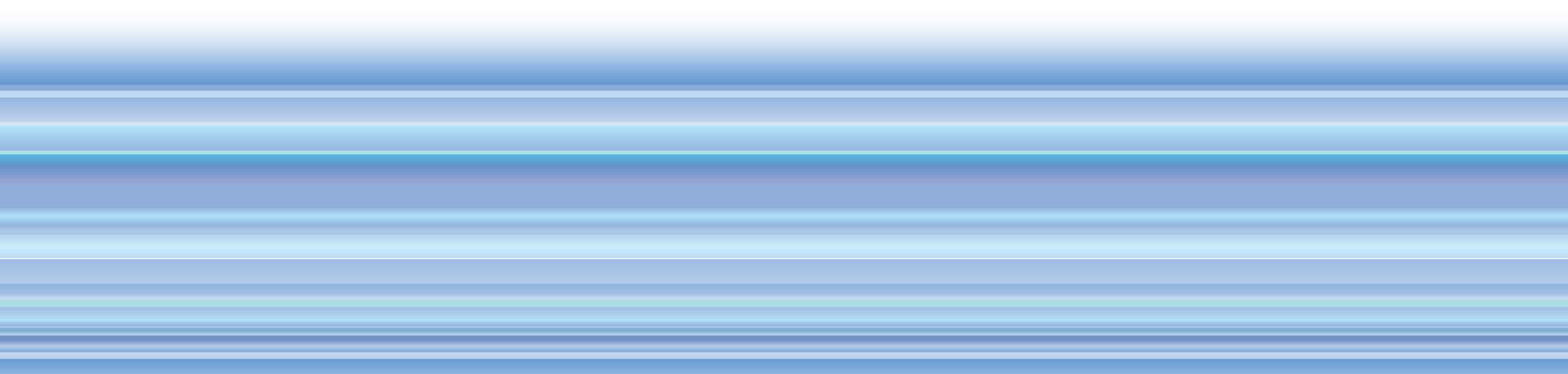


2009

CESR ANNUAL REPORT



A photograph of a man in a dark pinstriped suit, white shirt, and blue striped tie, speaking at a podium. He is wearing glasses and has a name tag on his lapel. The podium features the CESR logo, which consists of the letters 'CESR' in blue above a blue square containing a circle of yellow stars. To the right of the podium, a portion of the European Union flag is visible. The background is dark with some stage lighting.

Foreword by the Chairman



In 2009, markets did not return to pre-crisis levels. Volatility has remained high with investor confidence returning slowly. As the crisis has also laid bare the weakness of the European system of financial regulation and supervision, 2009 saw a massive effort to redesign legislation for regulators.



The year under review will be regarded as a turning point in the present financial crisis, after the financial shock of 2008. Indeed, after the markets reached a nadir in March 2009, followed by a considerable upturn for the rest of the year, they still have not returned to pre-crisis levels. Volatility has remained high and investor confidence has been slow to return, while at the same time some have warned of new signs of overheating. Notwithstanding all these imbalances, the official markets have continued to perform quite efficiently and have proved their resilience in terms of price discovery, provision of liquidity and operational reliability.

For the regulators, the year under review has essentially brought a massive effort of new or redesigned regulation. Fields previously un-discussed are now at the core of their work. The regulation of credit ratings agencies, in which CESR is likely to play an active role, was totally unknown to most regulators worldwide. The world of derivatives will soon be at the core of regulatory initiatives, with CESR playing an active role in developing new rules. In the meantime, the existing work programme was pursued, leading to significant advisory statements addressed to the European Commission. The present annual report gives a precise overview of these activities that are the result of the continuous co-operation of the 29 national competent authorities.

The crisis has laid bare the weaknesses of the European system of financial regulation and supervision, both in the field of systemic risk and of supervision of financial institutions and transactions. New institutions have to be built, provided with new mandates and effective powers. The Commission has published an important proposal on the basis of the ideas developed in the Committee chaired by

Mr Jacques de Larosière that would on the one hand create stronger co-operation between the different lines of systemic oversight and financial supervision, and on the other hand will lead to powerful pillars supporting the future financial regulatory system. These proposals, tabled by the Commission on 23 September 2009, adopted at the political level by the Council on December 2, are being actively discussed in the European Parliament. The speed illustrates the urgency of the matter. CESR welcomes this evolution that will enable it to contribute more actively, rapidly and with more authority to Europe's future financial system and its stability. As far as CESR is concerned, this reform will recreate CESR as a European authority, with effective powers and an extended remit. As in the past, CESR and its Members will actively pursue the protection of investors, the efficient and transparent functioning of the financial markets, while supporting transparency in financial transactions and decisions. CESR and then ESMA will continue to pursue these goals in the interest of the investors and citizens of Europe.

CESR is essentially the network of the national competent authorities for securities matters in Europe. It pursues its tasks and achieves its goals in a constant dialogue and through an exchange of views among the national supervisors, who delegate their senior experts to the standing committees, task forces, panels and specialised networks. Without the continuous support from its Members, and from its staff, CESR could never have succeeded in achieving the numerous work streams that are illustrated in the present annual report. We express our thanks to all of them.

Eddy Wymeersch,
Chairman of CESR

List of commonly used acronyms

A	ALL AMLTF AUM ARC AuRC	Alternative Instrument Identifier Anti-Money Laundering Task Force Assets under Management Accounting Regulatory Committee Auditing Regulatory Committee	G	GAAP	Generally Accepted Accounting Principles
B	BSC	Banking Supervisory Committee	I	IA IAASB	Impact Assessment International Auditing and Assurance Standards Board
C	CAD CCP CEBS CEE CESAME CESR CEIOPS CDS CDO CMBS Commission CPSS CRAs CRD CSD	Capital Adequacy Directive Central Counterparty Clearing Committee of European Banking Supervisors Central and Eastern European Countries European Commission's Clearing and Settlement Advisory and Monitoring Expert Group Committee of European Securities Regulators Committee of European Insurance and Pension Funds Credit Default Swaps Collateralized Debt Obligations Commercial Mortgage Backed Securities European Commission Committee on Payment and Settlement Systems Credit Rating Agencies Capital Requirements Directive Central Securities Depositories		IAS IASB IASCF IFRIC IFRS IOSCO IPO IRD IT IWCFC	International Accounting Standards Board International Accounting Standards Board International Accounting Standards Foundation International Financial Reporting Interpretations Committee International Financial Reporting Standards International Organisation of Securities Commissions Initial Public Offering Instrument Reference Data Information Technology Interim Working Committee on Financial Conglomerates
D	DTCC	Depository Trust and Clearing Corporation	J	JCFC	Joint Committee on Financial Conglomerates
E	ECB ECOFIN ECON EEA EECS EFC EFCC EFRAG ERGEG EU ESC ESCB ECSDA ESME	European Central Bank Economic and Financial Affairs Council Economic and Monetary Affairs Committee of the European Parliament European Economic Area European Enforcers' Co-ordination Sessions Economic and Financial Committee European Financial Conglomerates Committee European Financial Reporting Advisory Group European Regulators' Group for Energy and Gas European Union European Securities Committee European System of Central Banks European Central Securities Depositories Association European Commission's European Securities Markets Expert Group	K	KII/ KID	Key Investor Information/ Key Information Document
F	FCD FESE FASB FSC FST	Financial Conglomerates Directive Federation of European Stock Exchanges Financial Accounting Standards Board Financial Services Committee Financial Stability Table	M	MAD M&A MiFID MoU MTF	Market Abuse Directive Mergers and Acquisitions Markets in Financial Instruments Directive Memorandum of Understanding Multilateral Trading Facility
			O	OAM OFC OTC	Officially Appointed National Mechanism Non-Cooperative Jurisdictions Over-The-Counter
			Q	Q&A	Questions and Answers
			R	RMBS	Residential Mortgage Backed Securities
			S	S&I Group SEC SRRI	Surveillance & Intelligence Group Securities and Exchange Commission Synthetic Risk-Reward Indicator
			T	TD TOD TREM	Transparency Directive Takeover Bids Directive Transaction Reporting Exchange Mechanism
			U	UCITS US	Undertakings for Collective Investment in Transferable Securities (Directive) United States
			X	XBRL 3L3	Extensible Business Reporting Language 3 Level 3 Committees

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01

Securities markets in 2009: trends and risks

From March 2009, financial markets showed a hesitant recovery following turbulence in 2008. However, the markets' overall performance was still marked by contrasting trends in different market segments for the rest of the year.

01

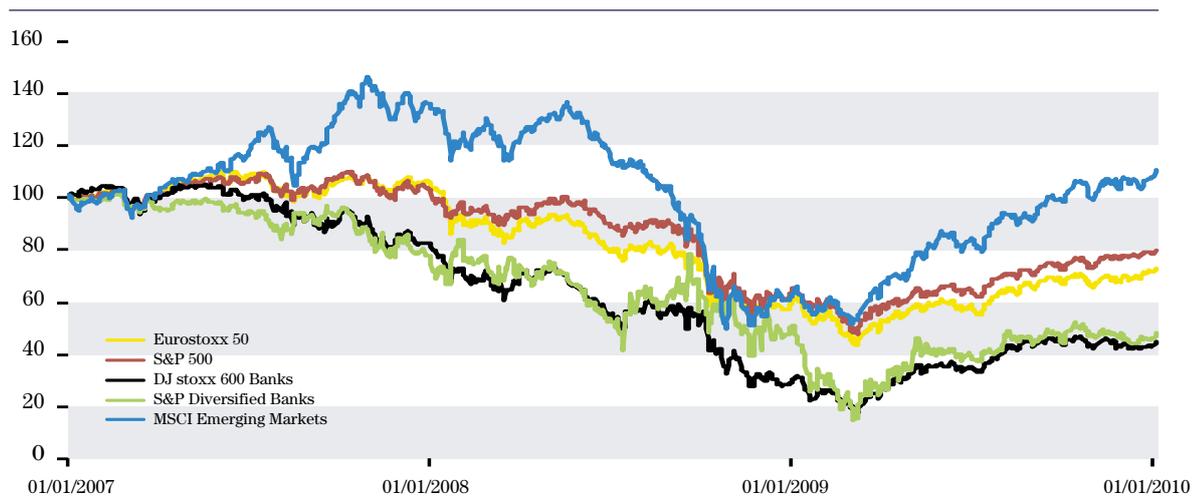
Securities markets in 2009: trends and risks

Following turbulent developments in 2008, financial markets, both in Europe and around the world, started to recover from March 2009 onwards. Low real interest rates and an abundant liquidity fuelled a search for yields by investors whose risk appetite seems to have increased throughout 2009.

Recovery in equity markets, sluggish IPOs

Since its trough in early March, the EuroStoxx 50 index gained 64% while the Stoxx 600 Banks index recorded a return of 155% over the same period (Figure 1)¹. Despite such a notable rebound, European equity valuations, at the end of the year, remained well below their levels reached in January 2007, at 73.5% for the EuroStoxx 50 and 46% for the Stoxx Banks index respectively. In contrast to developed equity markets which edged back to their long-term averages, emerging markets saw a strong upturn of equity performance (+107% from March to December 2009). Together with significant returns posted in commodities markets, this has raised concerns about possible nascent asset bubbles.

Figure 1: Stock markets performance (Base=100 in January 2007)

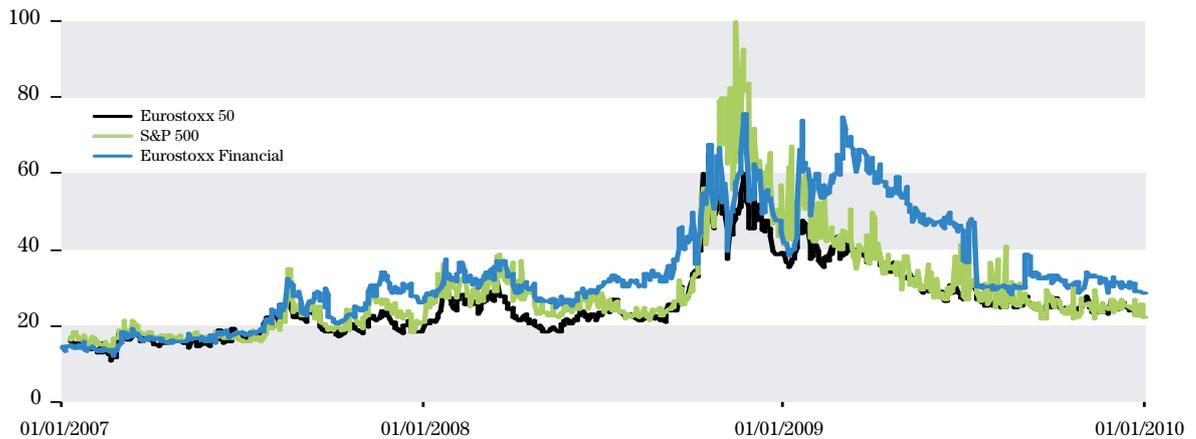


Source: Bloomberg.

The rapid resumption in European equity markets was linked to the declining risk aversion, which is mirrored in the very fast drop in implied volatilities in worldwide option markets (Figure 2). However, despite positive developments in secondary markets, there were no signs of a revival of primary issuances by corporate firms and banks in European exchanges. Initial Public Offerings (IPOs) have been largely sluggish since mid-2008, with the very few new issuances essentially originating from foreign non-EU companies. Over the first three quarters of 2009, more than two thirds of IPOs' values arose from non-EU firms, with the 90 issuances amounting to only €2.2bn, against €12.7bn raised by 273 deals during the first three quarters of 2008 (Figure 3).

¹ For the whole of 2009, the two indices posted increased returns of 21% and 47% respectively. In the United States, the S&P 500 Diversified Banks index recorded a negative return of -7.9% in 2009 and an impressive return of 158% from March to December 2009.

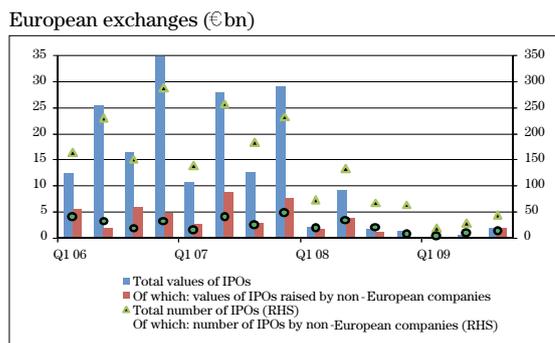
Figure 2: 3-Month implied volatility in stock option prices



Source: Bloomberg.

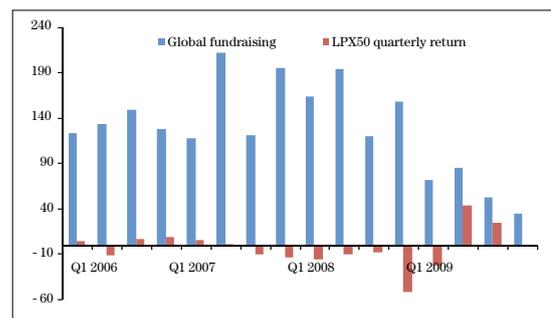
European private equity fundraising was very limited in 2009, similarly to what was experienced at the global level. The latter edged at \$245.6bn, its lowest amount since 2004 (Figure 4), with Europe accounting for one third of it. Fundraising proved more difficult over the course of the year, with \$35bn raised globally in the fourth quarter, against \$158bn one year earlier at the peak of the crisis. Private equity seems to have been shunned for two main reasons: first, more than half of the roughly 220 companies that have defaulted on their debt in some form over the past year were, according to S&P, either once owned or still controlled by private equity firms. Second, the industry has about \$1trn of un-invested commitments, which makes new fundraising with investors more difficult. Hence, the relatively low volume of deals that were completed often arose from distressed sellers and involved a substantial discount to net asset value (NAV). Despite strong performance recorded by the private equity firms index in 2009 (+42.4%), its value at the end of year edged at about 40% of its level in January 2007 (Figure 17).

Figure 3: Initial Public Offerings (IPOs) in European exchanges (\$bn)



Source: PWC.

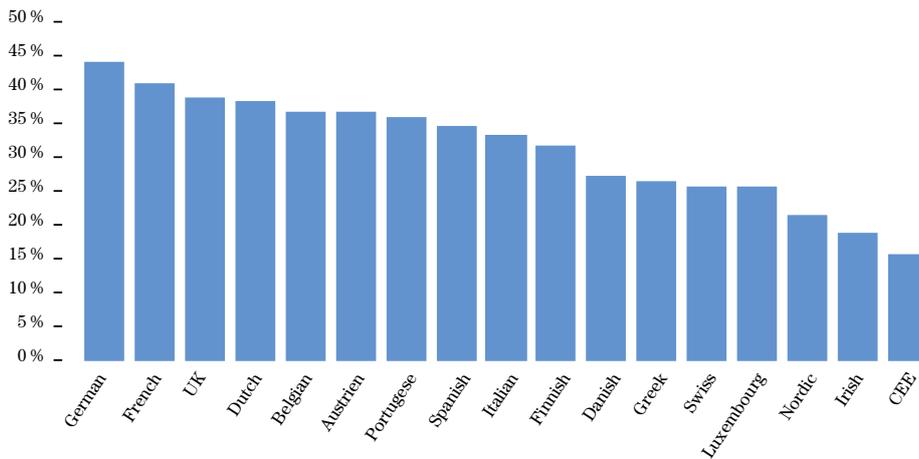
Figure 4: Global private equity fundraising (\$bn)



Source: Preqin

When the Markets of Financial Instruments Directive (MiFID) came into force in 2007, there was a concern that a rising proportion of European equity trading would move to over-the-counter (OTC) markets. More than two years later, this does not seem to have materialised. In 2009, the European market share of OTC equities trading amounted to 37.4%, down from 38.2% in 2008, with Germany displaying the highest share in 2009 at 44.2% and the Central and Eastern European (CEE) countries the lowest one at 15.8% (Figure 5). On the other hand, preliminary information seems to show that the market share of dark pool trading increased in 2009, not only on organised public markets without pre-trade transparency, but also in crossing processes and networks operated by brokers. However, data on dark pools must be interpreted cautiously as they may not always be fully reliable.

Figure 5: Average market share of OTC equities trading turnover in 2009



Source: Thomson Reuters.

Bond markets: rising discrimination of sovereign credit risk

The European credit markets have experienced substantial spread compressions from March 2009 on, to a certain extent reflecting the improving risk appetite of investors. Corporate spreads in the industrial and financial sectors narrowed significantly over the whole risk spectrum, but remained at the end of 2009 much higher than their pre-crisis levels (Figure 6). The European corporate bond markets improved remarkably in 2009 with sizeable net issuance of €46bn, up from only €5bn in 2008, which helped to compensate the sharp reduction of corporate bank loans. Net issuance by industrial companies hit record highs at €140bn in 2009, whilst net issuance by financial institutions was at an all time low at €115bn. Furthermore, bond issuance in 2009 was not confined anymore to higher quality credit: 15% of all non-financial issuances were unrated deals compared to only 1% in 2008, whereas 37% of the deals had a maturity higher than ten years.

Figure 6: European Itraxx Corporate CDS spreads (bp)



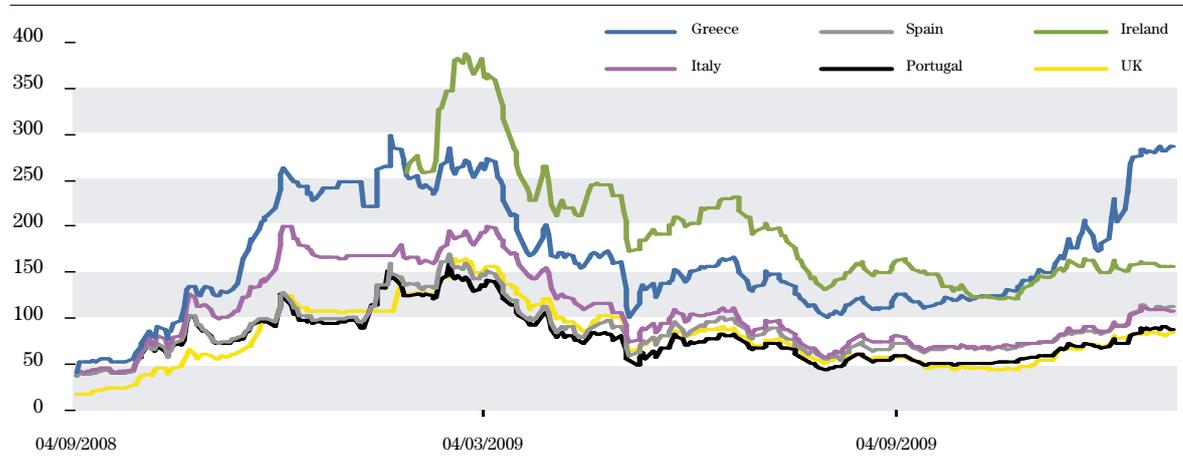
Source: Bloomberg. Note: The Crossover index comprises 50 sub-investment grade names.

On the contrary, sovereign risk has started to increase across the European Union (EU) since October/November 2009. Support provided by European governments since October 2008 to bailout national banking sectors² placed considerable pressure on public finance and has also raised concerns about the sustainability of high budget deficits in some Member States. The rising risk perception led to significant demand for credit risk protection in the course of 2009. The greater discrimination of sovereign issuers according to credit risk is reflected in

² By August 2009, this added up to more than €3.7 trillion or to 31.7% of European GDP.

the widening of sovereign Credit Default Swap (CDS) spreads in Greece, Spain, Italy, Portugal, Ireland and UK (Figure 7)³. The Greek CDS spread soared in mid-November after significantly deteriorating public finance conditions were announced; spreads peaked when two rating agencies downgraded the Greek debt rating in mid-December 2009. The rising sovereign risk at the end of 2009 appears especially problematic in light of the rollover needs of European governments.

Figure 7: Cost of insurance against sovereign default: 5 years CDS spreads (bp)

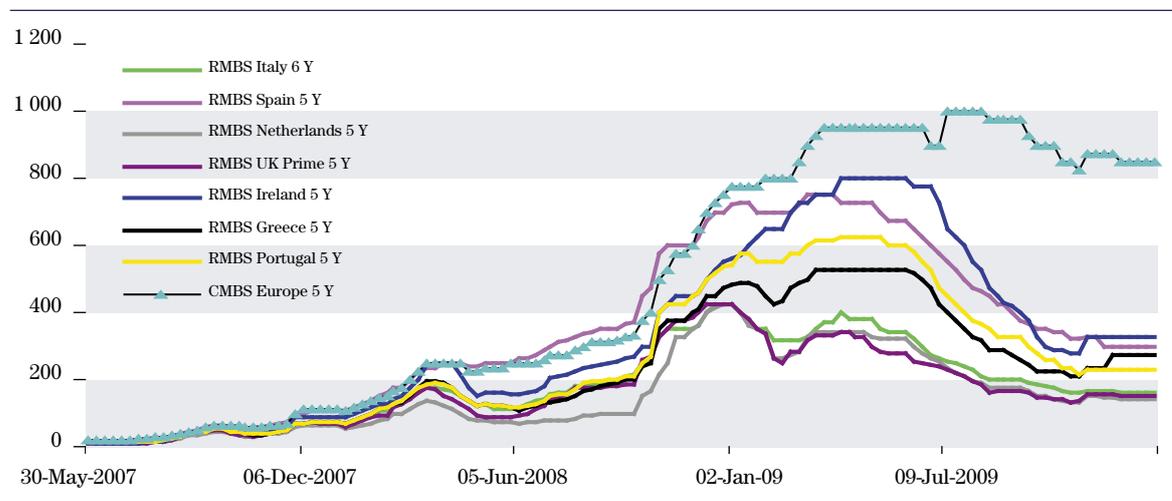


Source: Bloomberg.

Contrasting trends in the European securitisation and covered bond markets

The European securitisation and covered bond markets were in an unprecedented dislocated state at the beginning of 2009, characterised by primary market closure and distressed trading. This secured that funding market segments experienced contrasting trends throughout the whole year. The securitisation market has only slightly recovered in 2009. European Residential Mortgage Backed Securities (RMBS) spreads experienced an impressive fall from mid-2009 onwards (Figure 8). By contrast, risks in the European Commercial Mortgage Backed Securities (CMBS) segment did not recede with spreads remaining at a very high level. Although the RMBS market segment accounts for the bulk of the European securitisation (Figure 9), CMBSs over the course of 2009 have become a more important asset class in terms of traded volume, by increasing its percentage from 4% in the first half of 2009 to 9% for the whole year.

