for 2007/2008 (Ref. CESR/07-704) and announces that it will prepare a brochure for retail investors to raise their awareness of MiFID's new rules and protections:

CESR's proposes a work-programme for 2007/2008 to address several important areas:

CESR will continue during 2008 to undertake its function to provide technical advice to the European Commission and will assist with a number of Commission's reviews (including for example further work in relation to commodities, tied-agents and recording of phone conversations).

However, with a view to facilitating the smooth functioning of the passport and to enhancing co-operation amongst CESR members in line with the work done this year under the heading of 'passporting', CESR proposes to support its supervisory agenda with thematic projects. Work will continue in respect to the common implementation of MiFID Level 2 Regulation, and CESR also plans to create a MiFID Q&A facility to address the practical questions that will arise as we move from the transposition phase to the implementation phase for MiFID, similar to the Q and A facility CESR has implemented on Prospectuses. CESR will continue to work together with CEBS and CEIOPS over the course of 2007 and 2008, and is requested by the Third Energy Package adopted by the European Commission to develop a closer working relationship with the future Agency for the Cooperation of Energy Regulators.

CESR welcomes feedback on the proposed work-programme for 2007/2008 by 19 November 2007.



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 Jean Paul Servais, Chairman of the Executive Management Committee at the CBFA, Belgian's integrated 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', is chaired by Maria Jose Gomez Yubero, Director 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.
4. For further information please contact:

CESR

Fabrice Demarigny
Secretary General of CESR

or

Victoria Powell
Director for Communications

Tel: +33 (0)1.58 36 43 21
Email: secretariat@cesr.eu

Fax: +33 (0)1.58 36 43 30
Web site: www.cesr.eu