



Date: 1 July 2009
Ref.: CESR/09-520

PRESS RELEASE

Transparency Directive: CESR maps coherence, equivalence and variance of supervisory powers and sanctioning regimes across Europe

CESR publishes today a review of supervisory powers and sanctioning regimes (Ref. CESR/09-058) assigned to CESR Members in relation to the Transparency Directive (TD). The report gives a factual overview of the differences in supervisory powers, as well as administrative and criminal sanctioning regimes across Europe in relation to the TD and its implementing measures. It includes a stock taking exercise of the coherence, equivalence and actual use of powers among EU Member States as well as of the variance of sanctioning regimes. However, the report does not cover the actual day-to-day supervision of TD provisions as this has already been assessed by CESR's Transparency Group earlier in 2008 (Ref: CESR/08-514b).

CESR Members conducted this review during the course of 2008 and 2009 by mapping the differences in supervisory powers and criminal sanctioning regimes of all 29 CESR Member States. The purpose of this work is to achieve greater supervisory convergence, market transparency, efficiency and integrity. The mapping exercise followed a request by the ECOFIN Council in December 2007 which requested a study of the differences in supervisory powers and objectives between national supervisors.

Carlos Tavares, Vice-Chair of CESR and Chairman of the CESR Review Panel, CESR's peer pressure group that conducted the mapping exercise, stated:

"Today's publication represents a significant contribution by CESR's Review Panel towards creating an extensive factual overview of the state of play throughout the CESR Membership of the implementation of supervisory powers and sanctioning regimes of all the Directives. The work undertaken here concerning the TD, completes this picture. Clarifying the level of coherence, equivalence and variance of powers and sanctioning regimes is a key step in the process to ensure greater convergence and in a very practical way, it enables CESR to identify those areas where it is within our Member's power to bring about further harmonisation and therefore where we might focus future efforts more effectively."

"The equivalent powers of supervisors when enforcing against those who infringe EU legislation is considered by CESR as a precondition to a convergent EU supervisory system that maintains sound financial markets. At the same time, such equivalence in enforcement and sanctioning powers protects European financial markets from regulatory arbitrage ensuring greater investor protection."

The pan-European supervisory landscape

Regarding the delegation of supervisory powers, the review showed great convergence: except for six Member States, all CESR Members are the designated central competent authority responsible for all aspects of the TD. Five Member States (Austria, Denmark, Ireland, Iceland and the UK) assigned another competent authority than the central competent authority. In four CESR Members (Ireland, Iceland, Norway and the UK) the designated central competent authority has delegated tasks to another national authority. In Sweden, the national law identifies the CESR Member as the competent administrative authority. However, the enforcement of listed issuers is within the remit



of regulated markets which are neither the Competent Authority nor authorities to which these tasks have been delegated (see page 24-28 and Table 1).

Regimes of supervisory powers

As regards to general obligations (see page 32), ongoing information (see page 31-32), powers of the competent authorities and co-operation within the EU (page 33), a large majority of CESR Members follow the same supervisory regime, with exceptions ranging from two to five Member States. Besides providing obligation for major shareholders or holders of voting rights to notify the relevant issuers on the acquisition or disposal of their major holdings, the TD also obliges issuers of securities admitted to trading on a regulated market to make public their annual, half-yearly financial reports and interim management statements. The finding of the review showed that significant differences between Member States only exist with respect to the powers regarding periodic information (see page 29-30) and the existence of cooperation agreements with regard to third countries (see page 34 and Table 2).

Overall picture of measures and sanctions

Administrative measures and fines are more common than criminal sanctions throughout the Membership across all articles under TD. All CESR Members can impose administrative measures for breaching the requirements under key articles of the TD. However, with regard to some other articles of the TD, there are a few exceptions where CESR Members can impose neither administrative measures nor fines. One Member does not have the ability to impose administrative fines for breaches of any the TD provisions (see from page 42 onwards and the Annex).

The mapping exercise undertaken by the Review Panel of CESR also showed that there are differences in respect to administrative measures and criminal sanctions that can be imposed in cases of infringements of the TD. These differences are predominantly due to the fact that Members States' legal systems differ across the EU and that Member States have the discretion to decide on the types of administrative measures applicable in cases of infringement of the TD. However, the actual use of these administrative measures and criminal sanctions in practice has not been assessed.

The TD mapping report published today will be sent to the European Commission, the ECOFIN Council and the ECON Committee of the European Parliament, for them to consider next steps.



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; and
 - 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 Lamfalussy. The report itself was endorsed by the European Council and Parliament. The relevant documents are available on the CESR web site.
2. 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 as its representative the Director General of the DG Market. Furthermore, the securities authorities of Norway and Iceland are also represented at a senior level.

Further information:

Carlo Comporti
Secretary General of CESR

Victoria Powell
Director of Communications

Tel: +33 (0) 158 36 43 21
Fax: +33 (0) 158 36 43 30
Email: communications@cesr.eu
Website: www.cesr.eu