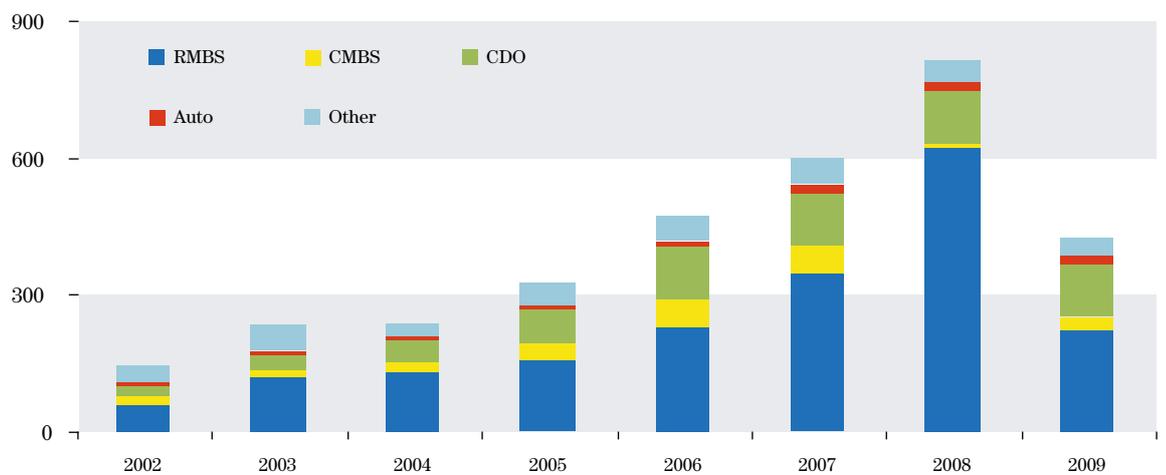
Figure 8: European Residential and Commercial Mortgage Backed Securities AAA RMBS & CMBS spreads (bp)



Source: JP Morgan. Note: Prime RMBS involves high quality mortgages.

³ However, changes in sovereign CDS spreads may not only reflect changes in the perceived quality of the borrower, but also include liquidity considerations.

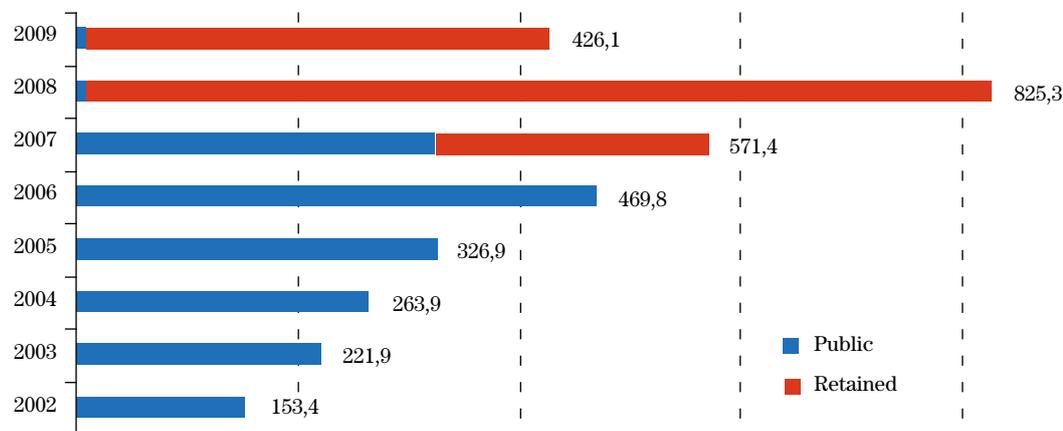
Figure 9: European Asset Backed Securities (ABS) issuance by type (€bn)



Source: European Securitisation Forum.

The issuance of European Asset-Backed Securities (ABS) not insignificant in 2009, although the volume of €426bn represented a 48.4% fall compared to 2008. About 98% of that issuance were retained in the balance sheet of the issuers (mainly banks) and served as collateral for borrowing vis-à-vis the European Central Bank (ECB) (Figure 10). Only 2% of the total notes issued (€8.4bn) were distributed to end investors in 2009, compared with 1.2% in 2008. The high level of retention reflected the reluctance of investors to take exposure to a structured market segment which was still perceived as being particularly risky, complex and opaque; it also reflected the endeavour of central banks to enhance liquidity and the availability of credit by making securitisation eligible as collateral for repo funding.

Figure 10: European securitisation issuance (€bn)



Source: European Securitisation Forum.

In 2009, the United Kingdom was the largest European issuer of ABS with €88bn of bonds predominantly structured and retained, with Spain and Italy being in the second and third place with approximately €65bn of issuance each. Fund managers continued to account for the largest share of European ABS trading volume (58%) in 2009, while the share of banks and insurers amounted to 28% and 6%⁴ respectively. UK and Irish investors accounted for a large proportion of the total investor base, increasing from 32% at the half year to 39% at the end of 2009. However, French investors saw the most notable retrenchment over the course of 2009, from 17% down to 8% of traded volumes.

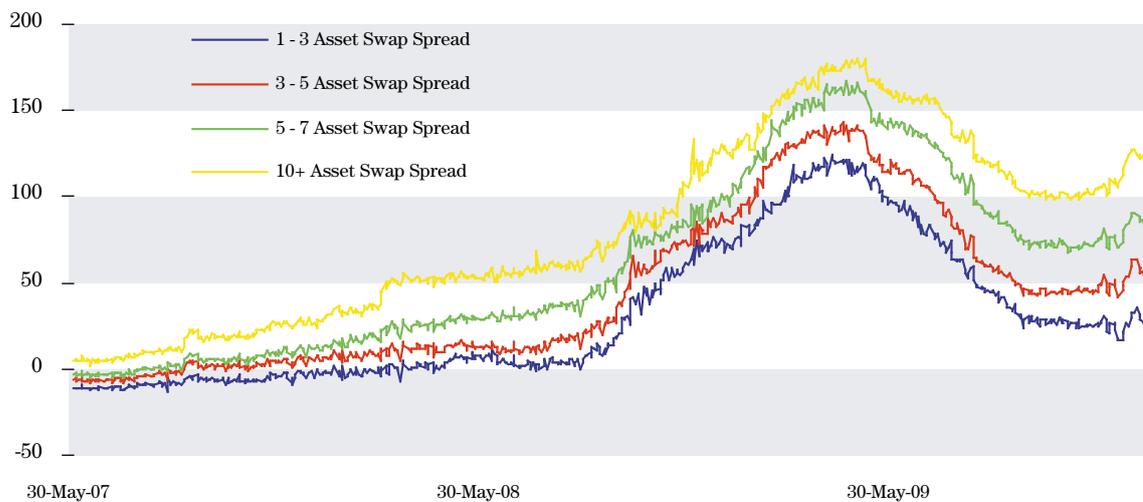
European ABS issuance may have been sluggish in 2009, as cheaper funding alternatives were available to issuers in some countries, with operational covered bond markets⁵.

⁴ Ref. JP Morgan (2010), op. cit.

⁵ For example, the basis between Spanish AAA RMBS and Spanish AAA CB was about 200bp for most issuers in 2009.

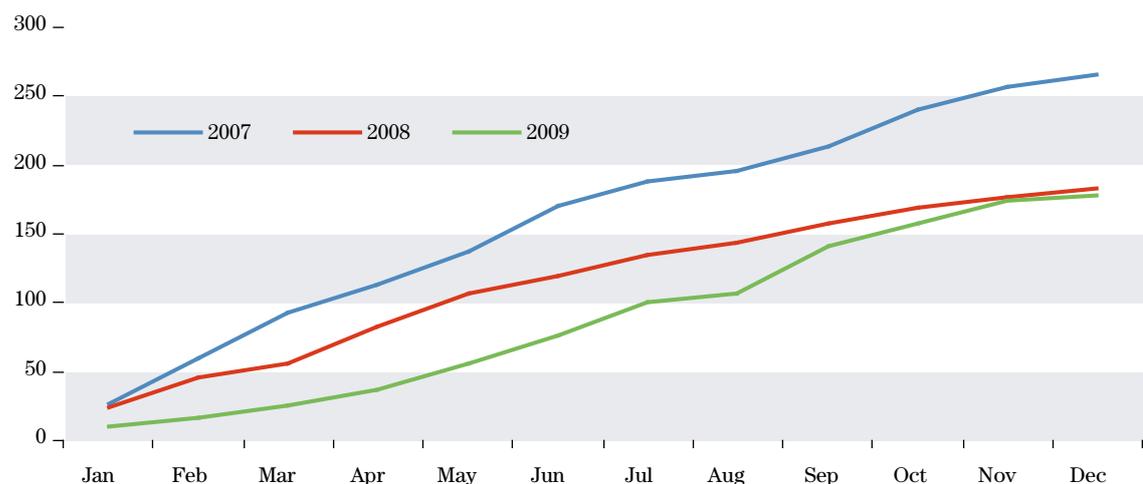
The subdued recovery of the European securitisation market may therefore not only be attributable to the lack of market confidence, but also to the relative reluctance of originators to issue ABS. Unlike the ABS market segment, the European covered bond market⁶ has recovered significantly from May 2009 onwards as testified by the sharp decline of covered bond spreads (Figure 11) and by the amount of bonds issued; this is comparable to the level reached in 2008, albeit lower than that of 2007 (Figure 12). The improvement mainly came from the ECB's announcement to buy about €60bn of euro-denominated covered bonds from July 2009 to June 2010. In 2009, the ECB provided about €29bn of liquidity through the covered bond purchase program. However, since mid-December, spreads were on an upward trend, after S&P put about €1.46 trillion of covered bonds from 98 issuance programmes on 'credit watch' after they had completed a review of their rating methodology⁷.

Figure 11: European Covered Bond spreads (bp)



Source: J.P. Morgan Covered bond research

Figure 12: European covered bonds issuance (€bn)



Source: Dealogic, retained and private transactions excluded.

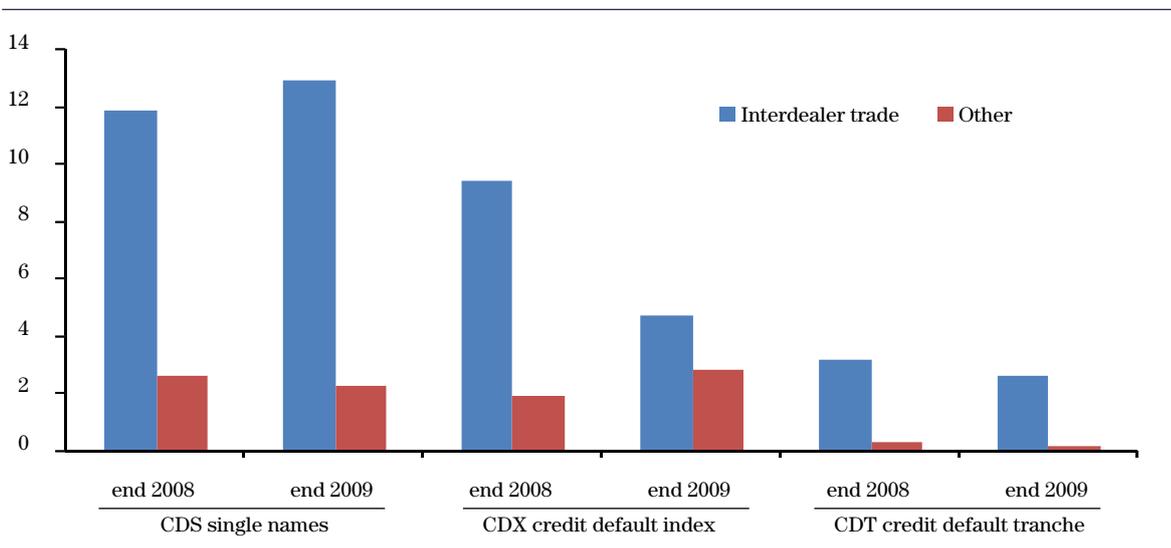
⁶ Covered bonds are a popular way for European banks to finance their mortgage and public-sector loans. They are secured by assets like loans, but unlike securitisation, covered bonds stay on banks' balance sheet, which means that if the covered bond defaults, investors have a claim both on the bank that issued the bond and on the assets backing it.

⁷ Cf. S&P, (2009), 'Covered bonds: revised methodology and assumptions for assessing asset-liability mismatch risk in covered bonds', 16 December.

Rising notional amounts of Sovereign and Financial CDS in 2009

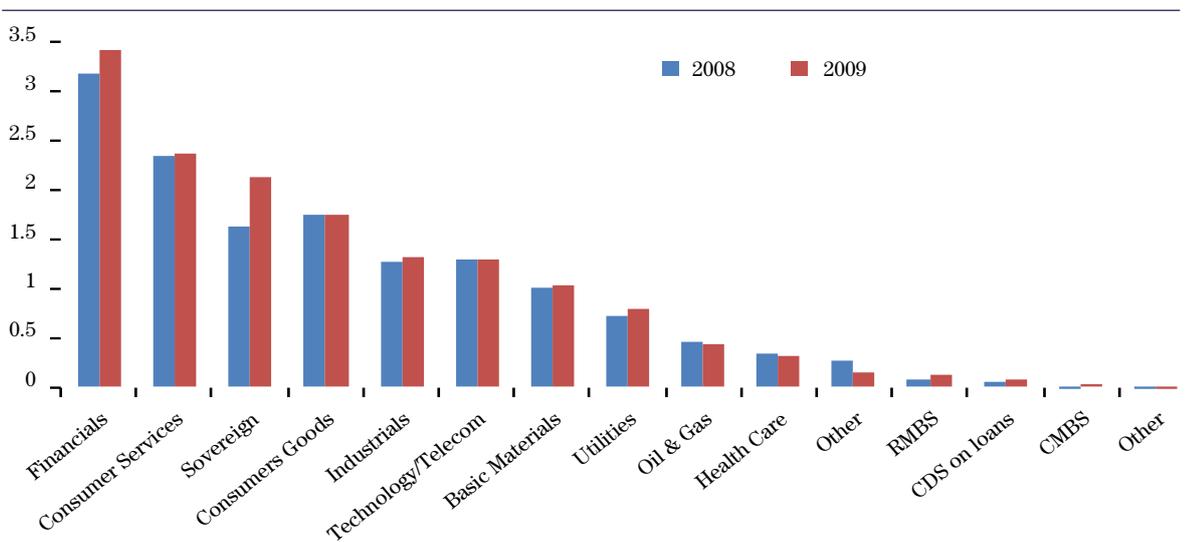
In 2009, gross notional amounts of all types of credit derivative products declined by 12.9% compared to 2008 and edged at US\$ 25.5 trillion, with the bulk of the decline being due to the fall in interdealer trades according data from the Depository Trust and Clearing Corporation (DTCC)⁸. Lower activity in strained credit markets over the first half of the year and netting of offsetting positions by major dealers may at least partly explain this drop. However, this aggregated figure masks significant differences across credit derivative products: the single-name CDSs notional increased by 5.1% in 2009, while that of credit default indices and credit default tranches fell by respectively 34.1% and 18.8% (Figure 13). At the end of 2009, single-name CDSs represented about 60% of the whole credit derivative market, credit default indices about 29% and Credit default tranches around 11%. Among single-name CDSs, sovereign CDSs accounted for the bulk of the rebound in 2009 (US\$ +499.1bn) together with the financial CDSs (US\$ +247.5bn), as a result of a higher demand of credit risk protection for reference entities perceived as particularly risky in the aftermath of the crisis peak (Figure 14).

Figure 13: Gross notional amounts of all credit derivative products (in US\$ trn)



Source: DTCC.

Figure 14: Single Name CDS gross notional amount, by reference entity type (in US\$ trn)



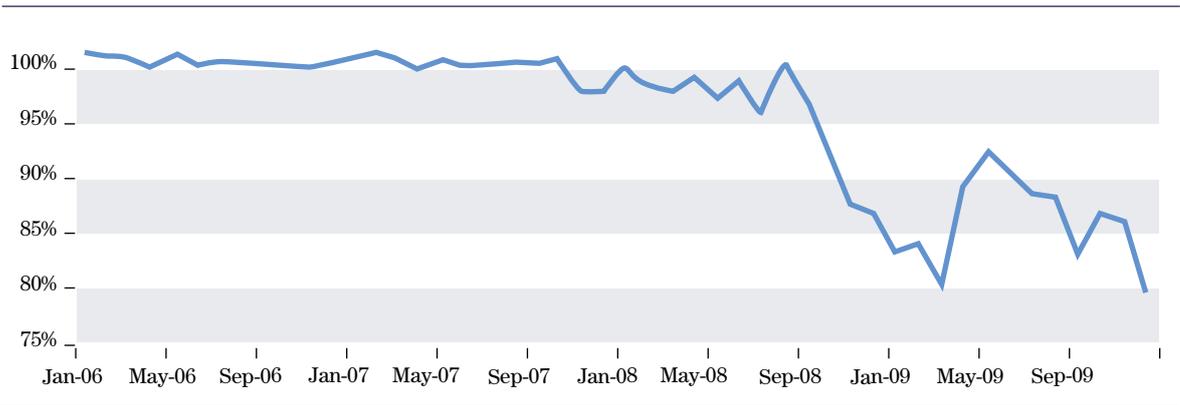
Source: DTCC

⁸ The DTCC stores OTC derivatives data in a global repository, called the Trade Information Warehouse. While the DTCC data are based on CDS records registered in the warehouse, the BIS data relies on dealers' reports to national central banks. Cf. 'The size of the global CDS market-BIS and DTCC data', in BIS *Quarterly Review*, December, p23-25. It is worth keeping in mind that the DTCC data does not currently include CDOs and ABS.

2009: A year of mixed fortunes in the hedge funds industry

In the hedge fund industry, 2009 has been a year of mixed fortunes. On the one hand, funds witnessed record investor redemptions, especially in the first half of 2009, with total net outflows edging at €74bn for the whole year, according to Credit Suisse/Tremont. Significant outflows occurred despite the still binding restrictions on redemptions, as evidenced by the substantial average discount that investors were willing to accept in 2009 to get liquidity from their hedge fund investment in secondary markets (Figure 15).

Figure 15: Average discount to Net Asset Value paid for hedge funds stake in secondary market



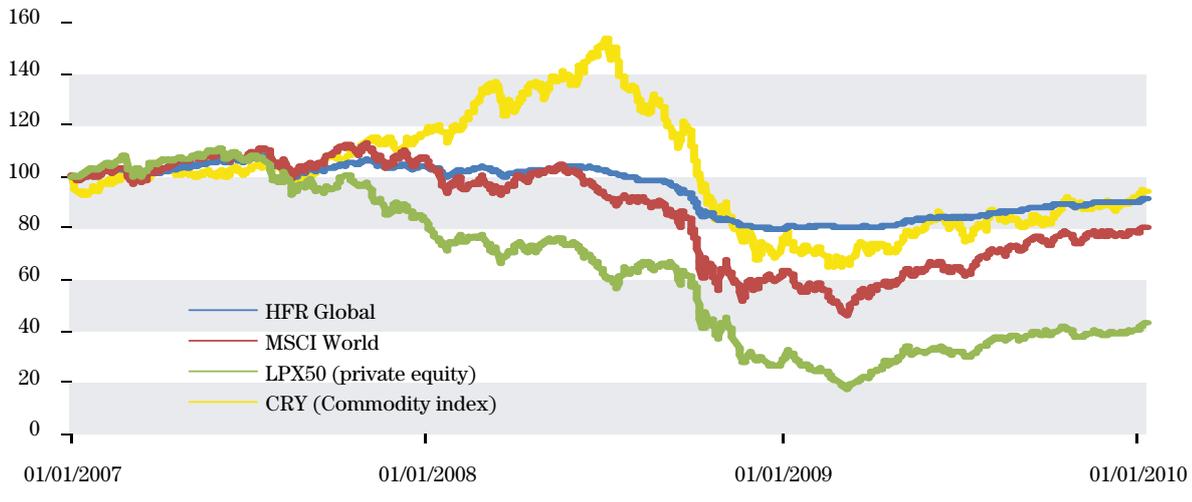
Source: Hedgebay. Note: The index describes.



At CESR's Conference on 23 February 2009 in Paris, a senior panel of key figures in financial services discussed the recent financial crisis from an international perspective. The Panel was chaired by Jean-Pierre Jouyet, Chair of the French AMF (in the focus of the picture).

On the other hand, even though the industry significantly reduced its level of leverage in 2009, hedge funds posted one of their best performances over the last ten years. The 13.4% increase in returns for 2009 contrasted sharply with 2008, when unprecedented market sell-offs, large capital redemptions and a ban on short selling led to a 23.3% decline in hedge fund returns (Figure 16).

Figure 16: Hedge funds, private equity and commodity index returns (Base=100 in January 2007)



Source: Bloomberg.



At CESR's Conference on 23 February 2009 in Paris, a senior panel of key figures in financial services discussed the recent financial crisis from an international perspective. The Panel was chaired by Jean-Pierre Jouyet, Chair of the French AMF (in the centre of the picture on the left). Hans Hoogervorst, Chair of the Dutch AFM, reacts to comments from the panellists (to the far left of Mr Jouyet).

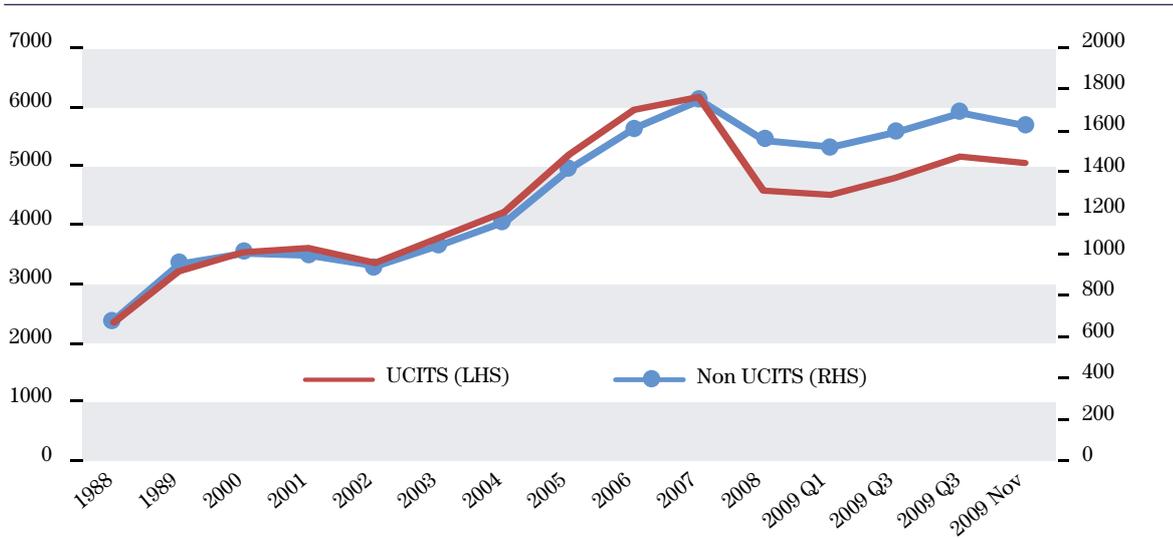


Jean-Claude Trichet, President of the ECB, delivered a key note speech on the 'Financial Crisis: where to in the future?' at CESR's Conference on 23 February 2009 in Paris.

The European investment fund industry renewed with positive net inflows in 2009

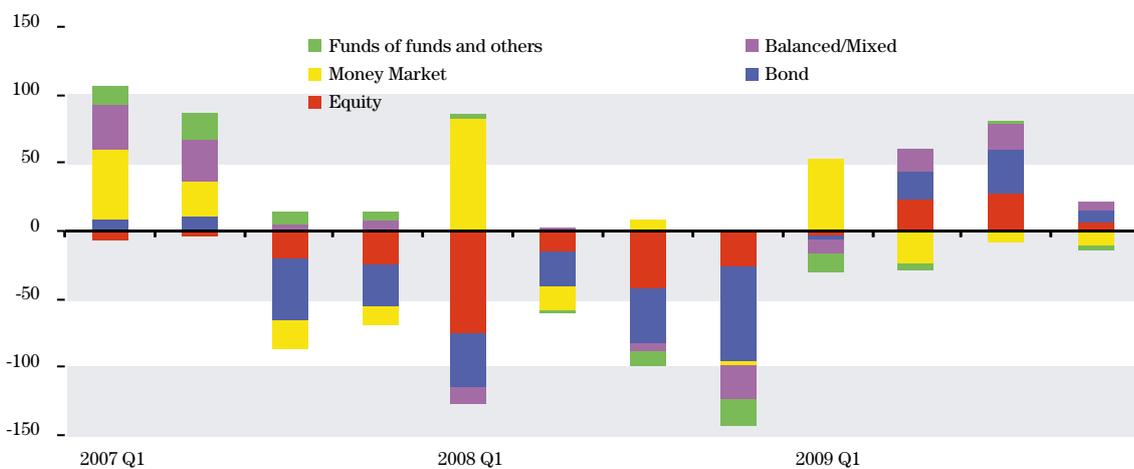
After a fall of 22% in 2008, the European investment fund industry witnessed a positive growth of 8.5% with assets under management (AUM) totalling €6,667bn in November 2009. The recovery was more pronounced in the market for Undertakings in Collective Investments in Transferable Securities (UCITS) (+9.7%) than in the non-UCITS segment (+5.1%), which proved to be more resilient throughout the crisis (Figure 17). In the UCITS market, the AUM stood at €5,038bn in November 2009, up from €4,593bn in 2008. The bulk of the net inflows in the first quarter stemmed from money market funds, while over the following quarters investors preferred to invest in equity and bond funds as short term interest rates remained very low (Figure 18). Total assets in the non-UCITS market reached €1,629bn in November, with the increase being mainly driven by the rise in assets of special funds reserved for institutional investors. This evolution compensated net outflows (€51bn) observed in 2008.

