PRESS RELEASE

CESR reviews the application of guidelines to simplify the notification procedures of UCITS across Europe

CESR publishes today the results of a peer review (Ref. CESR/09-1134) of how its Members across Europe apply CESR guidelines to simplify the notification procedures of Undertakings for Collective Investments in Transferable Securities (UCITS). A stock-take has been conducted during the course of 2008, looking into the degree of application of 13 CESR guidelines for the notification of UCITS by the 27 CESR Members. The results published today reflect the situation of the cut-off day set for the review which was 1 April 2008.

The work carried out by the Review Panel in the form of peer reviews contributes to achieve CESR’s objectives of increasing supervisory convergence amongst its Members through peer pressure as well as increasing transparency of implementation.

Carlos Tavares, Vice-Chair of CESR and Chair of the Portuguese Comissão do Mercado de Valores Mobiliários (CMMV), Chair of the Review Panel that conducted the survey, stated:

“Today’s publication shows the importance of creating peer pressure amongst CESR Members in order to achieve greater convergence. The Review Panel will continue to maintain pressure for supervisory convergence and notes that with the implementation of the UCITS IV Directive and following Level 2 legislation, remaining uneven levels, for instance with regard to electronic filing, will be resolved.”

The report provides evidence of the level of application of the CESR guidelines on notification procedures for UCITS in the CESR Membership. Out of the 13 CESR guidelines for UCITS notification, seven had been identified as key guidelines according to the CESR self-assessment (Ref. 08-113) published on the CESR website, namely the notification letter (guideline 1), possible grounds to refuse notification (guideline 2), the starting of the two-month notification period (guideline 4), the maximum two-months period to check information (guideline 5), the requirement to submit the latest version of the notification documents and certification of them (guideline 7), and marketing of only part of an umbrella fund and the single notification letter for several sub-funds and cross-reference (guideline 10).

In order for Members to be considered as fully applying the CESR guidelines, the benchmark set for the peer review required that at least the key guidelines be applied fully. This was the case for five CESR Members – Belgium, Bulgaria, Italy, Luxembourg and Norway.

Members were considered as partially-applying the guidelines when, according to the benchmark, any of the key guidelines was partially applied. This was the case for four further CESR Members – Hungary, Portugal, Romania and Sweden. Countries were considered as being ‘non-applicants of the guidelines’ when any of the key guidelines were not fully complied with. This was the case for the 20 remaining CESR Members. (For the full picture, please see summary of findings in the peer review report.)

After the cut-off date of the peer review on 1 April 2008, the situation is likely to have changed to a higher degree of compliance with the guidelines in the jurisdictions of some CESR Members which formally adopted national implementation measures – but, because of the cut-off date, the
assessment of these measures was not part of the present peer review. Furthermore, the UCITS IV Directive (chapter XI) integrates some of the simplifications to the notification procedure envisaged by CESR in the Guidelines, such as those regarding the electronic filing of the notification document and the language regime of the notification letter and of the attestation of the home competent authority. Moreover, the European Commission may adopt implementing measures in other areas which are partly covered by the CESR guidelines.
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 and act as an advisory group to assist the European 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 initially established under the terms of the European Commission's decision of 6 June 2001 (2001/527/EC) which was repealed and replaced by the Commission Decision of 23 January 2009 (2009/77/EC). CESR was one of the two Committees first envisaged in the Final Report of the Group of Wise Men on the regulation of European securities markets chaired by Alexandre Lamfalussy. The report itself was endorsed by the European Council and the European Parliament. The relevant documents are available on the CESR website.

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 MARKT. Furthermore, the securities authorities of Norway and Iceland are also represented at a senior level as observers.

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