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PRESS RELEASE

CESR recommends the European Institutions introduce a pan-European short selling disclosure regime

In a report submitted today as technical advice to the European Institutions (Ref. CESR/10-088), CESR recommends the introduction of a pan-European disclosure regime for net short positions in shares. In the meantime, those CESR Members that already have powers to introduce a permanent disclosure regime, as elaborated in the report, will begin the process of implementing this regime. Those CESR Members who do not have the necessary legal powers will aim towards implementing this regime on a best efforts basis, until an EU regime is adopted.

CESR recognises that legitimate short selling plays an important role in financial markets. It contributes to efficient price discovery, increases market liquidity, facilitates hedging and other risk management activities and can possibly help mitigate market bubbles. However, it can also be used in an abusive fashion to drive down the price of financial instruments to a distorted level and, in extreme market conditions, can have an adverse impact on financial stability. Following the recent financial turmoil, it was widely recognised that for a short selling disclosure regime to be efficient and to ensure transparency for market participants, a convergent pan-European regulatory approach is necessary.

In view of this, CESR launched in July 2009 a consultation on a proposal for a pan-European short selling disclosure model (Ref. CESR/09-581) to which it received 49 responses. After careful consideration of the submissions received, CESR prepared its report on a model for a pan-European short selling disclosure regime and the feedback statement to the consultation paper (Ref. CESR/10-089).

Anastassios Gabrielides, Chairman of the Capital Market Commission of Greece and Chair of CESR-Pol, stated:

“The advice provided by CESR today seeks to pave the way for the introduction of a consistent regime across Europe to short selling, which both recognises its value and mitigates its risks. The proposed regime is therefore tailored to cover as wide a range of markets, instruments and market participants as practically possible in order to ensure the integrity of European equity markets.

The regime would help to identify and restrain potentially abusive behaviour at an early stage and allow regulators to take timely preventive measures. While private notifications to the regulators would be used for daily market supervision activities, public disclosure of short positions is considered to provide informational benefits to the market.”

The short selling disclosure regime proposed by CESR is a two tier-model for the disclosure of significant individual net short positions in all shares that are admitted to trading on an European Economic Area (EEA) regulated market and/or an EEA Multilateral Trading Facility (MTF), when the primary market of those shares is located in the EEA. Under the proposed regime, at the lower threshold of 0.2%, positions should be disclosed to the relevant competent authority. In addition, steps of 0.1% would trigger further disclosure obligations. After the position reaches the higher threshold of 0.5% and any additional steps of 0.1% thereafter, the position should be disclosed to the competent authority as well as to the market as a whole.



In calculating whether a disclosure is required, market participants should aggregate any position which provides an economic exposure to a particular share. Positions held in exchange-traded and OTC derivatives would therefore be covered, as well as short positions in cash markets. Disclosure calculations and reports would be done on a net basis with any positions involving long economic exposures to a share subtracted from the short positions. Disclosure reports of short positions - whether to the regulator, or to the market, would be made on the trading day following that on which the relevant threshold or additional step has been crossed. Market making activities will be exempted from the disclosure requirements.

By proposing a pan-European harmonised disclosure regime for short selling to the European Institutions, CESR seeks to enhance supervisory convergence, improve market transparency and promote market efficiency and integrity. CESR will continue to work in the coming months on this issue, to ensure greater clarity on the technical details necessary to implement such a regime effectively.



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 Baron 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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