Figure 17: Assets under management of UCITS and non-UCITS (€bn)



Source: EFAMA.

Figure 18: Net inflows in UCITS by category of assets (€bn)



Source: EFAMA. Note: The 2009 Q4 figures are net inflows until the end of November only.

02

CESR's objectives and key priorities in 2009

Effective and sound regulation is key in maintaining investors' confidence; ensuring the growth, integrity and efficiency of financial markets.

02 CESR's objectives and key priorities in 2009

2.1 CESR's objectives

Sound and effective regulation of Europe's securities markets is vital for their growth, integrity and efficiency. Effective regulation is a key factor in securing and maintaining confidence amongst market participants. In order to foster these conditions throughout Europe, CESR, in its role as a network of EU securities regulators, improves the co-ordination amongst its Members, provides technical advice to the European Commission (Commission) and seeks to ensure that EU securities legislation is implemented more consistently across EU Member States.

CESR's annual report is a critical tool in ensuring accountability towards its stakeholders regarding the work the Committee undertakes. CESR has five objectives to which its work can be said to contribute, namely, achieving:

Market integrity, transparency and efficiency;

Convergence;

Investor protection;

Transparency of implementation; and

Technical advice and reporting to EU institutions, implementation of EU roadmaps.

In order to provide greater strategic clarity on the work of CESR, this report clarifies the high-level objectives, which underpin each individual work streams.

It is important to note that some of CESR's objectives are interlinked, or actions taken to achieve one objective, will also serve in achieving one of the other key objectives identified. For example, delivering market integrity, transparency and efficiency should also promote investor protection; equally, delivering convergence amongst supervisors should also result in increased investor protection by ensuring that retail investors can be sure of a comparative level of protection wherever the provider is based in Europe. Furthermore, one objective, in particular that of 'market integrity, transparency and efficiency, is grouped together as each element is particularly tightly inter-linked with the each other, although it is possible for the work stream to contribute slightly more to the achievement of one of the three elements of the objective, more than the others.

Therefore, CESR's annual report presents its work by allocating the work streams to chapters organised by objectives, rather than focusing its reporting on expert or operational groups. Nevertheless, in order to provide the reader with the facility to view the information by expert group as well, we have included in this section a presentation by the Chairs of the major groups and an index of the work streams by expert group. Should a work stream deliver in achieving more than one objective, as is most commonly the case, the report highlights the main other objectives to which it contributes.

2.2 CESR's key priorities in 2009

In 2009, besides continuing work on the various ongoing policy issues covering the whole spectrum of European securities legislation, much of CESR concerned follow-up work done on conclusions from both the ECOFIN Council and the de Larosière group.

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CESR task force follows up ECOFIN conclusions

CESR established a strategic group, called the post-ECOFIN task force, which met in 2009, with a large number of CESR Members participating. The purpose of these meetings was to establish a common position of CESR Members with regards to the institutional evolutions affecting the supervision of the EU financial sector and, at the same time, to both prepare and facilitate the co-ordination with the other Level 3 Committees vis-à-vis the European Institutions.

In order to accomplish its role, CESR's task force worked in two parallel directions: the continuous follow-up of the de Larosière report and the preparation of technical contributions to the EU bodies. The members of the post-ECOFIN task force in 2009 discussed extensively all policy papers regarding the establishment of the ESAs, including the re-organisation of the EU supervisory architecture. The task force developed common positions amongst CESR Members on issues such as:

- The Commission decision establishing CESR (C(2009) 176 final) of January 2009;
- The de Larosière report of February 2009;
- The Commission Communication on 'European Financial Supervision' (COM(2009) 252 final) of May 2009;
- The Commission proposal for a regulation concerning the creation of ESMA (2009/0144 (COD)) of September 2009; and
- The Omnibus Directive (2009/0161 (COD)) of October 2009, proposing targeted changes to existing European financial services legislation to ensure that the new ESAs can work effectively.

Next steps

The Post-ECOFIN task force will continue to follow-up actively all evolutions for the future of CESR, the EU legal framework and the implications this might have on the financial sector that will take place in 2010.

2.3

CESR groups, task forces, networks and panels

CESR acts as a network of European securities regulators on a great variety of issues regarding securities legislation and its implementation throughout the EU. As such, the Committee conducts its work primarily through different working groups, task forces, panels and networks, which draw together senior experts from CESR's Member authorities. The different CESR groups are established either permanently or limited in time, depending on the issues handled and the mandate given. The technical work carried out by CESR groups is aimed at achieving CESR's overall objectives, and the work of one group might also deliver to different objectives of other groups. The following presentation of CESR's groups, task forces, panels and networks therefore shows which key and other objectives each of the groups serves.

Review Panel



By restating its commitment to deliver clarity on the degree of harmonisation the Review Panel, through the means of mappings and peer reviews, plays an important role in creating peer pressure amongst CESR Members. Having this main scope in mind, CESR's Review Panel in 2009 continued to map the implementation in practice of the key pillars of Europe's Financial Services Directives, such as the Transparency Directive and MiFID. Given the Directives are still relatively recent, the panel's first task was to establish how this implementation looked like in the various Member States. For this purpose, the Review Panel in 2009 continued to conduct mapping exercises, such as on how Member States had transposed parts of the Transparency Directive, namely on the Directive's equivalence and variance of supervisory powers and sanctioning regimes across Europe. A further area, in which the Review Panel served in achieving transparency of implementation in 2009, is the re-assessment and review of its Standards No.1 and 2 on financial information, which define standards for convergence in the enforcement of financial information.

*The goal of these peer reviews, which followed the self-assessments conducted in 2008, is to achieve greater supervisory convergence, market transparency, efficiency and market integrity regarding the enforcement of standards on financial information. Upon a request of the ECOFIN Council, CESR's Review Panel in 2009 conducted a mapping exercises on the use of options and discretions included in the Market Abuse Directive and MiFID, aiming to identify the implications on the level of convergence of supervisory practices. A selective mapping exercise on supervisory practices of some aspects of the Prospectus Directive was conducted as well, to be followed by a peer review in 2010.**



*** Carlos Tavares,**
Chair of the Portuguese Comissão do Mercado de Valores Mobiliários (CMVM),
Vice-Chair of CESR and Chair of the Review Panel.

Background on the Review Panel's work

CESR established its peer pressure group, the Review Panel, in order to contribute to the consistent and timely implementation of Community legislation in the supervisory practice of Member States by securing more effective co-operation between national supervisory authorities, by carrying out peer reviews and by promoting best practice. The key task of the Review Panel is to review the implementation of EU securities legislation, standards, guidelines and recommendations by CESR into the daily supervisory practice within and across CESR Members. The panel reviews the overall process of implementation and supervisory practice, provides common understanding expresses views on specific problems in the supervisory process encountered by individual Members and uses mappings and self-assessments to develop its findings. It then exercises peer pressure by reviews which are carried out by fellow Members on the supervisory practice by setting up benchmarks that help evaluate Members' compliance with Level 3 measures and practices. In certain circumstances, the Review Panel establishes a special group to address issues of a technical nature – in 2009, there were sub-groups on mapping the implementation of MiFID, MAP and PD in addition to the work started in 2008 on reviewing CESR's Standards No.1 and 2.

DIVISION OF THE REVIEW PANEL'S WORK

Review Panel's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR maps use of powers, practices and sanctions of MiFID	3.2	56	Transparency of implementation	Investor Protection; Advice and reporting to EU institutions
Mapping of supervisory powers and sanctioning regimes under TD	3.2	58	Transparency of implementation	Investor Protection
Peer Review of implantation of CESR Standard No.1	3.2	60	Transparency of implementation	Investor Protection; Convergence
Peer Review of implantation of CESR Standard No.2	3.2	59	Transparency of implementation	Investor Protection; Convergence
CESR mapped and Members reviewed application of the PD	3.2	61	Transparency of implementation	Investor Protection

Objectives the Review Panel serves

- Transparency of implementation
- Convergence
- Market transparency
- Investor protection
- Advice and reporting to EU institutions



*** Kurt Pribil,**
Chief Executive Officer
of the Austrian Finanzmarktaufsicht
(FMA) and Chairman of CESR-Pol.

CESR-Pol



*In 2009, CESR-Pol dealt with a wide spectrum of issues. The key ones, of course, were directly linked to the follow-up of the financial crisis: CESR-Pol continued working on short selling. Publishing, continuously updating and co-ordinating the measures taken by CESR Members on short selling continued to serve in achieving market integrity, transparency and efficiency as well as ensuring the confidence of investors. Much of CESR-Pol's work in 2009 was aimed at higher investor protection, convergence and increasing market integrity, for example, by sharing experiences amongst CESR Members on surveillance and investigation issues. The members of CESR-Pol also continued in 2009 to discuss operational issues and cross-border cases.”**

Background on CESR-Pol

Effective enforcement of securities laws is a key element in CESR's delivery of its market integrity objective and its ability to protect investors. The purpose of CESR-Pol is to provide a forum to bring together senior officials from each CESR Member to develop policy options relating to co-operation and enforcement issues. CESR-Pol is a permanent operational group with a strong focus on facilitating the effective, efficient and proactive sharing of information, in order to enhance co-operation on, and the co-ordination of, surveillance and enforcement activities between CESR Members. CESR-Pol's key objective is to make information flow across borders between CESR Members as rapidly as it would between departments within an authority and, by so doing, to enhance the integrity, the fairness and necessary protections to Europe's markets as a whole. CESR-Pol is mandated to promote active co-operation and to ensure greater convergence in the application of key EU Directives, particularly of the Market Abuse Directive (MAD). With the work of CESR-Pol becoming more operational in nature, the group has established the surveillance and intelligence group (S&I group). When necessary, CESR-Pol forms urgent issues groups to co-ordinate cross-border investigations.

Objectives CESR-Pol serves

Market integrity
Convergence
Investor protection
Market efficiency

DIVISION OF CESR-POL'S WORK

CESR-Pol's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR co-ordinates Members' activities on short selling	3.1	40	Market Transparency	Convergence; Investor Protection
Regulators share expertise on surveillance and investigation	3.1	41	Market Transparency	Convergence; Investor Protection
Third set of guidance on the common operation of MAD	3.3	63	Convergence	Convergence; Investor Protection

CESR-Fin



*CESR-Fin's main priority in 2009 was to contribute to the consistent application and enforcement of accounting standards which is key to market integrity. Such consistency ensures a fair and efficient functioning of markets and of price formation within those markets: both important for the sound protection of investors. Despite these overall objectives, much of CESR-Fin's work during 2009 has focused on market integrity issues, many of which are still ongoing, in the international regulatory Community in particular regarding the effects of fair value accounting on market confidence during a time of financial crisis. During the period, the group has also dealt with accounting and auditing issues relating to prospectuses and transparency, monitored developments in IFRS, held regular liaison meetings with the US SEC and worked on further equivalence assessments of certain third country GAAPs. For the first time, CESR-Fin brought together supervisors from around the globe to discuss the enforcement of IFRS – an important step towards creating equivalent application of rules.”**



*** Fernando Restoy,**
Vice-Chair of the Spanish Comisión Nacional del Mercado de Valores (CNMV) and Chair of CESR-Fin.

Background on CESR-Fin

CESR-Fin is the one other operational working group in CESR, alongside CESR-Pol. Its main purpose is to co-ordinate the work of CESR Members in the areas of endorsement and enforcement of International Financial Reporting Standards (IFRS) in Europe allowing CESR to participate proactively in the dialogue between key policymakers and standard setting bodies throughout the European endorsement process. A further role of CESR-Fin is to advise the Commission on the development and implementation of legislation in the area of accounting and auditing as well as to monitor developments in Europe in the field of auditing. The group consists of sub and project groups dealing with IFRS, auditing and equivalence and the European Enforcers Co-ordination Sessions (EECS).

DIVISION OF CESR-FIN'S WORK

CESR-Fin's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
Financial reporting in times of crisis	3.1	41	Market integrity	Convergence; Investor protection
Audit of Financial Information	3.1	43	Market integrity	Convergence
CESR monitors development in IFRS and contributes to EFRAG and the IASB	3.1	42	Market integrity	Convergence
CESR unites worldwide supervisors to discuss enforcement of IFRS	3.3	64	Convergence	Investor protection
Equivalence of accounting standards	3.3	65	Convergence	Market efficiency; Investor protection

Objectives CESR-Fin serves

Market transparency
Convergence
Investor protection
Market efficiency



*** Jean-Paul Servais,**
Chair of the Belgian Commission
Bancaire, Financière et des Assurances
(CBFA) and Chair of CESR's MiFID
Level 3 Expert Group.

MiFID Level 3 Expert Group



*In 2009, CESR's MiFID Level 3 Expert Group has continued looking into the effects the Directive has had on the European market – covering both its functioning and its possible impacts. Beyond investigating MiFID's impacts, the group focused on operational issues and questions relating to CESR Members' use of MiFID. Members co-ordinated and discussed within the MiFID group issues like transparency on non-equity markets that will greatly enhance investor protection and promote market integrity. CESR also started assessing, at CESR level, the first pre-trade transparency waivers according to the Directive's framework.” **

Background on MiFID Level 3 Expert Group

The MiFID Level 3 expert group undertakes work to deliver supervisory convergence in the day-to-day application of the Markets in Financial Instruments Directive (MiFID) and conducts related policy work. More than two years on from MiFID's implementation, the group, made up of senior MiFID experts of CESR Members, focuses on developing mechanisms to ensure consistent implementation of Level 1 and 2 requirements of the Directive and fostering supervisory convergence among CESR Members. The group has two sub-groups reporting to it –the intermediaries sub-group and, the markets sub-group. Nevertheless, in 2008 both the intermediaries and the markets sub-groups established several drafting groups to prepare the work of sub-groups themselves, for example one on non-equity markets transparency.

Objectives MiFID Group serves

Market efficiency
Investor protection
Market integrity
Convergence

DIVISION OF MIFID GROUP'S WORK

MiFID Level 3 Expert Group's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR seeks to increase transparency of corporate bond, structured finance product and credit derivatives markets	3.1	47	Market Transparency	Convergence; Investor Protection
Maintenance of the CESR MiFID database	3.1	47	Market Transparency	Convergence
CESR assesses impact of MiFID on the functioning of equity secondary markets	3.1	51	Market Transparency	Convergence; Investor Protection
First pre-trade transparency waivers assessed at CESR level	3.1	52	Market Transparency	Convergence; Investor Protection
CESR's Q&A on complex and non-complex financial instruments	3.3	65	Convergence	Investor Protection
CESR work on investment advice under MiFID	3.3	66	Convergence	Investor Protection
CESR work on inducements	3.3	67	Convergence	Investor Protection
Contribution to Commission Q&A on MiFID	3.3	67	Convergence	Investor Protection
CESR issues revised protocol on the supervision of branches under MiFID	3.3	68	Convergence	Investor Protection
CESR publishes supervisory briefing on information and reporting to clients	3.4	89	Investor Protection	Investor Protection
MiFID: CESR issues questionnaire on re-hypothecation	3.4	88	Investor Protection	Convergence

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Investment Management Expert Group



In 2009, the Investment Management Expert Group continued its work in response to the request for technical advice from the Commission in relation to the detailed form and content of key investor information disclosures for UCITS; work which should greatly assist retail investors in identifying appropriate funds for their particular risk appetite. The group also started addressing other issues in the field of investment management by laying the foundations for a common definition of money market funds in the European Union.

*Following the discovery of the Madoff fraud in 2008, CESR's Investment Management Expert Group set up special task forces to investigate both the Madoff fraud and the impact the financial crisis had on the European fund industry – both of which aimed at ensuring that European markets function efficiently and clarifying the extent to which European investors were at risk. In this context, the group's review of duties and liabilities of depositories was another important work stream in 2009.”**



*** Lamberto Cardia,**
Chair of the Italian Commissione Nazionale per le Società e la Borsa (CONSOB) and Chair of CESR's Investment Management Expert Group.

Background on the Investment Management Expert Group

The Investment Management Expert Group was set up to work in the area of Undertakings for Collective Investment in Transferable Securities (UCITS) and asset management in order to provide a coherent regulatory framework across Europe in this area. The group, bringing together experts from CESR Members, focuses on UCITS-related issues but also deals with issues arising in alternative investment management. Its work ranges from promoting convergence in CESR Members' approaches to the eligibility of assets, to responding to specific requests from the Commission such as on the content of the Key Information Document (KID) for retail investors. The Investment Management Expert Group has also worked to develop the framework for a European management company passport. The group itself consists of three sub-groups – one dealing with operational issues arising from day-to-day application of the relevant legislation, and two task forces dealing with the KID and risk measurement respectively.

DIVISION OF THE INVESTMENT MANAGEMENT EXPERT GROUP'S WORK

Investment Management Group's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR issues guidelines on risk management principles for UCITS	3.3	68	Convergence	Investor Protection
CESR consults on risk measurement for calculating the global expenditure of UCITS	3.3	69	Convergence	Investor Protection
CESR moves forward its project to improve investor disclosure for UCITS	3.4	82	Investor Protection	Convergence
CESR puts in place measures on organisational requirements and rules of conduct for UCITS	3.4	84	Investor Protection	Convergence
CESR consults on common European definition of money market funds	3.4	85	Investor Protection	Convergence
CESR provides information for investors affected by the Madoff fraud	3.4	86	Investor Protection	Convergence
CESR reviews duties and liabilities of depositories	3.4	87	Investor Protection	Convergence
CESR consults on implementing measures of future UCITS directive	3.5	91	Advice and reporting to EU institutions	Convergence

Objectives CESR's Investment Management Group serves

- Investor protection
- Market efficiency
- Market transparency
- Market integrity
- Advice and reporting to EU institutions



*** Karl-Burkhard Caspari,**
Chief Executive Director of Securities
Supervision at the German Bundesanstalt
für Finanzdienstleistungsaufsicht (BaFin)
and Chair of CESR's Credit Rating
Agencies Expert Group.

Credit Rating Agencies Expert Group



*CESR has undertaken for a second time this year a review of the progress made by Credit Rating Agencies under the voluntary framework which they apply when seeking to comply with the IOSCO code. However, a significant focus of our work in 2009 was on starting to implement the new EU Regulation for CRAs which aims to increase market integrity. CESR's credit rating agencies group has consulted on how to best implement the new legal framework for the registration and supervision of CRAs in the EU, including a separate consultation on the establishment of a CRA repository.”**

Background on the Credit Rating Agencies Expert Group

CESR's credit agencies expert group was created to co-ordinate closely with fellow regulators both within the EU such as CEBS and CEIOPS, and internationally, with the IOSCO members on issues relating to CRAs. The expert group is responsible for reviewing the implementation of the voluntary framework which reviews how CRAs are implementing the IOSCO Code. This is the second year of the framework's operation. Furthermore, having developed appropriate legislative proposals to deal with CRAs, the group will prepare to implement the future European regulation on CRAs and to encourage co-operation between national competent authorities in the role given to them in CRA's supervision.

Objectives the CRA Group serves

Market transparency
Convergence
Transparency of implementation
Investor protection
Advice and reporting to EU institutions

DIVISION OF THE CREDIT RATING AGENCIES GROUP'S WORK

CRAs network's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR starts implementing new EU Regulation on CRA	3.1	36	Market integrity	Convergence; Investor Protection
CESR consults on how to implement new EU framework for CRA	3.1	38	Market integrity	Convergence; Investor Protection; Advice and reporting to EU institutions
CRA: Consultation on future repository	3.1	39	Market integrity	Convergence; Market transparency
CESR looks into CRA's compliance with the IOSCO Code	3.1	39	Market integrity	Convergence; Transparency of implementation; Investor Protection; Advice and reporting to EU institutions

Transparency Expert Group



The Transparency Directive aims to ensure that broadly the same information is made available by issuers in all European markets, thus enhancing market confidence and stability. CESR's Transparency expert group in 2009 has worked on harmonising the implementation

*of the Transparency Directive among Member States, thus facilitating market integrity. In the course of 2009, CESR has looked into the use of derivatives and major shareholding notifications and has sought to develop a standard form for notification of major shareholdings. In addition, CESR has started to explore the possible use of a standard reporting format for listed issuers. A keystone of stable and integrated markets is free access to up-to-date information on issuers.”**



*** Hans Hoogervorst,**
Chair of the Dutch Autoriteit Financiële Markten (AFM) and Chair of the Transparency Group.

Background on the Transparency Expert Group

The transparency expert group brings together experts from CESR Members and was created by CESR to publish comparative information on the Transparency Directive's implementation in all Member States, to reach common views on practical questions regarding the TD and to establish an EU network of national storage mechanisms. Among the key objectives of the Directive is the desire that investors receive periodic information from listed companies, including annual and interim financial reports whose content is defined in order to meet investor's needs. The mandate to CESR's transparency group mainly covers the following topics: practical provisions for notifications of shareholdings, dissemination and storage of regulated information, some aspects of periodic financial reporting and the equivalence between third-country reporting regulations and the TD's requirements. The difficulty however in carrying this out is that the different requirements in the Member States arise partly because an issuer's home authority is able to impose more stringent requirements than those provided under the TD.

DIVISION OF THE TRANSPARENCY GROUP'S WORK

Transparency Group's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR looks into use of derivatives and major shareholding notifications	3.1	48	Market transparency	Convergence
Use of standard reporting format in the reporting of listed issuers	3.1	48	Market transparency	Convergence
TD: CESR issues Q&A with commonly agreed positions	3.3	71	Convergence	Investor protection
CESR Members work on standard form for notification of major shareholdings	3.3	72	Convergence	Investor protection

Objectives Transparency Group serves

- Market transparency
- Convergence
- Transparency of implementation
- Investor protection
- Advice and reporting to EU institutions



* **Anastassios Gabrielides**,
Chair of the Hellenic Capital Market
Commission (HCMC) and Chair
of CESR's Post-Trading Expert Group.

Post-Trading Expert Group



In 2009, CESR worked on responding to the previous year's financial crisis, both from a policy and a supervisory point of view, underlining the need to review further and strengthen the resilience of systems.

*CESR therefore stepped up its efforts to monitor the functioning of clearing and settlement systems through enhanced reporting on these developments in its post-trading expert group. Much of the policy-making work by the group was completed in 2009 – much of which is still ongoing – is therefore linked to the theme of market integrity and efficiency. This will continue to be the main focus in the year ahead.”**

Background on the Post-Trading Expert Group

The role of CESR's post-trading expert group (PTEG) is to co-ordinate the work of CESR Members in the area of post-trading. The PTEG was established in early 2007 to monitor and contribute to a number of public and private sector initiatives in the area of post-trading and to serve as a platform for the exchange of supervisory experiences amongst regulators. The objectives of these activities are: to foster a level-playing-field and to encourage measures that foster the safety and soundness of post-trading activities within the EU and by doing so, ensuring a sound, efficient and transparent functioning of post-trading.

Furthermore, the chairman of the PTEG represents CESR in a number of related work streams, namely in CESAME II, the Advisory Group to the Commission for clearing and settlement, and in the MOG, the Monitoring Group for the Code of Conduct. Additionally, the chairman of the PTEG is the observer on behalf of CESR in the Target 2 Securities (T2S) Advisory Group, established by the European Central Bank (ECB) for the T2S project.

Objectives PTEG serves

Market efficiency

Market transparency

Market integrity

Convergence

DIVISION OF THE POST-TRADING EXPERT GROUP'S WORK

PTEG's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR participates in newly created OTC Derivatives Regulator's Forum	3.1	53	Market integrity	Convergence
CESR consults on trade repositories in the EU	3.1	53	Market integrity	Convergence
CESR continues to contribute to T2S project for securities settlement	3.1	54	Market integrity	Convergence
CESR follows-up CESR-ESCB Recommendations for securities settlement systems and CCPs	3.3	70	Convergence	Market efficiency; Convergence

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CESR-Tech



*CESR-Tech has focused on two key objectives in 2009: firstly, settling its existing TREM system and secondly, preparing the ground for future CESR IT. CESR Members delivered an improved version of TREM by adding new key features in 2009: being the so-called IRDS project, which stands for Instruments Reference Data System. This will ensure a perfect routing of transaction reports to the relevant competent authority, especially for bond and derivative instruments. CESR-Tech also drafted a plan for the next four years regarding the future IT needs of CESR and, at the same time, requested funding from the Commission for the 'key' projects following IT requests incorporated in EU legislation. One of these projects in 2009 was the preparations started for a future repository database for credit ratings issued by EU Credit Rating Agencies.**



*** Arja Voipio,**
Senior Advisor at the Finnish Finanssivalvonta (Fiva) and Chair of CESR-Tech.

Background on CESR-Tech

CESR-Tech is an expert group in charge of the information technology (IT) governance of CESR. The expert group enables CESR to work on IT projects that CESR undertakes in conjunction with its Members. The group is composed of senior CESR representatives who have experience, knowledge and expertise in IT project management, financial markets, and supervisory related issues. In the course of 2008, CESR-Tech renewed its mandate to better reflect the operational objectives of the group. CESR-Tech's main objectives are to lead pan-European IT projects of CESR to provide CESR and its Members with IT systems and services that help CESR Members to fulfill their obligations, prepare reporting on IT issues of relevance to EU institutions for the approval by CESR and to consult and advice CESR on IT related issues.

DIVISION OF CESR-TECH'S WORK

CESR-Tech's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR's Transaction Reporting and Exchange Mechanism	3.1	44	Market integrity	Convergence
CESR launches Instruments Reference Data System for all EEA markets	3.1	45	Market integrity	Convergence
The TREM User Group	3.1	46	Market integrity	Convergence
CESR starts preparing setting up credit repository for CRAs	3.1	46	Market integrity	Convergence

Objectives CESR-Tech serves

- Market efficiency
- Market transparency
- Market integrity
- Convergence



***Carlos Tavares,**
Chair of the Portuguese Comissão do Mercado de Valores Mobiliários (CMVM),
Vice-Chair of CESR and Chair of ECONET.

ECONET



*During the course of 2009, ECONET issued several reports to the EU institutions, assessing the risks and trends in securities markets. These reports highlighted the multiple impacts of the subprime crisis such as a tighter credit environment and a worsening global economic outlook due to the general increase in risk aversion. The group also addressed emerging risks so as to anticipate possible sources of stress to financial stability. In the course of the year, the view that analytical monitoring of financial markets should be strengthened became high priority for CESR and a new mandate was attributed to ECONET. The group, meanwhile renamed CEMA (Committee for Economic and Market Analysis), is now expected to carry out a thorough identification, monitoring and assessment of trends, risks and vulnerabilities in financial markets, including financial innovation and incentives to market practices. The latter is to be carried out both at wholesale and retail levels. Moreover, CEMA's aim is to provide evidence and advice to EU institutions so as to contribute to sound policy responses. To that end, implementing regular impact assessment of existing and proposed regulation should contribute to better regulation.”**

Background on ECONET

CESR created ECONET, its network of economists from Member authorities, in order to facilitate the ability of CESR to meet an increasing number of reporting requests to European bodies that require the input of financial economists. ECONET also evaluates and, as appropriate, develops CESR's approach to the use of impact assessment of securities regulation across Europe. Generally, the network enhances CESR's capability to undertake economic analysis of key trends and risks in securities markets that are, or may become, of particular significance for financial stability.

Objectives ECONET serves

Advice and reporting to EU institutions
Market transparency

DIVISION OF ECONET'S WORK

ECONET's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
Reports on economic trends and risks to FSC	3-5	94	Advice and reporting to EU institutions	Market Transparency
Report on economic risks and trends to EFC-FST	3-5	94	Advice and reporting to EU institutions	Market Transparency

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Takeover Bids Network



During the course of 2009, CESR has organised meetings with representatives from the EU authorities who regulate takeover bids to discuss issues regarding the application of the Takeover Bids Directive. The topics covered include equitable pricing,

persons acting in concert, squeeze-out and sell-out provisions, and cross-border co-operation between competent authorities.

*In order to assist Member States in providing the Commission with certain information on the takeover bids taking place in their markets, CESR's takeover bids network in 2009 assisted the Commission in drafting a list of relevant information requirements. The list aims to allow collection of the information needed by the Commission to enable it to examine the effectiveness of the Directive in 2011 (as stated in the Directive itself) – which is important work fostering and further increasing cross-border market transparency, integrity and convergence in the supervision of takeovers.” **



*** Eddy Wymeersch,**
Chair of the Supervisory Board of the Belgian Commission Bancaire, Financière et des Assurances (CBFA), Chair of CESR and Chair of the Takeover Bids Network.

Background on the Takeover Bids Network

CESR has set up a network of authorities dealing with takeover bids (whether CESR Members or not) to discuss views, experiences and future developments in the implementation of the Takeover Bids Directive (TOD). The TOD aims to ensure equality of treatment in Europe for all companies launching bids and a transparent and fair treatment of investors in companies that find themselves the targets of takeover bids. The legislation covers two separate areas relating to takeovers: company law aspects and securities or market related issues. However, as the CESR Members composing the network do not, in general, have powers in relation to company law issues, the mandate of the network is limited to securities or market related issues, with the goal of promoting an exchange of information and experience. The network aims to foster co-operation between all authorities supervising the takeover legislation, especially in the context of cross-border transactions.

DIVISION OF THE TAKEOVER BIDS NETWORK

Takeover Bids Network's 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
EU regulators discuss takeover bids cases	3.1	50	Market efficiency	Market transparency, Convergence

Objectives the Takeover Bids Network serves

- Market integrity
- Market transparency
- Convergence



***Carlos Tavares,**
Chair of the Portuguese Comissão do Mercado de Valores Mobiliários (CMVM),
and Chair of the Prospectus Contact Group.

Prospectus Contact Group



*Investors rely on prospectuses to make orderly and informed investment decisions. A key element in ensuring confidence in prospectuses and hence in supporting the objective of market integrity is the consistent application of the Prospectus Directive. During 2009, the group has updated its Q&As, providing market participants with common positions agreed by CESR Members on prospectuses, and continued to collect and publish statistical data in relation to the number of prospectus approved and ‘passport’ within the EU—both of which, are important tasks which should foster market transparency and convergence in the Directive’s application.”**

Background on the Prospectus Group

CESR’s prospectus contact group was originally created to develop Level 3 guidance on the disclosure requirements of the Prospectus Regulation. The Prospectus Directive (PD) requires issuers to publish a prospectus when offering securities to the public or admitting securities to trading on a regulated market. The Regulation also defines the exact content requirements of such documents. The Prospectus contact group also periodically publishes updates to a Q&A on issues related to prospectuses, which provides market participants with commonly agreed answers by CESR Members.

Objectives the Prospectus Group serves

Market transparency
Convergence
Transparency of implementation
Investor protection
Advice and reporting to EU institutions

DIVISION OF THE PROSPECTUS GROUP’S WORK

Prospectus Group’s 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
CESR provides to Commission’s review of PD	3.1	49	Market Transparency	Transparency of implementation
CESR updates Q&A on prospectuses	3.1	49	Market Transparency	Convergence; Transparency of implementation
Publication of data on prospectuses approved and ‘passport’	3.2	61	Transparency of implementation	Convergence; Investor protection
Assessment of the equivalence of non-EEA prospectuses	3.4	89	Investor protection	Transparency of implementation

Other groups, networks and task forces

Depending on the nature of a CESR work stream, which might be on an ad hoc basis and hence much more limited in time compared to permanent groups of CESR, there are a number of other groups, networks and task forces which are not covered by the above presentation. For example, there are joint groups that have been formed together with other organisations in order to respond to special mandates which are not covered in this section but are reported on within the annual report. For example, in 2009, CESR worked on issues arising from the decisions by the ECOFIN Council in preparing CESR's transition into the European Securities and Markets Authority (ESMA), or on clearing and settlement in a joint working group together with the European System of Central Banks (ESCB). In addition, there are task forces that respond to other roadmaps, such as those on mutual recognition with the US, work on Human Resources and training. In addition, CESR has established a Retail Investor Network to find ways to create more dialogue with representatives of retail investors. In order to foster cross-sector convergence throughout the securities, insurance and banking markets, the 3 Level 3 (3L3) Committees work jointly in areas such as: anti-money laundering, cross-border mergers and acquisitions, and conglomerates; there are also 3L3 task forces on training, internal governance, cross-sector risks and delegation of tasks – all of which are presented under cross-sector convergence in this annual report.

Other 2009 work streams	Chapter	Page	Objectives served	
			Main	Secondary
3L3 Committee meetings during 2009	3.3	72	Convergence	
3L3 contribution to the Commission and Council on improving financial supervision in the EU	3.3	73	Convergence	Market integrity, transparency and efficiency; Investor protection
3L3 Task Force on Cross-Sector Risks	3.3	74	Convergence	Investor protection
3L3 Anti-Money Laundering Task Force (AMLTF)	3.3	75	Convergence	Investor protection
3L3 work on Financial Conglomerates	3.3	75	Convergence	Market integrity; Investor protection
3L3 Task Force on Internal Governance (TFIG)	3.3	76	Convergence	Advice and reporting to EU institutions
Joint work on non-cooperative jurisdictions	3.3	77	Convergence	Investor protection
3L3 work on home-host delegation	3.3	78	Convergence	Market efficiency
Packaged Retail Investment Products	3.3	78	Convergence	Investor protection
EU terminology consistency	3.3	79	Convergence	Market efficiency; Market integrity
3L3 set up Task Force on Cross-Sector Training	3.3	79	Convergence	Market efficiency; Market integrity
Commission agreed on grant agreements to the 3L3	3.3	79	Convergence	Market efficiency; Market integrity
3L3 develop manual on training process	3.3	79	Convergence	Market efficiency; Market integrity
3L3 held more cross-sector trainings in 2009	3.3	80	Convergence	Investor protection

03

CESR delivering its objectives in 2009

Ensuring financial markets work in a fair, efficient and transparent manner is a key objective of securities regulators. CESR seeks to ensure the appropriate rules exist and are implemented in the EU.

3.1

Market integrity, transparency and efficiency

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03

CESR delivering its objectives in 2009

3.1 Market integrity, transparency and efficiency

Securities regulators seek to secure the orderly functioning of financial markets by ensuring that markets work in a fair, efficient and transparent manner. Regulation of markets achieves this by looking into issues such as the integrity of price formation; the clarity of information on the product being sold and its functioning; the prevention of manipulative behaviour; and ensuring that appropriate laws for customer protection exist, and are implemented and enforced effectively. To ensure the appropriate rules exist at a European level, CESR provides technical advice to the Commission which prepares the EU legislative framework.

In addition, CESR fosters the integrity, transparency and efficiency of EU financial markets by improving the co-ordination amongst EU securities regulators by issuing guidance, Question and Answers, and where appropriate, through publishing market data and regulatory decisions taken by CESR Members to provide clarity to market participants.

Market integrity

➤ Credit Rating Agencies Expert Group

CESR starts implementing new EU Regulation on CRAs

The financial crisis has clearly demonstrated the role played by Credit Rating Agencies (CRAs) in market integrity, which is why the European Parliament and Council approved an EU Regulation on Credit Rating Agencies (IP/09/629) on 23 April 2009, introducing an EU-wide system for registering and supervising of CRAs. The European Council formally signed the text on 16 September 2009. After its publication in the EU Official Journal on 17 November 2009, the EU Regulation entered into force on 7 December 2009. It directly applies in all Member States and requires that:

- All CRAs established in the EU apply for registration;
- Regulated entities in the EU may only use, for regulatory purposes, ratings that are issued by registered CRAs; and
- Registration is a precondition to be recognised as an External Credit Assessment Institution (ECAI) as laid out under the Capital Requirements Directive (CRD).

CESR enhanced role in CRA's area

According to the Regulation, CESR is required to discharge important co-ordination and advisory functions alongside its traditional role of promoting convergence. One of these new roles is acting as a single European point of entry for the submission of applications for registration of CRAs in Europe. The Committee is also in charge of setting up a Central Repository containing data supplied by individual CRAs. This database will provide the market with historical performance statistics relating to EU registered CRAs. In addition, Article 21 of the EU Regulation requires CESR to issue a first set of guidance by 7 June 2010 covering:

- The registration process and co-ordination arrangements between national competent authorities, including the information set out in Annex II, and the language regime for applications submitted to CESR;

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- The operational functioning of the colleges of national supervisors that will be set for the registration and supervision of CRAs, including methodologies for determining the membership of the colleges: the application of the criteria for the selection of the facilitator; the written arrangements for its operation and co-ordination between colleges;
- The application of the endorsement regime under Article 4.3 by competent authorities; and
- Common standards on the presentation of the information that CRAs shall disclose including: structure, format, method and period of reporting, in accordance with Article 11.2 and point 1 of Part II of Section E of Annex I.

By 7 September 2010, CESR must produce a second set of guidance, clarifying:

- Enforcement practices and activities to be conducted by competent authorities;
- Common standards for assessment of compliance of credit rating methodologies with the requirement set out in Article 8.3;
- Types of measures referred to in Article 24.1(d) to ensure that CRAs continue to comply with legal requirements; and
- Information that the CRA must provide for the application for certification and for the assessment of its systemic importance to the financial stability or integrity of financial markets referred to in Article 5.

Commission requests technical advice from CESR

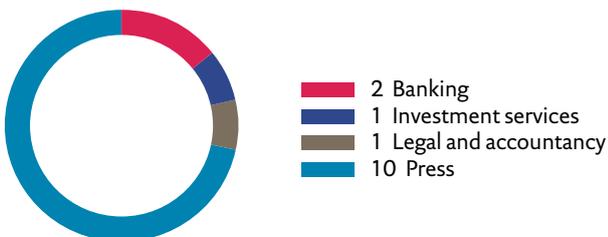
In the context of the EU Regulation, CESR has been mandated by the Commission in June 2009 to provide it with advice on the equivalence of the regulatory (legal and supervisory) frameworks applied by certain third countries to the activities of CRAs to the regulatory frameworks for CRAs introduced in the Community by the CRA Regulation. The mandate consists of two parts: technical assistance for the assessment of the regulatory environments of Canada, Japan and the United States of America and a fact finding exercise to establish whether other additional jurisdictions should be assessed.

In July 2009, CESR issued a call for evidence (Ref. CESR/09-681) seeking inputs from market participants on the use in the European Union of credit ratings issued by third country CRAs. At the end of October, CESR submitted its conclusions to the European Commission which decided to extend CESR's mandate to include an assessment of the Australian legal and supervisory framework.

Furthermore, CESR has begun discussions with relevant third country authorities to set up the co-operation arrangements required by the Regulation for both the endorsement and equivalence regimes. According to the Regulation such arrangements shall specify at least:

- The mechanism for the exchange of information between the competent authorities concerned; and
- The procedures in place concerning their cooperation on supervisory activities

Responses to consultation on registration, mediation and other related issues regarding the certification and assessment of CRA's systemic importance (Ref. CESR/09-955)



Responses to fact finding exercise of the use in the European Union of ratings issued by third countries CRAs (Ref. CESR/09-681)



Next steps

During the second quarter of 2010, CESR will have assessed and submitted its technical advice to the Commission on whether the CRA regimes of Japan and the USA are considered as being equivalent to that of the EU; similar technical advice on the Japanese and Australian legal and supervisory framework will be submitted and published in the following months. In addition, CESR intends to finalise the first co-operation arrangements in due course to enable CRA's to effectuate ratings.



CESR consults on how to implement the new framework for CRAs

During the course of 2009, CESR's CRA expert group, assisted by a consultative working group, has been dealing with various topics where CESR has been requested to issue guidance detailing how the new EU framework for CRAs will be implemented. The consultative working group is composed of senior practitioners from the industries affected by the Regulation who are in charge of advising on all matters relating to the implementation and application of the future legal framework. In September 2009, CESR asked the consultative working group on CRAs to comment on pre-consultation papers. At the end of October, based on their feedback, CESR produced a consultation paper (Ref. CESR/09-955) seeking comments on the conclusions it had drawn regarding guidelines on the registration process, on the functioning of colleges, on the mediation protocol, on the information set out in Annex II, on the information required for the application for certification and on how to assess a CRAs systemic importance. In November, CESR held an open hearing to give participants the opportunity to comment and raise questions on the proposed procedural issues and content of applications. CESR has to provide a first set of guidance within six months of the entry into force of the Regulation, i.e. by 7 June 2010.

Next steps

CESR will publish the final guidance on registration and related issues, the content of applications as well as the feedback statement by the end of May/beginning of June 2010. In addition, CESR has already begun to work on the second set of guidance on enforcement practices, common standards for assessment of compliance of credit rating methodologies and supervisory measures required by the Regulation. It expects to conduct a consultation on some specific areas of these guidelines early in the summer of 2010.

Other objectives served

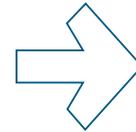
Convergence

Investor Protection

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CRA: Consultation on future CRAs repository

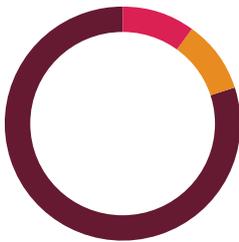
The new EU Regulation on CRAs also requires CESR to set up and run a Central Repository (CEREP)⁹ which will allow the publication of data provided by individual CRAs. Therefore, CESR has started to prepare a database containing the historical performance statistics of EU registered CRAs, i.e. rating activities, historical default rates, information on 'rating migration'. As a first step, in April 2009, CESR conducted a survey amongst relevant CRAs on what type of data on past ratings and historical performance each agency could deliver and on how this data is produced, classified and stored, including the methodology used to calculate it. Based on this survey, CESR released in July 2009 a consultation paper (Ref. CESR/09-579) to obtain views from investors and the CRAs themselves on developing a more concrete picture of the content and working of the Central Repository, the level of standardisation of data and methodologies that are both feasible and desirable. Results from the July consultation led to the publication of a feedback statement (Ref. CESR/09-822a) in October 2009, which highlights amongst other things, CESR's decision to require CRAs to report 'raw data' instead of providing aggregated statistics. Since then, CESR has focused its work on the business requirements describing, in a non-technical way, what the CEREP should provide to users.



Other objectives served

Convergence

Responses to consultation on a central repository for Credit Rating Agencies (CESR/09-579)



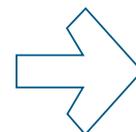
- 1 Banking
- 1 Insurance, pension and asset management
- 8 CRA

Next steps

CESR will pursue the different steps of its IT project by starting to work on the functional specifications of the database, launching a procurement procedure to select a services provider and then building up the database. In parallel, CESR will issue the guidelines required under the terms of the regulation by 7 June 2010, to provide CRAs with all technical and non-technical information necessary for them to prepare for delivering reports to CESR.

CESR looks into CRA's compliance with the IOSCO Code

In May 2009, as part of CESR's commitment to provide market transparency and to ensure market integrity, CESR published its second report (Ref. CESR/09-417) on the compliance of European CRAs with the IOSCO Code of Conduct. The publication of CESR's report came as a result of requests from both the Group of Twenty (G20) and the European Commission that CESR should report to both the Commission and to the Economic and Financial Committee of the European Union (EFC) on the progress made by EU-based CRAs towards compliance with the revised IOSCO Code published in May 2008. In responding to the request, CESR built on work already performed in IOSCO and produced an initial interim report containing a preliminary review of the level of compliance of the three largest CRAs', Standard & Poor's (S&P), Fitch Ratings (Fitch) and Moody's Investor Service (Moody's). The final report, which was sent to the Commission and to the EFC in March 2009, contained an analysis of the compliance of a wide range of EU-based CRAs' codes of conduct with the updated IOSCO Code, including the three CRAs covered in the interim report.



Other objectives served

Convergence

Investor protection

⁹ This project has been made possible with the financial assistance of the European Union. This project is carried out under the sole responsibility of CESR and can under no circumstances be regarded as reflecting the policies of the EU.

CESR found CRAs broadly compliant

CESR's overall conclusion with respect to the codes of the larger and global CRAs (S&P, Moody's, Fitch, DBRS and AM Best) was that they are considered broadly compliant with the IOSCO Code. These CRAs had updated their codes of conduct to take into account most, but not all, of the revisions made to the Code by IOSCO in May 2008, in particular with respect to structured finance products. However, there were a number of provisions identified, and detailed within the report, on which these CRAs deviated from the IOSCO Code. CESR therefore believes room for improvement exists.

The report published in May was exclusively based on the codes of CRA's. No other documents were taken into account. In addition, CESR did not opine on the practical application of a CRA's own code which means that CESR did not check whether a CRA complies in practice with what is stated in its code. Equally, where a CRA's code deviates from an IOSCO provision, CESR did not check whether the CRA complies with the IOSCO provision in practice.

➤ CESR-Pol



Other objectives served

Convergence

Investor Protection

CESR co-ordinates Members' activities on short selling

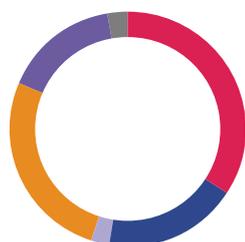
Turbulent market conditions in the second half of 2008 led to a significant number of CESR Members taking emergency measures to restrict and/or impose conditions on short selling in financial markets. These national measures took various forms and many of them still remain in place, having been extended or renewed in modified forms. In order to keep market participants informed, CESR has updated several times its list of measures adopted by CESR Members on short selling (Ref. CESR/08-742).

CESR sets up task force on short selling

As a result of all the activity on short selling regulation, CESR considered that it was appropriate to launch a review of policy on short selling with a view to formulating pan-European standards in this area. CESR Members therefore agreed at the end of 2008 that a dedicated task force on short selling should be formed within CESR-Pol. The task force, once set up, was mandated to examine what permanent regime would be appropriate for short selling within the EEA. CESR's aim is to achieve a harmonised, European approach to this issue. CESR Members agreed that a harmonised pan-European disclosure regime for enhanced transparency of short selling should be implemented on a permanent basis; though CESR continues to consider whether further measures for the regulation of short selling, beyond disclosure, are required. The planned regime is meant for the disclosure of net short positions only.

To that effect, CESR published in July 2009 a consultation paper on its proposal for a pan-European short selling disclosure regime (Ref. CESR/09-581). In that paper, CESR proposed a two-tier model for disclosure of significant individual net short positions. The consultation period closed at the end of September 2009, by which time 49 responses had been received. The single largest group of respondents was comprised of national trade associations, but pan-European trade associations, individual trading firms, exchanges and Multilateral Trading Facilities (MTFs) were represented as well.

Responses to consultation on CESR's Proposal for a Pan-European Short Selling Disclosure Regime (CESR/09-581)



13	Banking
7	Investment services
1	Issuers
10	Insurance, pension and asset management
6	Regulated markets, exchanges and trading systems
1	Others

Next steps

CESR continues its work on finalising the details of the proposed pan-European model for disclosure of net short positions.

Regulators share expertise on surveillance and intelligence work

The exchange of opinions and experiences among CESR Members is essential to ensure a high level of convergence and to achieve a common understanding among Members of what constitutes market abuse. CESR-Pol's permanent sub-group, the Surveillance and Intelligence group (S&I group), provides experts in the investigation and enforcement of market abuse with a forum for sharing their experiences on the basis of individual cases, and for exchanging valuable information on methods and procedures used in day-to-day supervision. In 2009, several practical aspects were discussed in the S&I group concerning the application of the market abuse regime; this prompted consideration of the merit of conducting further Level 3 work in the area of the Market Abuse Directive (MAD). Among other actions, the S&I group conducted a mapping exercise on how national supervisors treat transactions conducted by bidders prior to a bid and discussed cases of identified market abuse through the use of over-the-counter (OTC) derivatives.

Next steps

With the ever increasing complexity of financial markets and products, sharing supervisory knowledge on efficient methods of investigating market abuse and enforcing MAD will continue to be key in CESR Members' efforts to ensure the integrity of securities markets. Therefore, CESR Members will continue to exchange opinions and experiences on both market surveillance and intelligence.

➤ CESR-Fin

Financial reporting in times of crisis

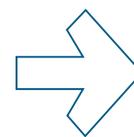
The financial crisis has had a major impact on the financial position and performance of publicly traded companies, particularly those in the financial sector. The goal of strengthening investor confidence will require improved transparency on the actual financial situation of financial companies. With this objective in mind, CESR published three reports in 2009:

Reclassification of financial instruments and other related issues

As part of CESR's efforts to encourage convergence in the application of accounting standards, CESR issued a statement on the reclassification of financial instruments and other related accounting issues on 7 January 2009 (Ref. CESR/09-973). The statement aimed to provide information to both enforcers and issuers of financial statements regarding the use of the reclassification option in the light of the financial crisis and to highlight some of the potential accounting issues companies might face.

Application of and disclosures related to the reclassification of financial instruments

CESR conducted a review of the use of the reclassification amendment by financial companies within the EU when complying with their obligations to produce third quarter interim financial statements and interim management statements for 2008. In performing its work, CESR bore in mind that not all Member States oblige issuers to publish quarterly financial statements applying the disclosure requirements of IFRS 7.



Other objectives served

Convergence

CESR analysed a total of 22 companies from eight Member States in the FTSE Eurotop 100. CESR also analysed 78 additional companies, in order to build as representative a picture as possible of financial companies in Europe for which information was available. CESR's analysis showed that:

- More than half of the companies selected did not reclassify any financial instruments in their third quarter 2008 financial statements;
- For companies in the FTSE Eurotop 100 index, almost two thirds did not reclassify any financial instruments in any of the categories;
- 20% of all financial companies analysed reclassified financial instruments from one or more categories; and
- 18% of the FTSE Eurotop 100 companies reclassified financial instruments from one or more categories.

Application of disclosure requirements related to financial instruments

CESR reviewed the 2008 year-end financial statements of 96 listed banks and/or insurers, including 22 companies from the FTSE Eurotop 100 index. The Statement (Ref. CESR 09-821) focused on the five key areas related to disclosures of financial instruments: categories of financial assets or financial liabilities and their carrying amounts, financial assets and liabilities at fair value, risks arising from financial instruments, Special Purpose Entities (SPEs) and the impairment of financial assets. The findings revealed that, in some areas, a significant proportion of companies failed to comply with mandatory disclosure requirements relating to financial instruments, for example regarding the use of valuation techniques and on relationships with SPEs.

CESR's analysis identified that a significant number of companies provided additional disclosures in-line with recommendations published in late 2008 by various organisations such as the Senior Supervisors Group and the IASB Expert Advisory Panel.

CESR monitors developments in IFRS and contributes to EFRAG and the IASB

IFRSs have contributed much towards harmonising the presentation of financial information in European markets. The development of IFRS in a consistent and logical manner is key to protecting investors and insuring the integrity of markets through preserving transparent reporting. CESR continues to monitor the developments in IFRS proposed by the IASB and IFRIC and to respond to calls for market input from these bodies by putting forward CESR Member's views – both as securities regulators and enforcers of accounting information.

In this capacity, CESR-Fin regularly provides comment letters to EFRAG with the aim of contributing to the standard-setting and endorsement process within Europe. In 2009 CESR provided comment letters to the IASB and to EFRAG in relation to the following projects:

- ED Investments in debt instruments – proposed amendments to IFRS 7;
- ED Embedded Derivatives – proposed amendments to IFRIC 9 and IAS 39;
- ED Relationships with the State;
- ED 10 Consolidated Financial Statements;
- DP Preliminary Views on Financial Statements Presentation;
- IASB's Request for Views on proposed FASB amendments on Fair Value Measurement and proposed FASB Amendments to Impairment Requirements for Certain Instruments in Debt and Equity Securities;
- DP Preliminary Views on Revenue Recognition in Contracts with Customers;
- IFRIC's tentative agenda decision on IAS 39 'significant and prolonged';
- IASB/FASB DP Preliminary Views on Leases;
- ED De-recognition;
- ED Income Tax;
- DP Credit Risk in Liability Measurement;
- ED Classification of Rights Issues;
- ED Financial Instruments: Classification and Measurement;
- ED Fair Value Measurement;
- IFRIC's Draft Interpretation D25 Extinguishing Financial Liabilities with Equity Instruments;

- ED Discount Rate for Employee Benefits;
- ED Improvements to IFRS; and
- ED Rate Regulated Activities;

CESR has also provided comments to the IASCF, the legal entity under which the IASB operates, on part two of its proposal to amend the IASCF Constitution which was exposed at the beginning of 2009 and on the re-exposed amendments in September 2009. CESR participated in the Round Tables that were organised by the IASCF.

External contributions on accounting

CESR-Fin participates in the European Commission's ARC and in EFRAG's monthly Technical Expert Group (TEG) meetings as observer. CESR has also been granted observer seats at the Supervisory Board of EFRAG during 2009. Such observerships allow CESR to feed its views directly into the process of developing accounting standards for endorsement in the EU.

Throughout 2009, CESR-Fin has also held a post as observer on the Financial Crisis Advisory Group (FCAG) which was formed at the request of the IASB and the US FASB to consider financial reporting issues arising from the crisis.

Next Steps

CESR-Fin will continue to monitor the EU endorsement of standards and interpretations published by the IASB and IFRIC. CESR believes in arriving at solutions aimed at achieving high quality global accounting standards that establish a good basis for consistent application and enforcement.

CESR continues its works on the audit of financial information

A majority of CESR Members do not have responsibility for the supervision of audit firms in Europe. However, CESR-Fin maintains a small working group consisting of those Members who do bear such responsibility which prepares responses to consultations by the European Commission and to the IAASB on several of their projects. In 2009, the group prepared responses to the European Commission on its consultation papers on Control Structures in Audit Firms and their Consequences for the Audit Market and on the Commission's proposal for the adoption of international standards on auditing in the European Union.

CESR-Fin has also been a participating observer to the IAASB's current working group preparing a proposed exposure draft on Assurance Reports on the process for compiling the Pro Forma Financial Information included in Prospectuses. CESR-Fin also holds an observership at the European Commission's Auditing Regulatory Committee (AuRC).

Next Steps

CESR-Fin will continue to monitor developments in the EU on auditing and the group will respond to such developments as appropriate.

➤ CESR-Tech



Other objectives served

Convergence

Investor Protection

TREM – CESR’s transaction reporting exchange mechanism

In November 2007, CESR launched an IT system allowing CESR Members to exchange among each other reports on transactions on instruments admitted to trading on regulated markets in Europe. The so-called Transaction Reporting Exchange Mechanism (TREM) provides

the technical platform for national supervisors to exchange said information according to the requirements set out by MiFID. Monitoring the transactions reported is a key element used by regulators in the detection and investigation of suspected market abuse. Since its implementation, TREM is exchanging around one billion transaction reports a year and CESR continues to work on enhancements of this IT system and deployment of new releases.

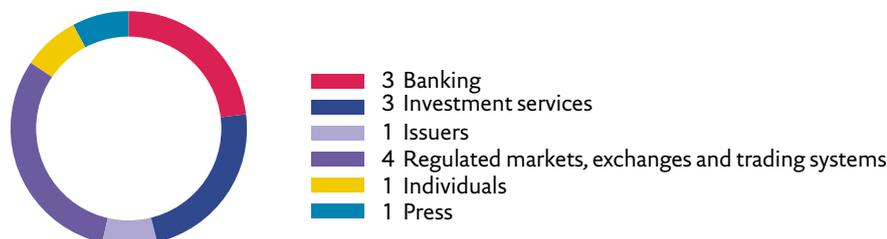
TREM to include the exchange of OTC derivatives transactions

In order to allow CESR Members to start exchanging transaction reports on OTC derivatives in addition to those already exchanged on regulated instruments, CESR started preparing the modification of its existing IT system TREM¹⁰. In 2009, CESR’s IT governance group CESR-Tech, for this purpose, set up a dedicated OTC task force that ran both a call for evidence (Ref. CESR/09-074) and consultation (Ref. CESR/09-618) to get market participants’ views on the technical standards required to classify and identify OTC derivative instruments. Based on the responses to the call for evidence, the task force issued its recommendations in July 2009 (Ref. CESR/09-129e) in order to facilitate the exchange of OTC securities derivative transaction reports, amongst those CESR Members that are able to participate in such an exchange. The recommendations included, but are not limited to:

- The type of OTC securities derivative instruments to be included in the reporting;
- The technical standards to be used to classify and identify the OTC derivatives; and
- How the MiFID rules should be interpreted for OTC derivatives.

A second consultation (Ref. CESR/09-768) was then conducted on this proposal. In 2009, there were eight OTC Task Force meetings, 19 responses to the call for evidence and 17 responses to the consultation paper.

Responses to call for evidence on the technical standards to identify and classify OTC derivative instruments for TREM; CESR’s transaction reporting exchange mechanism(CESR/09-074)



¹⁰ This project has been made possible with the financial assistance of the European Union. This project is carried out under the sole responsibility of CESR and can under no circumstances be regarded as reflecting the policies of the EU.

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Responses to consultation on classification and identification of OTC derivative instruments for the purpose of the exchange of transaction reports amongst CESR Members (CESR/09-618)

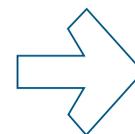


Next steps

CESR will publish the feedback statement on its second consultation, the subsequent decision on which technical standards to use and a consultation paper aiming at defining the final guidance to report transactions on OTC derivatives at the beginning of 2010. It is envisaged to launch the new version of the IT system in November 2010 with CESR requesting funding from the Commission for this project.

CESR launches Instrument Reference Data System for all EEA markets

On 1 June 2009, CESR-Tech launched a central database that contains reference data for all instruments admitted to trading on the 84 European regulated markets, called the Instrument Reference Database System (IRDS). The database contains today more than half a million instruments. This is the first time ever that all instruments admitted to trading in all EEA markets are compiled in a single database; to CESR’s knowledge, the data included does not exist anywhere else. The information contained in the database is updated daily by all exchanges (in most of the cases via their home regulator) and redistributed to all CESR Members to achieve correct routing of transaction reports amongst themselves. By doing so, the data will be a key element for the monitoring of transaction reporting and other supervisory purpose by CESR Members.



Other objectives served

Convergence

Next steps

The new versions of TREM and the IRDS will be implemented on 1 November 2010. They will include the exchange of OTC derivative transaction reports and will facilitate the harmonisation and the improvement of the quality of the data exchanged amongst CESR Members. The implementation of the IRDS has, however, demonstrated the ability of CESR to set up and run IT projects. This is especially important with regard to the new responsibilities that will be given to the European Supervisory Authorities and especially ESMA, the European Securities and Markets Authority, which CESR will become in 2011, if the legislative proposals currently under discussion are adopted as anticipated.



Other objectives served

Convergence

The TREM User Group

Since the introduction of TREM, CESR's TREM user group, which is composed of IRDS and TREM end-users of CESR Member authorities, has been working on improving the quality of the data exchanged. In 2009, the group issued two reports and started joint work with other CESR expert groups to discuss potential modifications in the transaction reporting requirements to improve data quality. There were ten TREM User Group meetings in 2009. In addition, CESR analysed the IRDS data in order to identify critical areas and possible actions to improve data quality. Some of the steps taken in 2009 have already led to the first round of significant improvements to the system, for instance, the data in the IRDS database on equities and debts instruments has an error rate of 0.2% only.

Next steps

The exchange of reliable data is of high importance for the detection and investigation of suspected market abuse. CESR-Tech will, in close co-operation with CESR's expert groups, continue its restatement to increase the validity of data exchanged.



Other objectives served

Convergence

CESR starts the setting-up of a central repository for CRAs

On 7 December 2009, the European Regulation on CRAs entered into force; which obliges CESR to establish a central repository where CRAs shall make available information on their historical performance, including the frequency of ratings transition and information about ratings or changes to ratings issued in the past. To this end, CESR has created a joint sub-group, bringing together members of CESR's CRA expert group and CESR-Tech. The group has started by releasing a business requirements document that sets the foundation of the IT project¹¹ aiming at implementing such a repository.

Next steps

CESR-Tech will start drafting the functional specifications for the central repository for CRAs with a view to developing the IT system, with a go-live envisaged for 2011. CESR notes that funding has been granted for this project by the European Union.

CESR-Tech will become the IT Management and Governance body of CESR in 2010 but will keep performing work in the areas mentioned above. In 2010, the IT governance group also intends to start studying projects in new areas such as the UCITS Directive which requires a new notification procedure based on swift, electronic communication of standardised documentation and the preparation of the new responsibilities of ESMA.

¹¹ This project has been made possible with the financial assistance of the European Union. This project is carried out under the sole responsibility of CESR and can under no circumstances be regarded as reflecting the policies of the EU.

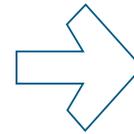
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Market transparency

➤ MiFID Level 3 Expert Group

CESR looks into non-equity markets transparency

Following a consultation in December 2008 (Ref. CESR/o8-1014), CESR in 2009 revised its earlier conclusions on non-equity markets transparency contained in its technical advice (CESR/o7-284b) to the Commission. This work was initiated following the report on ‘Enhancing Market and Institutional Resilience’ published by the Financial Stability Forum at the request of the G7 Ministers and Central Bank Governors where the causes and weaknesses of the financial turmoil that hit the financial markets from June 2007 were analysed. On 10 July 2009, CESR published its final report (Ref. CESR/o9-348) and a feedback statement (Ref. CESR/o9-349) on the transparency of corporate bond, structured finance product and credit derivatives markets concluding that the market-led initiatives have not provided a sufficient level of transparency in these markets. CESR therefore considered an increased level of transparency to be beneficial to the market. In its report, CESR favoured a harmonised European approach to post-trade transparency instead of relying on national initiatives in this area on the basis of the flexibility allowed by MiFID.



Other objectives served

Convergence

Next steps

During 2010, in the broader context of the MiFID review by the Commission, CESR will prepare during 2010 specific advice on a mandatory post-trade transparency regime for these markets, with particular emphasis on determining the appropriate thresholds and related delays for the publication of post-trade transparency information.

Maintenance of the CESR MiFID database

Under the MiFID market transparency regime, CESR is responsible for publishing certain calculations made by its Members for shares admitted to trading on an EEA regulated market. This also includes providing lists on systematic internalisers, multilateral trading facilities, regulated markets and central counterparties. CESR publishes the results of the calculations through its MiFID database which is publicly available on CESR’s website through <http://mifiddatabase.cesr.eu/>. The annual calculations for 2009 were made public on the first trading day of March (2 March).

In order to ensure smooth and harmonised calculation and publication, CESR has considered it necessary to agree on a protocol on the operation of the MiFID database (Ref. CESR/o9-172). This protocol describes the tasks and responsibilities of CESR Members and the CESR Secretariat respectively. An updated version of the protocol was published on 15 October 2009 on CESR’s website.

Next steps

CESR Members will continue to input and update the information contained in the MiFID database; CESR will make available the data on a real-time basis.

➤ Transparency Expert Group



Other objectives served

Convergence

CESR looks into use of derivatives and major shareholding notifications

In 2009, CESR has undertaken Level 3 work on major shareholding notifications. There have been a number of high profile cases in Europe and elsewhere, where derivatives have been used with the intention to acquire control of a listed company. Some Member States have already taken regulatory actions and extended their major shareholding notification regimes to derivatives, both physically settled and cash settled.

CESR however has agreed to take a proactive role in relation to derivatives and major shareholding notifications. The aim of the work is:

- To co-ordinate national efforts in this area in order to achieve a more uniform approach for possible regulatory initiatives at national level; and
- To give feedback to the Commission for the review of the Transparency Directive.

Next steps

A consultation paper on proposals to extend the shareholding notification regime to cash settled derivatives was published in February 2010, and this consultation will be the catalyst for further technical work by CESR later in 2010.



Other objectives served

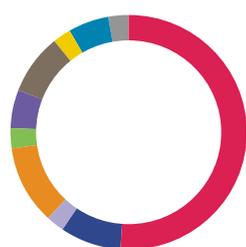
Convergence

Use of a standard reporting format in the reporting of listed issuers

In its recommendation (2007/65/EC) relating to the network of officially appointed mechanisms for the central storage of regulated information (OAMs), the Commission requested CESR to report on the possible future development of the network of OAMs by 30 September 2010. CESR has therefore discussed this issue with the representatives of national OAMs as part of its work on the development of the OAM network.

The discussions between CESR and the OAM representatives in 2009 also covered standard reporting formats for financial reporting, such as the XBRL format, the Extensible Business Reporting Language. Having considered the various regulatory initiatives taking place in different jurisdictions, CESR decided to explore the issues related to the use of a standard reporting format for financial reporting of issuers having securities admitted to trading on a regulated market. A call for evidence on the issue (Ref. CESR/09-859) was published in October 2009. CESR received a total of 38 responses to the call for evidence.

Responses to call for evidence on the use of a standard reporting format source (CESR/09-859)



19	Banking
3	Investment services
1	Issuers
4	Insurance, pension and asset management
1	Government, regulatory and enforcement
2	Regulated markets, exchanges and trading systems
3	Legal and accountancy
1	Individuals
2	Press
1	Others

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Next steps

CESR will analyse the responses to the call for evidence and decide whether to address the issue in more detail in the drafting of its report to the Commission. The draft report to the Commission is expected to be published for public consultation in the second quarter of 2010.

➤ Prospectus Contact Group

CESR contributes to Commission’s review of Prospectus Directive

The Prospectus Directive and the accompanying Regulation establishes a harmonised format for prospectuses in Europe and allows companies to use a prospectus to list on all European markets without the need to re-apply for approval from the local regulator. This is intended to help companies avoid the inherent delays and cost that re-application would involve and hence helps achieve market efficiency. The legislation also ensures investors receive consistent and standardised information which will enable them to compare in a more transparent and effective manner the various securities offers available to them from a wider number of European companies.

Since the entry into force of the Prospectus Directive, CESR has actively contributed to the process of promoting a harmonised and common approach towards prospectuses amongst EU securities regulators. To further this objective, CESR published its response (Ref. CESR/09-240) on 10 April 2009 to the Commission’s consultation seeking to improve and simplify the Directive. CESR generally welcomed the Commission’s proposal to review the Prospectus Directive (PD).

In the absence of unanimity amongst its Members on issues raised by the Commission, CESR decided to restrict itself in its response to commenting only on those issues where CESR Members were in common agreement.

Next steps

CESR will continue to provide its expertise to the Commission’s review and to provide input on any decision taken. CESR will continue its work to ensure a smooth and harmonised introduction of any changes to the PD that result from the Commission’s review.

CESR updates prospectus Q&A

Prospectuses are key documents that inform investors on the risks of the companies they invest in at the point of initial investment. Markets rely on such documents to ensure orderly and informed investment. A key element in ensuring confidence in such documents and hence in supporting the objective of market integrity is the consistent application of the PD by CESR’s Members.

During 2009, CESR published two updates of its Questions and Answers (Q&A) on common positions agreed by CESR Members on prospectuses. CESR has published commonly agreed answers to questions on specific issues relating to prospectuses. On 15 January 2010, CESR published the tenth update (Ref. CESR/09-1148) that brought the number of questions covered by the document up to 74.

The Q&A is intended to provide market participants, in a quick and efficient manner, with commonly agreed responses to ‘everyday’ questions raised either by market participants to CESR Members or by Members to CESR. The aim of publishing the Q&A is to encourage consistent application of the provisions of the PD and to foster market integrity.



Other objectives served

- Convergence
- Investor protection



Other objectives served

- Convergence
- Investor protection

However, CESR responses do not represent standards, guidelines or recommendations as no prior consultation process has been followed. CESR seeks to operate the Q&A process in a way that will enable its Members to react promptly if any aspect of the common positions already published needs to be modified or any of the responses need further clarification. In the latest updates of the Q&A several answers were updated to take into account comments received from market participants and to omit previously dissenting views from certain CESR Members as those Members aligned their position with the CESR consensus. The Commission participates in the discussions of the group and has provided its position on some of the questions discussed in the paper. However, the views expressed by the Commission are non-binding.

Next steps

CESR will continue to update its Q&A for future queries on prospectuses, as soon as CESR Members have agreed common positions.

➤ Takeover Bids Network



Other objectives served

Convergence

EU Regulators discuss takeover bids cases

The Takeover Bids Directive aims to ensure a level playing field in Europe for companies launching bids and seeks to ensure transparent and fair treatment of investors. As some of CESR's Members do not themselves regulate takeovers, CESR has formed a network to ensure a forum exists which allows takeover regulators to exchange cross-border information and harmonise views, in order to facilitate convergence in Europe.

CESR has continued to organise meetings with representatives from the EU authorities who regulate takeover bids (whether these are CESR Members or not) to discuss their experiences. Two meetings were organised during the course of 2009, in June to discuss the topics put forward by the members of the network such as equitable pricing, persons acting in concert, squeeze-out and sell-out provisions; and in December to discuss cross-border co-operation between competent authorities. Presentations were also made during these meetings of actual EU takeover cases so that Members could exchange views and ask questions of the authorities that handled the cases concerned.

Next steps

The takeover bids network will continue to meet regularly to exchange experiences on the application of the Directive.

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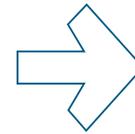
Market efficiency

➤ MiFID Level 3 Expert Group

CESR assesses impact of MiFID on the functioning of equity secondary markets

Since its entry into force in November 2007, MiFID has created a new dynamism and increased competition into equity secondary markets. CESR, however, decided to analyse in more detail the impact the Directive has had so far on the functioning of equity secondary markets.

On 10 June 2009, CESR published an assessment on the impact of MiFID and its Implementing Regulation on the functioning of equity secondary markets (Ref. CESR/09-355) with regards to market transparency and integrity, regulated markets, Multilateral Trading Facilities (MTF) and systematic internalisers. The publication of CESR's report follows a call for evidence issued in November 2008, which sought stakeholders' views on the workings of MiFID and its impact.



Other objectives served

Convergence

MiFID significantly changed markets

CESR's assessment shows that the introduction of MiFID significantly changed the secondary markets landscape across Europe, most importantly through the introduction of new MTF platforms. Whilst the market share of regulated markets has decreased since the implementation of MiFID, the vast majority of equity trading is transacted through the existing regulated markets rather than on the new entrants or OTC. Many factors have influenced the cost of trading since MiFID came into force. The increased competition between trading venues resulted in downward pressures on direct execution costs. At the same time, the reduction of trading fees seems to have been offset by an increase in the need for investing in technology to trade in a more fragmented environment and an increase in trading costs due to a decrease in average order size. CESR's findings also indicate concerns by some market participants that fee reductions by trading platforms have not entirely been passed on to investors by trading participants.



Stefano Micossi, Director General, Assonime, also on the panel.



A panel discussing "What remains to be done for the EU single market?" on the occasion CESR's Conference in Paris, France on 23 February 2009. The Panel was chaired by Carlos Tavares, Vice-Chair of CESR and Chair of the Portuguese CMVM (far left), Eli Lederman, CEO of Turquoise (centre) and Mick McAteer, Director of the Financial Inclusion Centre in the UK (in the right foreground of the photo).

CESR addresses concerns about pre- and post-trade transparency on equity markets

After the implementation of MiFID, market participants expressed concerns over a number of pre-trade transparency issues, ranging from interpretation issues to potentially undesirable impacts on innovation and an un-even playing field between various trade execution venues.

As a result of the increased competition in trade publication services introduced by MiFID, trade data is now available from a number of different sources. Some market players were concerned that market data fragmentation was taking place; in particular that there would be a need for better quality of post-trade data and a consolidated set of market data. CESR is aware of these concerns and is conducting further work to better understand and assess issues surrounding the calibration of the deferred publication regime, the cost of accessing post-trade data and the quality and consolidation of data.

Competition vs. level playing field?

MiFID is aimed at developing competition and greater efficiency of equity trading while maintaining investor protection. Achieving greater competition is raising concerns about the level playing field among trading platforms, both by regulated markets vis-à-vis MTFs and by regulated markets and MTFs vis-à-vis investment firms' OTC activities. In its report, CESR notes the importance of recognising the challenges arising from this competition so that action can be taken or recommendations made, to address issues identified.

Next steps

CESR will continue to work on the issues identified in the report with a view to feed its recommendations in the Commission's review of MiFID during 2010.



Other objectives served

Convergence

Investor Protection

First pre-trade transparency waivers assessed at CESR level

On 20 May 2009, CESR published its assessment (Ref. CESR/09-324) of the first four proposals for pre-trade transparency waivers for trading systems and order types intended to be offered by regulated markets and MTFs under MiFID. The MiFID compliance of these functionalities has been assessed at CESR level on the basis of the new joint process that CESR launched in February 2009.

Although the legal responsibility for granting the waivers lies with the national competent authorities, CESR Members have agreed that when an operator of a regulated market or an MTF seeks to rely on a MiFID pre-trade transparency waiver, the arrangements will be considered at CESR level at the initiative of the relevant CESR Member. This is consistent with CESR's role in providing a forum for supervisors to achieve greater supervisory convergence and contributes to ensuring an appropriate level of market transparency across Europe.

Successive publication of waivers

MiFID waivers assessed at CESR level are made public on the CESR website under the section Standing Committees/ MiFID Archive/ MiFID Level 3 by updating the waiver document published in May (Ref. CESR/09-324), from January 2010, future versions are available under Standing Committee/Secondary Markets. The table listing the waivers assessed does not include all waivers granted by competent authorities. Only waivers that have been considered at CESR level after the establishment of this process in February 2009 are included.

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Next steps

To successfully promote supervisory convergence in Europe, CESR will continue to assess new pre-trade transparency waivers and update the information available in the document published as soon as these cases are agreed at CESR level. The Committee will also map the waivers granted before February 2009 with a view to form policy conclusions in order to develop recommendations for the Commission's review of MiFID during 2010.

➤ Post-Trading Expert Group

CESR participates in newly created OTC Derivatives Regulators' Forum

Underlining the increased need for supervisory co-operation during the financial crisis, since January 2009 securities regulators, central banks and banking supervisors from around the globe, had been meeting periodically to exchange views and share information on developments related to central counterparties (CCPs) for OTC credit default swaps (CDS).

Building on this co-operation, the OTC Derivatives Regulators' Forum was established in 2009 to provide regulators internationally with a means to co-operate, exchange views and share information related to OTC derivatives CCPs and trade repositories. Due to the widening of its scope of activities, the forum is now an important platform for the exchange of views on OTC-related issues which are highly relevant from the point of view of policy development and to improve the understanding of practices applied outside the EU. Given the relevance of these topics for the European market, CESR and a number of CESR Members, are members of this forum.

Commission work towards efficient, safe and sound derivatives markets

Based on an earlier public consultation, the Commission presented in October 2009 policy orientations with a view to strengthening the safety of OTC markets, outlining future policy actions related to:

- Reducing counterparty and operational risk;
 - Increasing transparency (for example by mandating the use of trade repositories for non-CCP cleared trades); and
 - Enhancing market integrity and oversight.
- The continuation of this initiative in 2010 will be a high priority for CESR in the area of post-trading.

CESR consults on trade repositories in the European Union

In line with the international developments and in accordance with announcements made at various international fora, such as the G-20, CESR contributed to the international policy-development efforts to improve the safety and soundness of OTC markets in a number of ways. The publication by CESR of the consultation paper 'Trade Repositories in the European Union' in the autumn of 2009 aimed to collect stakeholders' views. The consultation paper presented a description of the functions and characteristics of a trade repository, posed questions on the scope of available information from a trade repository, the location and the need for a legal framework. The results of this consultation will help CESR to formulate its views and feed these in the 2010 policy discussion on future legislative proposals for market infrastructures.



Other objectives served

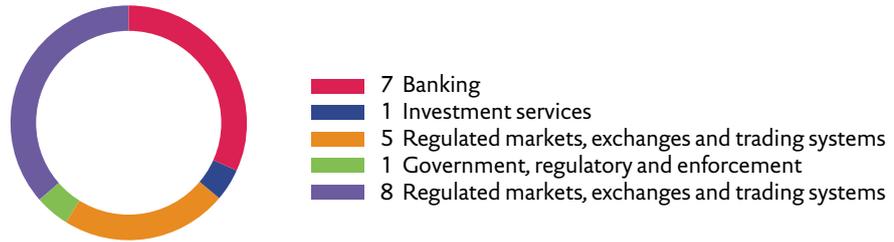
Convergence
Investor Protection



Other objectives served

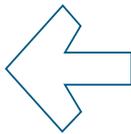
Convergence
Investor protection

Responses to consultation on Trade Repositories in the European Union(CESR/09-837)



Next steps

CESR will continue to play a role in the OTC Derivatives Regulators' Forum and in the follow-up in 2010 of the policy debate on the initial actions identified in the Commission Communication in 2010.



Other objectives served

Convergence

Investor Protection

CESR carries on contributing to T2S-project for securities settlement

In order to enhance the efficiency of cross-border settlement of securities transactions in the EU, the European System of Central Banks (ESCB) embarked on the Target 2 for Securities (T2S)-project in 2006. 2009 was to a large extent the year in which good progress was made with the development of the technical specifications for the proposed single EU platform for securities settlement. 2010 will be the year where the project will move from the current specification phase to the development phase.

CESR remains involved in the project in various ways; as an observer in the T2S Advisory Group and, for 2010, as co-chair of T2S workshops on issues related to oversight and supervision of the project. The future outsourcing of the settlement function by national central securities depositories to the envisaged T2S may require, implicitly or explicitly, regulatory approval by national competent authorities. EU securities regulators may therefore intensify the dialogue with 'their' national securities depositories.

As a consequence, T2S may have an impact on the future EU supervisory co-operation in this area.

Towards the end of 2009, CESR expressed its views about the governance of T2S, distinct differences between oversight and supervision and the envisaged speed of the process.

Next steps

As the project will move to the development phase in 2010, CESR and its Members will closely follow the on-going dialogue between the Euro-system and the central securities depositories with a view to agree upon a framework agreement which will cover the future, legal relationship between the central securities depositories and T2S. In addition, CESR will continue to express its views through various channels on those aspects of the project which matter most from a supervisory point of view. This includes, among others, highlighting the consequences of outsourcing the settlement function by the national central securities depositories and the governance of T2S.

3.2

Transparency of implementation

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3.2 Transparency of implementation

Transparency of implementation refers to the work done by CESR to either explain where differences in implementing EU Directives (hard law) and CESR guidelines (soft law) occur, through mapping exercises carried out by its Review Panel or, for example, in assessing how CESR Members have implemented derogations where Directives or Regulations have allowed differences to exist. In addition, CESR works to harmonise views amongst Members through publishing Level 3 guidance and Q&As. This work is intended to bring clarity and certainty for market participants on implementation. By addressing the differences and areas of convergence that occur in the day-to-day implementation of EU law nationally, transparency of implementation also serves in achieving market efficiency, transparency and encourages greater convergence in the future, by highlighting the areas where further work should be done to achieve these goals.

Monitoring and Self-Assessment

➤ Review Panel

The Review Panel is the core mechanism through which CESR exercises peer pressure by conducting mappings, self-assessments and peer-reviews. Over the last few years it has conducted work on the implementation into supervisory practice of several EU Directives and promoted actual supervisory convergence. 2009 was dedicated to a number of mappings, the finalisation of three peer reviews, and the start of new work streams, mappings and a peer review. The Review Panel consulted publicly on its work programme in 2009 to allow stakeholders to comment on the areas where work should be focused on. During the reporting period, the Review Panel met eight times.

Responses to consultation on Proposals for the Review Panel Work Plan (CESR/09-088)



Other objectives served

Convergence

Investor Protection

CESR maps use of supervisory powers, practices and sanctions of MiFID

The first mapping report published in 2009 by the Review Panel was the mapping conducted on MiFID. CESR mapped the MiFID regimes of Members regarding supervisory powers and practices, as well as administrative and criminal sanctioning. The report gives a factual overview of the implementation of MiFID across Europe following a formal request by the ECOFIN Council in December 2007 (Ref. CESR/08-220). The review covers powers, practices and sanctioning regimes, but did not look into the actual use of sanctioning powers or the enforcement of measures and sanctions.

Mapping of supervisory powers and practices

Looking at the supervisory powers of CESR Members, the report shows that all supervisory powers concerning MiFID have been assigned throughout the CESR membership. However, certain powers have been left with national ministries, central banks or other competent authorities and have not been assigned directly to a CESR Member.

With regard to supervisory practices in authorising and supervising investment firms, some convergence was noted on procedures and methods used by CESR Members to regularly monitor that investment firms comply with legal obligations. The MiFID review showed that a great majority of authorities do not impose additional authorisation requirements to the ones set out in MiFID on investment firms and credit institutions. The timeframe within which authorities check the documentation for granting authorisation is more or less convergent. Nevertheless, no convergence was noted with regard to the practices used by the competent authority to assess the application, e.g. whether on site-inspections or hearings were performed. The findings also showed that the documents that authorities gather for ongoing supervision present more similarities than the documents required for the authorisation itself. This is to a certain extent, due to the fact that some of the documents (e.g. constituting documents, extracts from the national companies' registrars) are linked to the company law of each Member State, a legal area being less harmonised than securities' law.

Supervisory powers and practices for regulated markets

The findings suggested that harmonisation with regard to the supervisory framework for authorities and ongoing supervision of regulated markets and MTFs is far greater than the convergence of supervision by competent authorities of other entities, such as investment firms and credit institutions. Nevertheless, there are some differences in the information collected for authorising regulated markets. However, all CESR Members have similar requirements to ensure that those who direct a regulated market, are experienced and meet the requirements of being of sufficiently good repute, and also to ensure that the persons, who are in a position to directly exercise significant influence over the management, are suitable given the need to ensure the sound and prudent management of the regulated market. There is some level of convergence regarding the required documents used to verify the above requirements, such as questionnaires on qualifications and professional experience, fit and proper test, criminal records or sanctions, information on the financial conditions.

Mapping of administrative measures and criminal sanctions

Overall, the work undertaken by CESR's Review Panel showed that there are significant differences in respect to administrative measures and criminal sanctions among CESR Members that can be imposed in cases of infringements of MiFID. These differences are partly due to the fact that Member States' legal systems differ across Europe. Administrative measures are more common throughout the CESR Membership than criminal sanctions. All jurisdictions may impose administrative measures for violations of any of the provisions in MiFID. Nevertheless, the report shows a significant variance in ranges of administrative and criminal fines throughout the Membership which may be due to the fact that according to the provisions of MiFID, Member States have the discretion to decide on the amount of fines applicable in cases of infringement of MiFID. The MiFID mapping also shows that 23 out of 28 jurisdictions may impose administrative fines for infringement of any of the provisions in MiFID, while four jurisdictions do not impose administrative fines for violation of all provisions of the Directive, but only impose administrative fines for violation of some provisions. Only one jurisdiction does not impose administrative fines at all.

In terms of the range of administrative fines that can be imposed, there is no convergence between the jurisdictions, with fines on the administrative side varying from €12,500 (as the lowest maximum amount of administrative fines) to about €5 million (as the highest maximum amount) and even up to unlimited fines in two Member States. On the criminal side, fines range from €5,000 (as the lowest maximum amount) to about €16 million (as the highest maximum amount) and can extend to unlimited criminal fines in six Member States.

Criminal sanctions may include imprisonment, which generally ranges from a maximum of four months to a maximum of ten years, depending on the infringement. The ability to imprison individuals for the infringement of MiFID provisions is more prolific with regards to unauthorised provision of investment services and activities than for the infringement of any other MiFID provision.

For the unauthorised provision of investment services by investment firms the majority of CESR Members provide administrative measures, administrative fines and criminal sanctions. However, for infringements of the other provisions of MiFID, the majority of CESR Members can only impose administrative measures and administrative fines, but no criminal sanctions. As only half of the jurisdictions or less may impose criminal sanctions for violation of the other provisions of the Directive, we note more divergence.

Next steps

The Commission, the ECOFIN Council and the ECON Committee of the European Parliament, will consider the extent of coherence, equivalence and actual use of powers among Member States and ascertain whether the sanctioning powers have sufficiently equivalent effect. The Council will also look at the variance of sanctioning regimes across the EU. CESR itself will use the findings to assess where next to focus efforts to increase convergence.



Other objectives served

Convergence

Investor Protection

Mapping of supervisory powers and sanctioning regimes of the TD

In December 2007, the ECOFIN Council also requested CESR to study the differences in supervisory powers as well as in administrative and criminal sanctioning regimes across Europe in relation to the Transparency Directive and its implementing measures. The aim of the stock-taking was in particular to assert whether such sanctioning powers had sufficiently equivalent effect. CESR considers equivalent powers of supervisors, when enforcing against those who infringe EU legislation, a precondition for convergence that maintain sound financial markets. At the same time, such equivalence in enforcement and sanctioning powers protects European financial markets from regulatory arbitrage by ensuring greater investor protection.

In 2009, CESR prepared and published a report of supervisory powers and sanctioning regimes (Ref. CESR/09-058) assigned to CESR Members in relation to TD. The study also included a stock-take of the coherence, equivalence and actual use of powers among Member States and of differences in sanctioning regimes. CESR Members conducted this review during the course of 2008 and 2009 for all 29 CESR Member States.

Great convergence in delegation of powers

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 assigned another competent authority than the central competent authority. In four CESR Members 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.

Most regulators follow the same regime for information obligations and co-operation

As regards general obligations, ongoing information, powers of the competent authorities and co-operation within the EU, a large majority of CESR Members follow the same supervisory regime, with exceptions ranging from two to five Member States. Besides providing obligations 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 and the existence of cooperation agreements with regard to third countries.

Differences in respect to administrative measures and criminal 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 of the TD provisions.

The mapping 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 Member 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.

Next steps

The Commission, the ECOFIN Council and the ECON Committee of the European Parliament, may consider further steps as follow-up to the mapping.

CESR Members self-assess compliance with CESR Standard No. 2

CESR's Standard No. 2 is a principle-based standard establishing a framework throughout Europe on the co-ordination of enforcement activities in relation to financial information. The Standard contains proposals for achieving the necessary co-ordination and convergence of enforcement activities carried out by EU National Enforcers. These proposals mainly set out that EU National Enforcers should take into account decisions taken by other enforcers and enforcement decisions should be made available to other enforcers. It also establishes that a confidentiality regime should be followed, and that enforcement decisions and experiences should be discussed within the framework of the EECS.

In 2009, CESR produced and published both a peer review (Ref. CESR/09-188) and a self-assessment (Ref. CESR/09-212) on the application and implementation of CESR's Standard No. 2 by National Enforcers across Europe. The work was conducted in two stages:

- First, CESR Members self-assessed their application of each of the four principles of CESR's Standard No. 2 by answering questions that have been established for each principle against a set of benchmarks; and
- Second, the Review Panel conducted a peer review of how National Enforcers applied the Standard.

Review and Members self-assessment revealed low level of application

The review of Standard No. 2 has been conducted by 26 out of 29 CESR Members who self-assessed their application of the Standard. This self-assessment showed that less than half (45%) of CESR's Members fully apply the Standard in their day-to-day enforcement. Two Members, Austria and Iceland, were classified as "not contributing", and one Member, the Czech Republic, to which the CESR Standard refers, did not implement the Transparency Directive before August 2009.

CESR conducted a peer review on how CESR Members implemented Standard No. 2 on financial information. This peer review revealed that slightly less than one third of CESR Members were fully applying the Standard, and that significantly more than half of the Members did not apply the principles overall; Nine Members fully apply all four principles of the Standard, two partially apply it; which means that, as a minimum, they partially apply all four principles.

An overall rating of non-implementation of the Standard by a Member generally requires that one of the principles is not applied. This is the case for 16 CESR Members who have not yet applied Standard No. 2: However, two Members are classified as not contributing as they did not respond to the peer review.

Next steps

Based on these findings, CESR will continue the dialogue with CESR Members on whether compliance with and implementation of the Standard can be further improved and how convergence can be enhanced. Following its peer review methodology (CESR/07-071b),



Other objectives served

Convergence

Investor Protection

the information provided by CESR Members can be updated on a regular basis, following which CESR will assess whether a full reassessment of the updated information might be appropriate.



Other objectives served

Convergence

Investor Protection

CESR re-assesses compliance with CESR Standard No. 1

In the course 2009, CESR updated an earlier self-assessment and peer review (Ref. CESR/09-374) on the application and implementation of CESR's Standard No. 1 on financial information by EU National Enforcers. This report updates the findings of an earlier peer review (Ref. CESR/06-181) conducted in 2006, on the basis of the same criteria. The update of Standard No.1 has been conducted in the form of a self-assessment, followed by a peer review of CESR.

CESR's Standard No. 1 was first published in March 2003 and sets out 21 principles which should contribute to achieving a common approach to the enforcement of standards on financial information; this is considered an effective and important tool in securing efficient capital markets and an actual level playing field within the EU. In particular, the Standard gives a precise meaning to the notion of enforcement, clarifies what type of bodies can be 'enforcers', and how they should carry out their work, i.e. including what powers the body should have, who should ultimately be responsible, and what independence means in that context. In addition, the Standard sets out the type of financial information the principles of enforcement should apply to, and what the methods of enforcement should be, i.e. in terms of procedures to follow, the most appropriate way to select issuers and documents for review, or the kind of checks to apply. CESR's Standard also clarifies in some detail what actions should be taken once a material misstatement is detected, and this points out that 'enforcers' have to co-ordinate their decisions both ex-ante and ex-post, and stresses that they must periodically report to the public.

Re-assessment shows increase in compliance since 2006

A comparison between the results of the current re-assessment and those of 2006 reveals that the overall compliance with the Standard has increased compared to 2006, but, at the same time, that further harmonisation is needed. The results also show that the work of CESR's Review Panel does effectively contribute to changes in the Members' jurisdictions, improving compliance and delivering greater convergence over time. In particular, the work carried out shows that:

- Less than half (45%) of the 29 EU National Enforcers fully apply Standard No. 1 and 6% of the enforcers either did not apply the Standard or did not contribute to the review;
- In contrast, more than half of the Member States self-assessed themselves as having fully implemented the Standard;
- Concerning the effort made since the previous assessment of implementation in 2006, eight EU National Enforcers were assessed as 'fully implementing' in 2006, and five further enforcers were peer-reviewed with this result in 2008, showing some degree of improvement since the first peer review was carried out;
- Taken individually, all principles of Standard No. 1 used for the overall rating are fully applied by at least 69% of the Member States; and
- From the seven Member States which partially implemented Standard No.1 in the 2006 peer review, one jurisdiction has been upgraded to a 'fully implemented' status.

Next steps

In 2010 and further on, based on these findings, CESR will continue the dialogue with the EU National Enforcers on whether compliance with, and implementation of the Standard can be further improved and how convergence can be enhanced. Following CESR's peer review methodology, the information provided by CESR Members can be updated on a regular basis. CESR therefore will assess whether a full re-assessment of the updated information might be appropriate. CESR will finalise the update of the peer review on Standard No.1 on financial information during the course of 2009.

CESR mapped and Members reviewed application of the PD

On 12 May 2009, CESR Chairs mandated the Review Panel to work on a selective mapping with regard to the Prospectus Directive and its implementing measures; it was decided to elaborate the possibility of a peer review on the Prospectus Directive to allow a final decision after the finalisation of the mapping.

As a result, CESR's Review Panel worked, in a first stage, on preparing a mapping of the Prospectus Directive. The scope of the selective mapping covered the following specific areas of the PD:

- The internal processes to approve prospectus documents;
- The Availability of the prospectus documents once approved; and
- The use of exemptions from the obligation to publish a prospectus document and the granting of omissions of information under the Prospectus Directive.

The mapping was based on a questionnaire that was distributed to the members of the Review Panel in July 2009. The questionnaire submitted to the Review Panel members also included questions regarding administrative and criminal proceedings. Initial responses to the questionnaire were received from Member States in September 2009. In addition, further clarifications from Member States were received in October and November 2009.

Next steps

This mapping will provide an overall picture of the practices reported by the Member States in relation to the three areas under the approved mandate. The Review Panel is in the process of finalisation of the report on the above mapping exercise. The work is supposed to feed into a second phase, a peer review whose parameters need to be fixed at a later stage.

➤ Prospectus Contact Group

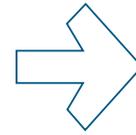
Publication of data on prospectuses approved and 'passported'

Since receiving a mandate from the Commission in July 2007 to collect statistical data in relation to the number of prospectus approved and 'passported' in the EU, CESR has decided to institutionalise the exercise and provide the information on an on-going basis. As a result on 30 March 2009, and also as part of its remit to promote transparency to stakeholders, CESR published details of the number of prospectuses approved and 'passported' by CESR Members (Ref. CESR/09-315) from July 2006 to December 2008.

In addition, in September 2009 CESR published similar data from January to June 2009. CESR provided data on the number of prospectuses approved and 'passported' per Member State in the periods concerned broken down by quarter. In addition, the data was split into passports received and sent. The publication of this data helps to achieve market transparency.

Next steps

CESR will continue to publish statistical data on the number of prospectuses approved and 'passported' by its Members and will continue to update, whenever necessary, its documentation on the use of language and the translation requirements relating to the summary in different jurisdictions.



Other objectives served

Convergence

Investor Protection

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Other objectives served

Convergence

Investor Protection

3.3

Convergence

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3.3 Convergence

By seeking to harmonise day-to-day implementation of Community legislation and application of guidance, CESR ensures a more consistent implementation of securities legislation across the Member States. Efforts to achieve this also include improving co-ordination among securities regulators by developing effective operational network mechanisms to enhance day-to-day supervision and effective enforcement, enabling the EU Single Market for Financial Services to be fully established. The convergent application of EU legislation, which is one of CESR's main objectives, will in almost all cases, contribute to the achievement of the other CESR objectives identified, as the convergent application of EU legislation ensures that the principles of regulation, such as market integrity or consumer protection, are uniformly applied across Europe.

➤ CESR-Pol

Third set of guidelines on the common operation of the MAD published

CESR continues in its efforts to co-ordinate the implementation and application of the market abuse regime by ensuring that a common approach to the operation of MAD takes place throughout the EU amongst supervisors. On 15 May 2009, CESR published its third set of guidance (Ref. CESR/09-219) together with a feedback statement (Ref. CESR/09-220) on the common operation of MAD.

This set of guidance had been subject to two consultations: a first consultation paper published for consultation until 30 September 2008 covered the topics of insider lists and suspicious transaction reports, and a second consultation paper published for consultation until 9 January 2009, dealt with the topics on stabilisation and the notion of inside information. Eventually, all issues were incorporated into the current third set of guidance. The feedback statement published alongside the guidance covers both consultation papers.

Next steps

Level 3 work on MAD will continue in 2010; when specifically mandated, technical assistance will also be provided to the Commission on the functioning of the market abuse legal framework, bearing in mind the Commission's forthcoming review of the operation of the Directive.



Other objectives served

Convergence

Investor Protection



A panel chaired by Kurt Pribil, former Chair of CESR-Pol and currently Chief Executive Director of the Austrian FMA. The Panel discussion at CESR's conference in Paris, on 23 February 2009, focused on 'Enforcement Powers in the EU – should further convergence take place'.

➤ CESR-Fin



Other objectives served

Investor Protection

CESR unites worldwide supervisors to discuss enforcement of IFRS

In addition to its regular EECs meetings, CESR organised a seminar on the enforcement of IFRS on 3 and 4 December 2009 in Paris which was attended by more than 70 participants from various international organisations around the world. Participants included staff from IFRS enforcers from the European Economic Area as well as representatives from 11 enforcers from other countries such as Brazil, China, Egypt, India, Israel, Japan, Mexico, South Africa, Switzerland, Turkey and the USA.



An afternoon panel at CESR's Conference on 23 February 2009, in Paris, discussed accounting issues. The Panel was chaired by Fernando Restoy, Chair of CESR-Fin and Vice-Chair of the Spanish CNMV and with Philippe Danjou, IASB Board Member, to his right.

Regular meetings with US SEC

As part of its work encouraging the harmonised interpretation and enforcement of IFRS, CESR holds regular meetings with representatives of the US Securities and Exchange Commission (SEC) with an interest in the development or enforcement of IFRS to discuss current topics of difficulty or sensitivity. During 2009 many of these topics resulted from on-going developments in the field of financial instruments accounting. Part of these meetings were also given over to discussing other developments in accounting such as the progress of the US IFRS Roadmap, the governance of the International Accounting Standards Board (IASB) and the convergence of European and US accounting standards, i.e. IFRS and US Generally Agreed Accounting Principles (GAAP).

CESR-Fin held two such meetings in 2009.

Next steps

Consistent application of IFRS and international convergence are important for CESR. Dialogue meetings with third country securities regulators will be organised and CESR will participate in multilateral meetings with non-EU enforcers of IFRS.

CESR restates its commitment on equivalence of accounting standards

On 13 February 2009, the European Commission requested CESR to update its previously published advice relating to the IFRS convergence or adoption programmes in Canada, China, India and South Korea along with some statistics on the usage of various third country GAAPs on EU exchanges. This report was a key milestone enabling the European Commission to continue the transition period under both the Prospectus and Transparency Directives allowing issuers from such countries to submit financial information in their local GAAPs to EU investors. In response CESR published its Supplementary Report on the programmes of Canada, India and South Korea to converge with or adopt IFRS, on the level of application of Chinese accounting standards by Chinese issuers and on the use of third country GAAPs (Ref. CESR 09-470) on 1 July 2009.



At CESR's Conference : Julie Erhardt, Deputy Chief Accountant at the SEC, speaking on the left of Mr Restoy, Chair of CESR-Fin and Vice-Chair of the Spanish CNMV.

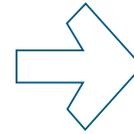
Next steps

The topic of convergence of third country accounting standards with IFRS continues to be an important one and CESR will continue to monitor the progress made by the countries concerned alongside more informal processes for exchanging information such as seminars and conferences.

➤ MiFID Level 3 Expert Group

CESR's publishes Q&A on complex and non-complex financial instruments

In November 2009, in an effort to realise convergence and promote increased protection of clients across the Member States, CESR published a Q&A paper (Ref. CESR/09-559) and feedback statement (Ref. CESR/09-558), setting out CESR's views on the categorisation of financial instruments as complex or non-complex for the purposes of MiFID's appropriateness requirements. These papers followed a public consultation earlier in 2009. The need for greater clarity in this area is primarily to ensure that where complex products are being sold to retail clients, they are not being sold on an "execution-only" basis to clients who do not have the experience and/or knowledge to understand the risks of such products. The papers discuss the position of a range of instruments, including, amongst others: shares, various types of debt instruments and funds.



Other objectives served

Investor Protection

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Other objectives served

Investor Protection

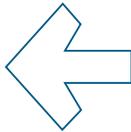
The papers also consider the interpretation of the criteria set out under Art. 38 of the MiFID Level 2 Directive, this includes issues such as the interpretation of frequent opportunities to dispose or redeem an instrument, liquidity and also when comprehensive information can be considered to be publicly available.

Responses to consultation on MiFID complex and non-complex financial instruments for the purposes of the Directive's appropriateness requirements (CESR/09-295)



Next Steps

CESR's 2010 work plan includes a review of MiFID with a view to ascertain whether any revisions are required to the Directive. In preliminary discussions, it is envisaged that several aspects of the Q&A paper will be included in the review.



Other objectives served

Investor Protection

CESR consults on definition of advice under MiFID

Together, MiFID and the MiFID Implementing Directive place various requirements on firms when they provide investment advice that does not apply when firms provide other investment services or activities. For this reason, CESR considers it important to provide as much clarity and certainty as possible to market participants to ensure they are sufficiently informed to enable them to distinguish where they are providing investment advice.

In October CESR published a consultation paper; definition of advice (Ref. CESR/09-665). In the paper CESR clarified and illustrated situations where it considers that firms will and will not be considered to be providing investment advice. The main areas for consideration were the five key tests used to determine investment advice, the issues to consider for each test and also whether it would be useful for a distinction to be made between investment advice and corporate finance advice.

CESR asked for comments on its views and suggestions as to where further work to provide clarity on this topic would be useful.

Responses to consultation on understanding the definition of advice under MiFID (CESR/09-665)



Next Steps

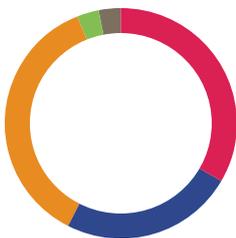
CESR is currently reviewing the 52 responses received to the Consultation Paper and will be publishing a Feedback Statement and a Q&A in the first half year of 2010.

MiFID: CESR consults on inducements: good and poor practices

CESR continued with its efforts to harmonise views and practices amongst CESR Members and market participants through supervisory thematic work. In December CESR published its consultation paper on Inducements: good and poor practices (Ref. CESR/09-958). The main objective of the consultation was to assist regulated firms in gaining a better understanding of some of the main industry practices on inducements (based on a questionnaire CESR Members distributed to investment firms) and to understand what types of behaviour by firms securities regulators encourage (good practices) and discourage (poor practices).

The final paper is expected to provide firms with a benchmark against industry compliance practices under the MiFID inducements rules, with the additional comfort of knowing whether securities regulators encourage or discourage particular instances of behaviour by firms.

Responses to consultation on Inducements: Good and poor practices (CESR/09-958)



- 11 Banking
- 8 Investment services
- 12 Insurance, pension and asset management
- 1 Government, regulatory and enforcement
- 1 Legal and accountancy

Next Steps

CESR is currently reviewing the 34 responses received to the Consultation Paper and will be publishing a Feedback Statement and a Report on good and poor practice in the first half of 2010.

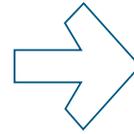
Contribution to the Commission MiFID Q&A database

In order to promote convergence amongst CESR members and in an effort to ensure a high degree of harmonised implementation between CESR Members, CESR continued in its role to assist, in an advisory capacity, the Commission with its MiFID Q&A Database.

Throughout the year CESR has provided advice to the Commission on a range of matters, including investment advice, investment research, the subscription and redemption of UCITS, ancillary services and venture capital.

Next Steps

CESR will continue to provide assistance to the Commission when requested.



Other objectives served

Investor protection

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Other objectives served

Investor Protection

CESR issues revised protocol on the supervision of branches under MiFID

Since MiFID's implementation, CESR has focused on improving the co-operation, co-ordination and consistency of supervision of investment firms across Europe. In 2009, CESR undertook a review of the CESR passporting protocols with a view to improve their efficiency.

Following a pan-European fact finding exercise carried out in June, areas for improvement were identified and revisions were made to the protocols. The changes are reflected in the two Protocols (Ref. CESR/07-672b and 07-317b).

➤ Investment Management Expert Group



Other objectives served

Investor Protection

CESR issues guidelines on risk management principles for UCITS

Ensuring that UCITS management companies put in place appropriate and robust risk management processes is key to the protection of UCITS investors. Recent market turbulence has emphasised the need for high standards in risk management and for a harmonised, pan-European approach.

In this context, on 27 February 2009 CESR published guidelines on risk management principles for UCITS (Ref. CESR/09-178). These guidelines focus on appropriate management of the risks to which UCITS investors could be exposed in relation to the performance of the activity of collective portfolio management. The publication of CESR's guidelines followed an earlier consultation (Ref. CESR/08-816) in August 2008 and was accompanied by a feedback statement (Ref. CESR/09-100).

Guidelines to supplement legislation

CESR felt it appropriate to issue guidelines as the present European legislation on risk management in the field of collective portfolio management is rather limited. The previous version of the UCITS Directive established the obligation for the home Member State to require asset management companies to have adequate procedures and internal control mechanisms in place. More detailed provisions were set out in Article 21 of the Directive, which focused on principles for the measurement and management of risks associated with the positions in derivatives.

In 2004 the Commission had issued a Recommendation to supplement the above provisions on the use of financial derivatives by UCITS. CESR carried out a survey on how the Recommendation had been implemented in the different EU jurisdictions. The survey was also aimed at assessing whether CESR Members require risk management systems for all UCITS, including those not investing in derivatives. The responses highlighted different approaches to risk management as well as to the implementation of the Recommendation.

On the basis of the priorities identified by CESR Members, it was decided that CESR would carry out further work concerning:

- Specific technical and quantitative issues regarding UCITS portfolio parameters to measure global exposure, leverage and counterparty risk concerning financial derivative instruments; and
- The definition of guidelines for the industry as well as supervisory authorities in the risk management area.

Providing convergence to prevent regulatory arbitrage

Convergence work in the above areas would be helpful in preventing regulatory arbitrage, fostering mutual confidence and delivering investor protection. CESR reached the view that

sound risk management systems require organisational requirements and specific safeguards and due diligence in order to ensure that all risks material to the UCITS are adequately managed. It was agreed that such requirements and good practices should be set out through common principles in order to both foster convergence among competent authorities and provide useful guidance to market participants.

Guidance proposes standards and risk management framework

In particular, CESR's guidance proposes a framework for guidelines concerning risk management, providing principles and an outline of the key elements of the risk management process. It reflects the need to ensure that, on the one hand, investors are adequately protected and, on the other, the risk management process is appropriate and proportionate in view of the nature, scale and complexity of the asset management company's activities and of the UCITS it manages.

CESR consults on risk measurement for calculating the global exposure of UCITS

In 2009, CESR decided to carry out further work on a number of technical and quantitative issues related to risk management. In preparing its proposals on these issues, CESR also took into account the relevant parts of the request for technical advice from the Commission received in February. CESR published a consultation paper on the advice to be submitted on the issue of risk measurement on 15 June 2009 (Ref. CESR/09-489). The consultation paper focused on the use of risk models, such as Value-at-Risk (VaR), in the context of the calculation of UCITS' global exposure. UCITS may use VaR or other models in their overall risk management process, which is addressed in CESR's risk management principles for UCITS as set out above.

The consultation on risk measurement covered the following areas:

- The Commitment approach;
- The VaR approach;
- Counterparty risk; and
- Sophisticated/ Non-sophisticated UCITS.

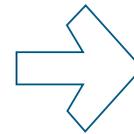
Background

The UCITS Directive, as revised in 2001 by the package of measures collectively known as UCITS III, widened the scope of financial instruments in which UCITS can invest, to include financial derivative instruments (FDIs). UCITS are permitted to use FDIs as part of their general investment policies as well as for hedging.

The Directive imposes a range of risk limitation measures in relation to the use of FDIs including counterparty and global exposure limits. UCITS must establish an extensive system of risk limitation in order to ensure that the risks involved in using FDIs are properly identified, measured, managed and monitored on an ongoing basis. This involves designing, implementing and documenting a comprehensive risk management process in order to meet the key requirement of investor protection.

The Commission Recommendation (2004/383/EC) of 27 April 2004 on the use of financial derivative instruments, which introduced basic principles for risk measurement to ensure equivalent and effective investor protection across all Member States, recommended possible approaches to assessing and measuring market risk, leverage, global exposure and counterparty risk. It provided for the use of the commitment approach and VaR methodologies as risk measurement techniques.

The outcome of the work on risk measurement has been divided between Level 2 and Level 3 measures; principles surrounding risk measurement techniques formed part of the package of advice on Level 2 implementing measures submitted to the Commission in October 2009, while the detailed technical issues will be included in Level 3 CESR guidelines. In addition, CESR's advice recommended that the new European Securities and Markets Authority be given the possibility of adopting binding technical standards in this area.



Other objectives served

Investor protection

Responses to consultation on CESR's technical advice at level 2 on Risk Measurement for the purposes of the calculation of UCITS' global exposure (CESR/09-489)



Next steps

CESR will continue its work with a view to agreeing Level 3 guidelines in the areas identified in the CESR advice to the Commission. This will involve a detailed analysis of responses to the consultation launched by CESR in June 2009 to consider the issues raised; a second public consultation is also envisaged. CESR has committed itself to completing this work in line with the deadline of 1 July 2010 for adoption by the Commission of the implementing measures on the revised UCITS Directive.

➤ Post-Trading Expert Group



Other objectives served

Investor Protection

CESR follows-up CESR-ESCB Recommendations for securities settlement systems and CCPs

In the final text of the CESR-ESCB Recommendations for securities settlement systems and central counterparties, as published in June 2009, relevant authorities (i.e. securities regulators and overseers) are the addressees for every Recommendation. As a consequence, the authorities agreed to promote, monitor and assess the proper implementation of the Recommendations by the industry in every jurisdiction of the EU as a next step. The adoption and publication of the Recommendations was warmly welcomed by the industry as a useful framework for fostering convergence in the EU market for post-trading services.

In the second half of 2009, CESR and the ESCB did a first stocktaking exercise to establish the progress made in the implementation and a first assessment of the Recommendations in all jurisdictions. Signals so far are encouraging, although most relevant authorities will have this topic on their agendas for 2010. In some cases, adaptation of national legal frameworks is expected in order to enable a proper implementation of the Recommendations.

Additionally, a first discussion took place among the authorities on the elaboration of issues which could not be developed in the finalisation of the Recommendations due to the tight timeframe set by EU Institutions. As identified in the Introduction to the Recommendations, relevant authorities will elaborate issues such as: interdependencies of payment and settlement systems (following earlier CPSS work), the impact of outsourcing as part of the financial infrastructure, governance and the role of internal control in the settlement process, promotion of a harmonised methodology for a better comparability of data at the level of central securities depositories and a review of the pros and cons of re-hypothecation.

Responses to CESR/ESCB Consultation on the draft Recommendations for Central Counterparties 1-2, 4-8, 14, and 15 revised for CCPs clearing OTC derivatives (CESR/09-302)



Next steps

CESR and the ESCB will continue to promote, monitor and review the proper implementation and assessment of the Recommendations in the EU. Additionally, and in line with adjacent activities conducted by other international bodies in this area, in particular CPSS – IOSCO, CESR and the ESCB will closely follow developments and - where appropriate - adapt the Recommendations in order to ensure the Recommendations will remain up-to-date with the developments in the market.

► Transparency Expert Group

Transparency Directive: CESR issues Q&A with commonly agreed positions

On 19 May 2009, CESR published a Q&A and commonly agreed positions by CESR Members (Ref. CESR/09-168) on issues regarding the application of the TD. The first update to the FAQ (Ref. CESR/09-965) was published on 27 October 2009. CESR's Transparency Expert Group met regularly during 2009 to discuss the questions that had been raised by competent authorities and market participants regarding the TD.

Q&A answer everyday questions

The Q&A and commonly agreed positions are intended to provide market participants with responses in a quick and efficient manner, to 'everyday' questions which are commonly put to CESR or its Members. CESR responses do not represent standards, guidelines or recommendations, and therefore no prior consultation process has been followed.

Next steps

CESR updates the Q&A and commonly agreed positions document regularly and welcomes feedback from market participants on those issues already identified in the document as common positions among its Members. The frequency of future publications will depend on the number of new questions identified and the time available to analyse the issues raised and to find common positions.



Other objectives served

Transparency of Implementation

Investor protection



Other objectives served

Investor Protection

CESR Members work on standard form for notification of major shareholdings

In March 2007, EU Commissioner McCreevy asked CESR to perform market research concerning the use of standard form TR-1 for notification of major shareholdings pursuant to the TD. CESR provided its experiences on the EU standard form in a letter to Commissioner McCreevy (Ref. CESR/09-007).

The results of CESR's mapping exercise on the implementation of the TD (Ref. CESR/08-514b) revealed that most Member States or competent authorities have either mandated or recommended the use of a standard form for notification of major shareholdings. Even though in most cases the national standard forms are based on the EU standard form TR-1, they have often been adapted. Some CESR Members have also indicated that market participants have found the EU standard form, or a national standard form based on the EU standard form TR-1, complex and difficult to use, especially for more complex notifications.

With a view to improving transparency and clarity, CESR has discussed what possibilities there might be to improve the accessibility of national notification forms and the usefulness of the EU standard form. Any improvements suggested by CESR will aim to make the notification process easier and more user-friendly for shareholders and holders of financial instruments. This work falls into two strands.

Firstly, CESR Members have agreed to enhance the accessibility of the national notification forms by adding hyperlinks to the forms on CESR's website. These hyperlinks will enable investors needing to make notifications to access the national notification forms more easily. Secondly, CESR is undertaking Level 3 work to explore ways to improve the EU standard form for major shareholding notifications. Through the Level 3 work CESR aims to improve the clarity of the standard form and to minimise the need for national adaptations to it.

Next steps

CESR will publish hyperlinks to the national standard forms and explore ways to improve the EU standard form.

➤ Cross-Sector Convergence – 3L3

The joint work of the three Level 3 (3L3) Committees, CESR, CEBS and CEIOPS, is generally focused on achieving convergence between the financial sectors of securities markets, credit institutions (banks), and the insurance and pensions markets. The inter-linkages of these sectors call for co-operation among the 3L3 Committees of regulators in order to ensure a European level playing field, consistency in legislative implementation, cost effectiveness and proper assessment of cross-sector risks. To that effect, CESR, CEBS and CEIOPS have been co-operating closely since their establishments, and continuous steps have been taken to further enhance this co-operation. In 2005, the 3L3 Committees formalised this co-operation by signing a joint protocol on co-operation. In December 2008, this protocol was updated to reflect the 3L3 experiences of joint work completed, and to take into account the latest developments, such as the Lamfalussy review and the deepening financial crisis. In 2009, the Commission proposed draft regulations reinforcing even further the 3L3 co-operation and suggested transforming the 3L3 Committees into new European Supervisory Authorities, called ESMA, EBA and EIOPA respectively. The three new Authorities are expected to be operative by 2011.

3L3 Committee meetings during 2009

In the course of 2009, the Chairs of the 3L3 Committees met on a regular basis in order to prepare for the meetings held at the Economic and Financial Committee (EFC) and the Financial Services Committee (FSC); other meetings and contacts also took place. In 2009, the 3L3 Chairs and Secretariats dealt with all activities described in the 3L3 work

programme but were kept occupied, to a large extent, by discussions on the transformation into European Supervisory Authorities and by compiling 3L3 Committees views on the appropriate regulatory responses to the financial crisis. The Committees have, for these purposes, participated in the discussions on these topics in the FSC and the EFC and ensured the communication of 3L3 positions.

3L3 contribute to Commission and Council on improving financial supervision in the EU

On 10 April 2009, the 3L3 Committees provided their joint contribution to the Commission's consultation on the improvement of supervision for the financial services sector launched on 10 March 2009. This was based on the proposals of the High Level Group chaired by Jacques de Larosière of 25 February 2009 and the Commission Communication of 4 March 2009 entitled 'Driving European Recovery'. In their paper, the 3L3 Committees expressed their strong support for the conclusions of the de Larosière report to transform the 3L3 Committees into independent supervisory Authorities. The 3L3 Committees further emphasised that, in their view, the statutory provisions should:

- Accommodate the requirements of self-governance/ independence and accountability needed for delivering advice within the Lamfalussy framework;
- Present the most appropriate and effective sound legal solution for implementing and empowering the new independent EU Supervisory Authorities.
- Achieve a balance between the macro- and micro-prudential tiers of the future EU supervisory architecture and the future EU Authorities and national supervisors.

Furthermore, the 3L3 Committees highlighted the need for adequate tools in order to fulfil the new tasks under the contemplated re-organised structure, and, in particular, the following key aspects of the new structure:

- A harmonised set of core rules (rulebook) in the EU;
- The establishment of the colleges of supervisors as core structures for cross-border supervision in Europe;
- The need for a coherent framework for crisis resolution in Europe;
- Increased and further formalised co-ordination among the sector regulators and supervisors; and
- The need for increased and adequate resources.

On 15 July 2009, the 3L3 Committees also responded to the Commission's Communication of 27 May 2009 on European Financial Supervision. They expressed support for the objectives laid down in the Commission's Communication and, in particular, the proposals to realise a single European regulatory rulebook and to develop a European System of Financial Supervisors, comprising three ESAs, and a European Systemic Risk Board (ESRB).

The Committees commented, in particular, on the 'role and responsibilities' of the ESAs in that they should be:

- Contributing to the development of a single set of harmonised rules;
- Improving the supervision of European financial institutions, including cross-border, by developing common supervisory and high quality requirements/ approaches;
- Helping to settle possible disputes between national supervisors; and
- Contributing to the efficient enforcement which will be set in place in cases of manifest breach of community law. In these cases, the ESAs should be able to investigate issues on their own initiative and if necessary adopt a recommendation for action addressed to the national supervisors. Although enforcement of agreed legislation would remain part of Level 4 of the Lamfalussy framework, the ESAs could support the Commission in this task, for example by following up the implementation of the community legislation.

Furthermore, the 3L3 Committees provided their sector-specific contributions to the Commission on the same issues as above during the course of 2009, leading to the draft Regulations on the ESAs as published by the Commission on 23 September 2009.

Subsequently, the 3L3 Committees' views on improving financial regulation in the EU were also communicated on several occasions during October and November 2009 to the



Other objectives served

- Market integrity
- Market transparency
- Market efficiency
- Investor protection

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Swedish Presidency's Working Group on Financial Services, although the 3L3 Committees did not participate in the work of this group. In these submissions, the 3L3 Committees reiterated their views on the nature, function and independence of the future ESAs and included drafting suggestions for parts of the ESA regulation texts. An ECOFIN common position text was issued on 2 December 2009.

Next steps

The 3L3 Committees will continue to forge co-operation with the European Commission, Council and Parliament during the course of 2010 as they prepare for their transformation into the new ESAs.



Other objectives served

Investor Protection

3L3 task force on cross-sector risks

Identifying cross-sector risks will help the 3L3 Committees, their members and the EU institutions with their efforts in ensuring the stability of European financial markets. Following the 14 May 2008 conclusions of the ECOFIN Council, the Commission's decisions of 23 January 2009 establishing each of the 3L3 Committees, and the request to the 3L3 Committees to respond to financial stability concerns of a cross-sector nature, the 3L3 Committees set up a 3L3 Task Force on cross-sector risks. The task force's mandate was enhancing the 3L3 Committees' sector risk assessments by capturing cross-sector issues and identifying contagion channels. The task force delivered the first of its two pilot reports to the Economic and Financial Committee's Financial Stability Table (EFC-FST)¹² in September 2009. The cross-sector perspective has been assigned to those sector working groups already established earlier for assessing sector risks.

The developments of the last year in the financial markets show the importance of the 3L3 Committees' ability to capture cross-sector risks relevant to the risk assessments of the Committees at an early stage:

- Common risks across sectors;
- Risks which are contagious from one sector to another; and
- Endogenous risks where regulatory action in one sector may have significant risk implications for another sector.

This task force contributes to the 3L3 response to additional requirements that follow from the review of the Commission decisions establishing the 3L3 Committees.

Following the first pilot report submitted to EFC-FST in September 2009, the 3L3 risk task force on cross-sector risks started its work on the second pilot in October 2009. The exercise aimed at capturing contagion risks between individual institutions and sectors from a supervisory cross-sector viewpoint.

The first pilot report highlighted:

- a) The risks in relation to the economic conditions deriving from a more severe than expected downturn of financial markets, such as more specifically:
 - Risk of further deterioration in European property markets;
 - Exposures to emerging markets; and
 - Period of persistent low interest rates;
- b) Risks deriving from the deterioration in financial conditions in the context of exit strategies and bearing in mind the potential cost stemming from the regulatory overhaul. Once the production of the second pilot report has been completed, the task force will have fulfilled its mandate.

¹² The Economic and Financial Committee (EFC) reviews financial stability issues semi-annually in its Financial Stability Table (FST) format, which convenes high-ranked representatives from the Ministries of Finance, national central banks, the ECB, the Commission, and the Chairs of the Banking Supervision Committee (BSC) of the ESCB and of the EU Lamfalussy committees of supervisors. The EFC-FST is responsible for preparing the ECOFIN Council's discussions on financial stability matters.

Next steps

The intention is that the 3L3 Task Force on cross-sector risks will deliver its second and final pilot report to the EFC/FST for its April 2010 meeting. The 3L3 Committees will, in 2010, also based on the task force's recommendations, evaluate the arrangements used for the preparation of the two pilot reports and agree on a structure and process for the future.

3L3 anti-money laundering task force

The 3L3 Committees' Anti-Money Laundering Task Force (AMLTF) was established in the second half of 2006 by CESR, CEBS and CEIOPS, with the aim of achieving convergence in national implementation of the Third Anti-Money Laundering Directive across the different sectors of European financial markets and with a view to providing input into anti-money laundering issues, with a specific focus on the Third Anti-Money Laundering Directive.

In October 2009, the 3L3 Committees published a 'compendium paper' on the supervisory practices in the Member States. This document provides an overview of Member States' practices in relation to the application of customer due diligence and customer identification and verification requirements of the Third Money Laundering Directive 2005/60/EC.

Furthermore, it identifies divergences of supervisory practices across Member States and also provides a compendium of the legal frameworks within the Member States.

The data for the document was obtained directly from the individual members of CEBS, CESR and CEIOPS. The data is comprised of responses received from all 27 Member States from two surveys that were commissioned in 2008 and analysed by the AMLTF. The first survey dealt with the assessment of supervisory practices in relation to customer due diligence and cross-border issues at group level, and the second survey focused specifically upon customer identification requirements in face-to-face situations.

Next steps

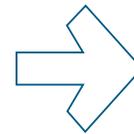
The AMLTF will continue its work in relation to the practical aspects of the Third Money Laundering Directive. The AMLTF will, in 2010, work in particular, on issues regarding the Payment Services Directive and the topic of Ultimate Beneficial Owners. In the second half of 2010 the AMLTF will start to work on Simplified Due Diligence and High Risk Jurisdictions, and thereafter work in late 2010 /2011 on Wire Transfers/ Cover Payments and Politically Exposed Persons.

3L3 work on Financial Conglomerates

The work on financial conglomerates is led by CEBS and CEIOPS, with CESR participating as an observer. Much of the work in 2009 of the Joint Committee on Financial Conglomerates (the renamed IWCF¹³), was related to the measures following the financial crisis and to responding to the request for advice received from the Commission and the EFCC, the European Financial Conglomerates Committee.

In January 2009, CEBS and CEIOPS jointly published ten principles regarding the functioning of colleges of supervisors, based on their existing work and supervisory experience.

Following the call for advice from the Commission in April 2008 for the JCFC to undertake a stock-take of Member State practices in implementing the Financial Conglomerates



Other objectives served

Market integrity

Transparency of Implementation



Other objectives served

Reporting and advice to the Commission

¹³ Revised following the publication in the OJ of the Commission decisions of 23 January 2009, establishing CESR, CEBS and CEIOPS.

Directive (FCD), focusing on:

- Use of definitions;
- Scope; and
- Internal Control Requirements, including risk concentration and intra-group transactions.

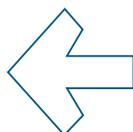
In February 2009, the Commission requested an additional call to identify policy options to address the issues that the JCFC had identified and to recommend solutions to the issues. Accordingly, the JCFC conducted an impact analysis exercise by developing and incorporating suggested solutions into a paper that was released for consultation at the end of May 2009. A public hearing was also held in July 2009, where the JCFC's proposals were well received by supervisors and Industry. As a result the advice¹⁴ was finalised and submitted to the Commission on 30 October 2009.

In the advice, the JCFC recommends legislative amendments of the FCD to address specific areas where the FCD does not meet its objectives in the current framework. These include a change to the definition of "holding companies" to ensure that the application of the sector group directives is supplemented by the FCD irrespective of the structure of the group, and a change to enable supervisors to waive the application of the FCD for small and heterogeneous groups if their risk profile justifies exemption. The JCFC recommends the development of guidance to address the other issues identified in the advice.

Throughout 2009, the JCFC conducted further work on the assessment of the crisis and its consequences for the regulation and the supervision of financial conglomerates, and hosted a training seminar for supervisors on understanding complexity, contagion and concentration risks in compiled groups, and contributed to the 3L3 proposals on the EU supervisory architecture.

Next steps

The JCFC will assist the EC in its review of the scope of the FCD, and, following advice submitted to the European Commission in 2009, JCFC has started developing guidance for the supervision of financial conglomerates in the area of participations, risk concentrations and intra group transactions in 2010.



Other objectives served

Market integrity

3L3 Task Force on Internal Governance

In July 2008, the 3L3 Committees set up a common Task Force on Internal Governance (TFIG) intended to address cross-sector issues related to internal governance. The purpose of the work was to develop, within the current legal framework, cross-sector guidance on internal governance for institutions and conglomerates operating in different financial sectors. To this end, the task force would identify the consequences of differences in Level 1 and 2 measures regulating internal governance which might have a significant practical impact on institutions in terms of, for example, difficulties in application. The 3L3 Task Force would also make recommendations, for Level 3 measures, to enhance convergence in the EU. To this purpose the 3L3 Task force will be looking at Level 1 and 2 measures on internal governance for the different financial sectors, namely MiFID, the CRD, Solvency II and the Financial Conglomerates Directive.

In autumn 2009 the TFIG finalised its report on the main findings of the 3L3 internal governance issues following a cross-sector stock-take and analysis of internal governance requirements contained in MiFID, CRD and Solvency II. The report presents some preliminary findings on internal governance where the 3L3 could see merit in further work on convergence, such as conflict of interest and outsourcing. Before undertaking further work, however, the 3L3 Committees sought the views of market participants and, in December 2009, issued a call for evidence to get input from interested parties on whether cross-sector convergence is needed in the area of internal governance. The Call for Evidence runs until 9 April 2010.

¹⁴ The advice was published on CERS' and CEIOP's websites.

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Next steps

On 18 December 2009, the 3L3 Committees launched a call for evidence, running until 9 April 2010, in the area of internal governance. The Task Force's report was included as an Annex.

The industry's comments are sought on the findings of the Task Force's stocktaking, and in particular on areas where conflicting rules for the different financial sectors might cause additional implementation burdens and where efforts of further harmonisation could be undertaken, specifically including: Management of conflicts of interest; Policies, processes and procedures related to the risks covered by the risk management systems; how the risk management, compliance and internal audit functions might be 'independent' in light of their different sector requirements; and the supervisory review process.

Taking into account the industry comments, the 3L3 Committees will decide on further steps and possible 3L3 work with a view to further convergence.

Non-Cooperative jurisdictions

Following the request from the EFC/FST, dating back to 2004, the 3L3 Committees have been preparing annual written updates on the level of progress that the Committees' members have made in relation to non-cooperative jurisdictions. "Non-cooperative jurisdictions" is used as a reference to those jurisdictions that do not, for different reasons, co-operate on supervisory matters, either in the sense of being un-willing and/or unable to co-operate.

The Committees have been asked by the EFC to make progress firstly in the area of establishing common databases on the existing problems in relation to non-cooperative jurisdictions and, secondly in developing a common approach for the supervision of business operations in these jurisdictions, focused especially on internal governance issues in the context of the CRD and MiFID.

Next steps

The 3L3 Committees take note of the ECOFIN roadmap following G20, including requested action in relation to "Implementation of national and international measures that protect the global financial system from uncooperative and non-transparent jurisdictions that pose risks of illicit financial activity, as well as the G20 agreement "that the FATF should revise and reinvigorate the review process for assessing compliance by jurisdictions with AML/CFT standards, using agreed evaluation reports where available". For 2010, the 3L3 Committees therefore stand ready to continue to assist the EU Institutions in their work on non-cooperative jurisdictions, within their members' regulatory/supervisory competencies, including by continuing to undertake their annual stocktaking.

The 3L3 shall continue the establishment of common databases, including work related to the degree of detail and timeliness of the information, the confidentiality of information and the storage of the data.



Other objectives served

Investor protection



Other objectives served

Market efficiency

3L3 work on home-host delegation

In 2009 the 3L3 Committees finalised their work on delegation of responsibilities and tasks following a request from the Commission in June 2008. Consistent and predictable application of EU legislation across financial sectors leads to greater convergence across different jurisdictions and helps supervisors rely on each other's work.

The work of the 3L3 Committees was intended to feed into the Commission's review of the Financial Services directives, with a view to include provisions on the voluntary delegation of tasks and the analysis of options on voluntary delegation of supervisory competences. The request related to delegation of tasks and to the delegation of supervisory responsibilities including legal and practical obstacles to delegation. A 3L3 task force was set up for the purpose of reporting on these two aspects.

In April 2009 the 3L3 delegation task force finalised its work on delegation as requested by the Commission with the production of a paper on obstacles to delegation of supervisory responsibilities. The task force delivered a report to the Commission on the first part of the work, delegation of tasks in 2008 (as referred to each of the 3L3 Committees' annual reports for 2008). The report analyses the concept of delegation covering aspects of it and examining it from different angles; identifies delegation as opposed to other techniques, notably mutual recognition; deals with the usefulness of delegation of responsibilities; looks at the legal aspects of delegation; and examines three different forms of delegation.

The 3L3 task force report concluded that the delegation of responsibilities could be useful. Further, it identified a number of important legal and practical issues which need to be addressed in order to make delegation of responsibilities operational and which to date have impeded the use of the delegation. Some of those issues should be addressed at EU level, and therefore, be introduced in all Member States.



Other objectives served

Investor Protection

Packaged Retail Investment Products

The Commission provided its preliminary thinking on Packaged Retail Investment Products (PRIPs), in its Communication of 29 April 2009. The Communication referred to four 'families' or product groupings of PRIP:

- Investment (or mutual) funds (both UCITS and non-UCITS);
- Investments packaged as life insurance policies;
- Retail structured securities; and
- Structured term deposits.

The Communication outlines the Commission's view that the current EU regulatory framework needs to be updated and suggests that legislative measures would be required in two main areas – product disclosure and selling practices. The aim is to create consistency in approach in relation to these two areas for all PRIPs in order to enable consumers to receive the right information and treatment.

The Commission held a technical workshop on 22 October 2009 with industry experts and consumer representatives from around Europe, who were invited to present their views. The workshop was also attended by representatives from each of the 3L3 Committees.

In November 2009, the 3L3 Committees jointly submitted to the Commission their sector views in relation to the Commission's Communication following internal work carried out by each Committee. As a follow up, the 3L3 Chairs decided to set up a 3L3 Task Force.

The Commission Services published an update on 16 December 2009 on their on-going work on PRIPs and further detail on how the commitments made in the aforementioned Communication on PRIPs will be taken forward.

Next steps

The Task Force is expected to take up its work in spring 2010 with a view to formulating a common 3L3 position on the key topics for submission to the Commission in good time ahead of the adoption of a draft legislative proposal.

EU terminology consistency

The EU Commission services are finalising their work on a cross-sector consistency check of terminology in EU financial services legislation. Within that context, and in response to a request from EU Commission services under a short deadline, in November 2009 the 3L3 Secretariats delivered a non-exhaustive review on a “best efforts” basis of the Commission services’ preliminary report.

Common Supervisory Culture

3L3 sets up task force on cross-sector training

In 2009, the 3L3 task force on training continued to foster convergence by reaching a higher level of co-operation on cross-sector training¹⁵. These cross-sector training courses are organised in addition to sector-specific training courses each of the Committees organised on their own behalf.

The three major areas of co-operation during 2009 included:

- The preparation of applications for the 2009 Commission action grants for co-financing, inter alia cross-sector training;
- The yearly 3L3 training program and subsequent organisation of cross-sector training courses; and
- The development of a 3L3 manual on training processes.

Commission agreed on grant agreements to the 3L3

The grant agreements which were agreed by the Commission and each of the 3L3 were by far the most important area of co-operation. This is the first time the Committees have received Commission funding, and therefore developing the applications for Commission action grants has been an important priority this year. The task force and Committee’s Secretariats co-operated not only on the development of their grant requests, but also in the development of the operational procedures required by the grant agreements to ensure reporting on the use of the funds meets strict EU requirements.

Along with other projects of the L3, cross-sector training has, therefore, benefited too from Commission financial support from June to end 2009.

3L3 develop manual on training process

Due to the large number of training seminars to be developed, the Members across the 3L3 Committees have been used as an effective means to develop and deliver the training and they have, therefore, been heavily involved in the organisation of programmes and hosting seminars. To ensure consistency and convergence in practices, the 3L3 task force thought it important to develop a single manual on training procedures that could set out the process for delivering training in a step-by-step format.



Other objectives served

Market efficiency

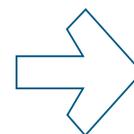
Market integrity



Other objectives served

Market efficiency

Market integrity



Other objectives served

Market efficiency

Market integrity

¹⁵ This project has been made possible with the financial assistance of the European Union. This project is carried out under the sole responsibility of CESR and can under no circumstances be regarded as reflecting the policies of the EU.

The manual on training consists of guidelines for organising a seminar, forms for registration/ evaluation and budgeting information to help ensure a high quality of seminars, regardless of the experience of the organising authority. In addition, the Manual plays a key role in ensuring that the 3L3 Committees can meet their reporting requirements to the European Commission on the funds received, by establishing clear procedures. Following consultation with the Members, the final Training Manual was approved in December 2009 and has been published on the members' only section in each of the L3 Committees' websites.



Other objectives served

Investor Protection

3L3 held more cross-sector training courses in 2009

The three sister committees have developed consistent sector-specific training programmes for 2009. In addition, the 3L3 Training Task Force has developed a cross-sector training programme to ensure cross-sector convergence.

THE 3L3 TRAINING PROGRAMME FOR 2009 INCLUDED THE FOLLOWING CROSS-SECTOR SEMINARS:

No	Name of the seminar	Date	Number of participants
1	Negotiating skills for European Supervisors	22-23 January 2009	10
2	Conduct of business (MiFID)	25 January 2010	30
3	Negotiating skills for European Supervisors	19-20 February 2009	9
4	Corporate Governance	26 February 2010	30
5	Negotiating skills for European Supervisors	23-24 April 2009	9
6	IFRS and accounting	27 April 2009	18
7	Undertaking Impact Assessment	16-18 June 2009	25
8	Negotiating skills for European Supervisors	1-2 July 2009	10
9	Negotiating skills for European Supervisors	3-4 September 2009	14
10	Reputational Risk and Global Internal Control	30 Sept. - 2 October 2009	40
11	Securitisation	1 October 2009	38
12	Negotiating skills for European Supervisors	22-23 October 2009	12
13	Negotiating skills for European Supervisors	19-20 November 2009	13
14	Assessment of IT systems and applications in financial institutions	25-27 November 2009	35
15	Understanding complexity, contagion and concentration risks in complex groups	27 November 2009	46
16	Quantitative approaches to risk	8-9 December 2009	50
In Total			389

The effort devoted to train staff of EU supervisory and regulatory authorities on a cross-sector basis during 2009 has resulted in the increase in number of seminars –10 more in comparison with 2008, and in the number of participants – 90 supervisors in excess of the previous year, which means further strengthening of our common supervisory culture.

Next steps

The Task Force will develop and realise the training program for 2010 in line with the grant request for 2010 as well as continue to strengthen cooperation on education.

3.4

Investor Protection

> Investment Management Expert Group

CESR moves forward its project to improve investor disclosures for UCITS

CESR puts in place measures on organisational requirements and rules of conduct for UCITS

CESR consults on a common European definition of money market funds

CESR provides information for investors affected by Madoff collapse

CESR reviewed duties and liabilities of depositaries

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> MiFID Level 3 Expert Group

MiFID: CESR issues questionnaire on re-hypothecation

CESR publishes supervisory briefing on information and reporting to clients

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> Prospectus Contact Group

CESR assesses equivalence of non-European prospectuses

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3.4 Investor Protection

CESR's work towards achieving investor protection takes many forms and includes ensuring that retail investors are only sold products from licensed or authorised service providers permitted to offer investment services. In addition, seeking to ensure the effective disclosure of information to investors is key as this helps investors to better assess the potential risks and rewards of their investments. Much of CESR's work described earlier to ensure market integrity and efficiency also seeks to protect investors by ensuring they are protected from misleading, manipulative or fraudulent practices, including insider trading, or the misuse of client assets and that best execution requirements are honoured. In addition to ensuring the interest of investors is effectively reflected in the legal frameworks, which CESR attempts to do through its technical advice to the Commission, CESR serves investor protection throughout Europe by disclosing cross-border information on national authorisation, complaint and compensation schemes as well as contact information on national competent authorities.

Circulating information on non-authorised investment providers through CESR-Pol's network for inclusion on national websites by way of alerting retail investors can also be considered as part of cross-border disclosure benefiting the investor.



Other objectives served

Market efficiency

Market integrity

Convergence

➤ Investment Management Expert Group

CESR moves forward its project to improve investor disclosures for UCITS

Following receipt of the Commission's request for CESR's assistance on developing Key Investor Information (KII) disclosures in April 2007, CESR worked intensively to prepare its response, in parallel with the finalisation of the revised UCITS Directive at Level 1.

The first output of CESR's work was a set of advice that was submitted to the Commission in February 2008 (Ref. CESR/08-087). The Commission used CESR's advice as the basis for the investor testing exercise it carried out from March 2008 to May 2009. CESR was closely involved in both the design and roll-out of the testing process.

Disclosure for risk and reward, past performance and charges covered

In the February 2008 advice, CESR had identified a number of technical issues arising from its work that merited further consideration. The issues fell under three of the broad disclosure headings which make up the KID: risk and reward, past performance and charges.

The work was to cover a wide spectrum of issues, ranging from development of a harmonised calculation methodology for a synthetic risk and reward indicator (SRRI) to treatment of past performance information for years in which the fund did not exist. CESR established separate working groups to analyse these issues in more detail, which benefited from the participation of a selection of external stakeholders. CESR's proposals were published for consultation on 16 March 2009 (Ref. CESR/09-047).

In the light of responses to the consultation and the final results of the Commission's testing exercise, CESR formulated its proposals on the full package of advice on KID disclosures. These proposals were published for consultation in July 2009 (Ref. CESR/09-552). In addition to a public hearing, CESR, also organised a special meeting for representatives of retail investors to provide their input in August 2009, 16 Investor Associations were represented.

Responses to consultation on technical issues relating to Key Information Document (KID) disclosures for UCITS (CESR/09-179)



Responses to consultation on CESR's technical advice at level 2 on the format and content of Key Information Document disclosures for UCITS (CESR/09-716)



KID aims at increased investor protection and convergence

The proposed disclosure document aims at increasing investor protection and convergence across Europe. It will replace the current Simplified Prospectus as its length and content is not consistent throughout Member States. The KID will be a short, pre-contractual disclosure document containing only the key elements of information investors need before making a decision on whether to invest in a fund. The testing exercise also showed the importance of disclosure documents being short, concise and written in plain language. CESR took feedback from stakeholders into account in finalising its advice to the Commission, which was delivered in October 2009 (Ref. CESR/09-949). CESR also placed great emphasis on the outcome of the consumer testing exercise carried out by the Commission.

KID to include disclosures for risk and reward, as well as for charges

CESR's advice recommends the adoption of a synthetic risk and reward indicator accompanied by a narrative text. This text should cover the material risks not fully captured by the indicator. CESR also proposed that the indicator be calculated using a harmonised methodology to ensure comparability. On charges, CESR's advice foresees the inclusion of a table setting out clearly the different elements of the charging structure (in percentage terms).

CESR advises that presentation of past performance be based on use of a bar chart displaying up to ten years' performance, where available. In addition, the proposal allows performance information to be displayed only where there is at least one calendar year's data. For structured UCITS, CESR proposes an alternative in the form of prospective scenarios. These scenarios are designed to illustrate the potential performance of the fund under a range of market conditions.

Responses to consultation on the addendum to CESR's consultation paper on the format and content of Key Information Document disclosures for UCITS (CESR/09-552)



CESR developed technical methodologies on risk/ reward and charges

CESR continued to work on two items in the context of its advice on the KID beyond the delivery of its advice to the Commission in October 2009, namely the calculation methodologies for the synthetic risk and reward indicator (SRRRI) and the ongoing charges figure. CESR received a significant amount of feedback from stakeholders on the two methodologies it had proposed for consultation earlier in the year (including via the addendum on the SRRRI methodology published in August (Ref. CESR/09-716)). In order to take full account of these comments, it was agreed that work should continue with a view to submitting the final methodologies to the Commission by the end of the year. These two methodologies, which represent the final elements of CESR's Level 2 advice on key investor information, were delivered to the Commission in December 2009¹⁵.

Next steps

The Commission will finalise the package of implementing measures on KII taking into account CESR's advice. In addition, CESR has identified a number of areas of the advice where the future implementing measures could usefully be complemented by guidelines at Level 3; On certain points, such as the development of best practice 'mock-ups' of the KID, CESR will aim to adopt the relevant guidelines in line with the timetable for adoption of the implementing measures, i.e. by 1 July 2010.



CESR puts in place measures on organisational requirements and rules of conduct for UCITS

CESR considers that a sound framework of organisational requirements, including measures to protect against conflicts of interest, and appropriate rules of conduct for UCITS management companies are a key element of protection for unitholders of UCITS. As set out under section 3.5 below, CESR was requested to provide advice to the European Commission on these two areas (inter alia) in the context of the revised UCITS Directive and more specifically the implementation of the management company passport. CESR delivered this advice in October 2009.

In line with the request from the Commission, CESR aimed in its advice to ensure as much consistency as possible with the existing MiFID provisions. This took account of the desirability of having a level playing field between the firms active in those sectors, given the similarities between the service of individual portfolio management and the activity of collective management of a UCITS. CESR did, however, pay close attention to the need to reflect properly the specificities of the activity of collective portfolio management. In addition, CESR took the view that a level playing field was important with a view to putting in place a similarly high level of investor protection for investors receiving similar types of

Other objectives served

Market efficiency

Market integrity

Convergence

¹⁵ Ref. CESR/09-1026 is the methodology for the synthetic risk and reward indicator, Ref. CESR/09-1028 is the methodology for the ongoing charges figure.

service. Finally, CESR emphasized the need to ensure sufficient flexibility in the requirements in such a way that their application is proportionate and takes into account the nature, scale and complexity of a management company's business, including the nature of the UCITS it manages.

Robust organisational framework for UCITS management companies

CESR prepared advice covering the full range of organizational arrangements for UCITS management companies. This included:

- Responsibility of senior management;
- Remuneration policy;
- Compliance and internal audit functions;
- Personal transactions;
- UCITS accounting principles;
- Implementation of investment strategies; and
- Conflicts of interest.

MiFID as basis for work on rules of conduct

A second key element of CESR's advice on the management company passport related to rules of conduct for UCITS management companies. The provisions, which should be seen as a complement to the proposed requirements on organizational arrangements, are a combination of general principles that apply to all elements of a management company's activity, such as the general duty to act in the best interests of the UCITS and its unitholders, and more specific requirements in areas such as best execution and order handling. CESR also addressed situations involving the direct sale of units of UCITS by UCITS management companies, setting out detailed requirements on the steps a management company should take in order to ensure fair treatment of the investor.

Next steps

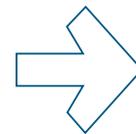
The Commission has committed itself to finalizing the package of implementing measures on the UCITS management company passport including those on organizational requirements and rules of conduct by July 2011, taking due account of CESR's advice.

CESR consults on a common European definition of money market funds

On 20 October 2009, CESR published a consultation paper (Ref. CESR/09-850) on a common European definition of money market funds with a deadline for responses of 31 December 2009. CESR received 31 responses from a range of stakeholders, including individual investment managers, trade associations and the European Central Bank.

In the consultation paper, CESR proposed a two-tiered approach for a definition of European money market funds based on 'short-term money market funds' and 'longer-term money market funds'. This approach recognises the distinction between short-term money market funds, which operate with a very short weighted average maturity and weighted average life, and longer-term money market funds, which operate with a longer duration and weighted average life. The definitions will apply to UCITS and non-UCITS European money market funds. According to CESR's proposal, only funds which operate with the sole objective of preservation of capital, combined with daily liquidity, should be capable of calling themselves a money market fund.

CESR Members have agreed that any fund labelling or marketing itself as a money market fund authorised after the introduction of these guidelines must comply with the agreed definition. Existing European money market funds will have a sufficient transitional period after the introduction of the guidelines to comply with criteria. After this period money market funds which do not satisfy the criteria must cease to label or market themselves as money market funds and must amend their documentation and inform investors accordingly.



Other objectives served

Market efficiency

Market integrity

Convergence

Need to classify money market funds

Money market funds invest in short-term high quality money market instruments and are used by investors as an alternative to bank deposits. However, money market funds are an investment product and subject to risks not associated with bank deposits. Through their investments in time deposits, certificates of deposit and commercial paper (including asset-backed commercial paper), money market funds are important participants in the overnight and term money markets and provide short-term funding to banks and other financial institutions.

Money market funds have been authorised within the EU for many years under investment fund legislation and generally as UCITS. While individual Member States applied local requirements to the authorisation and supervision of these funds, there was no consideration of any regulatory issues at a European Level. However, unlike other UCITS, the role played by money market funds in the money markets has led to calls for consideration of the issues which they present at a European Level with appropriate regulatory action where necessary.

In the light of the market events, CESR agreed that better coordination between Members on money market funds and funds in general is needed, as well as better understanding of the categorisation of money market funds given the lack of a harmonised definition. More recently, the de Larosière report of February 2009 considered that there is a 'need for a common EU definition of money market funds and a stricter codification of the assets in which they can invest in order to limit exposure to credit, market and liquidity risks.'

Responses to consultation on common definition of European money market funds (CESR/09-850)



Next steps

CESR will consider the responses received to the consultation with a view to adopting guidelines in the first quarter of 2010.



Other objectives served

Market efficiency

Market integrity

Convergence

CESR provides information for investors affected by Madoff collapse

In order to assist European investors affected by the fraud of Bernard Madoff, CESR issued a public statement on 4 February 2009 (Ref. CESR/09-089), providing information on which steps to take. It seemed likely at the time that some European investors would experience financial losses, either directly or indirectly. CESR therefore wished to draw the attention of investors to the potential actions they could take, or that could possibly be taken on their behalf. CESR also took this opportunity to urge those acting on behalf of investors to proactively communicate the steps they were taking to recover funds and any information on next steps.

CESR Members establish possible losses in the EU

At the time of the Madoff fraud, CESR was organising regular exchanges of information between its Members to establish the extent of potential losses of European investors and to co-ordinate the Members' actions. CESR ensured a co-ordinated dialogue with the US SEC in order to ensure regulatory resources were used as effectively as possible.

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Concerns were raised in respect of custody and sub-custody arrangements for UCITS; for that reason, CESR also focused its efforts on establishing how the rules in the UCITS Directive on depositaries' duties and responsibilities had been implemented in Member States.

CESR provided guidance to investors affected

CESR was not able to help investors directly in dealing with their claims, but assisted investors in finding the appropriate channel through which to address their concerns or complaints. As such, CESR took this opportunity to provide information on practical steps investors directly investing with Bernard L. Madoff Investment Securities LLC should take and drew their attention to the relevant deadlines by which claims should be filed with the US trustee. CESR also provided some guidance to those indirectly affected on how they might proceed.

Investors indirectly affected by the Madoff collapse

CESR urged regulated firms to advise customers of developments and action taken on their behalf as losses may have been incurred in a number of scenarios, for example:

- Investments in funds whose depositaries had a sub-custody arrangement with Bernard L. Madoff Investment Securities LLC; and
- Investments in feeder funds which had made investments in Bernard L. Madoff Investment Securities LLC.

CESR also advised retail investors who suspected they may have suffered losses indirectly: as a first step, CESR recommended that retail investors contact the firm with which they had been dealing to clarify whether losses might have been incurred as a result of the Madoff fraud and the steps that had been taken or would be taken to facilitate the recovery of as many assets as possible.

Should retail investors have remained dissatisfied with the responses given, they were advised to request the relevant firm to provide them with information on its complaints process and file a formal complaint with it.

CESR reviews duties and liabilities of depositaries

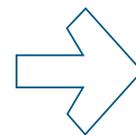
As part of its investigation of the Madoff fraud, CESR considered the duties and responsibilities of UCITS depositaries. In this context, CESR carried out a mapping exercise to establish how the various rules on depositary obligations had been implemented in Member States. Meanwhile, in February 2009 CESR was requested to advise the Commission on the measures to be taken by a depositary in order to fulfil its duties in the case of cross-border management situations. In parallel, CESR planned to establish whether further clarity was needed on an EU-wide basis on the status, role and liability of UCITS depositaries and, if so, to consider advising the European Commission on the legislative proposals or modifications that would be required.

In the meantime, the Commission launched a public consultation on UCITS depositaries. Since the scope and topics of this consultation were very similar to the ones on which CESR had begun work with a view to making suggestions to the Commission, CESR considered that it should provide a response to the public consultation (Ref. CESR/09-781).

CESR favours more harmonisation in duties and responsibilities of depositaries

As a general response to the consultation as whole, CESR expressed support for greater clarity, legal certainty and harmonisation in the duties and responsibilities of UCITS depositaries. These entities play a key role in the UCITS framework, particularly in the promotion of investor protection. As such, the design and implementation of a robust and transparent legal framework is to be encouraged.

In its response, a key area on which CESR made specific recommendations was on the definition of safekeeping. CESR proposed a definition composed of two broad elements:



Other objectives served

Market efficiency

Market integrity

Convergence

overall control of assets and segregation. A key requirement in that respect would be that assets could not be transferred by the management company without prior knowledge or consent of the depositary. On segregation, CESR saw merit in imposing explicit controls on re-hypothecation and clarifying that the sub-custodian should also be obliged to put in place proper segregation arrangements. In this context, CESR also highlighted the possibility of providing further clarification and harmonisation via Level 2 measures and elaboration of Level 3 guidelines.

Divergence in Members States' approaches

The mapping exercise has made clear that Member States take diverging approaches to the liability attached to a depositary in case of loss of assets by the sub-custodian. CESR explained in its response to the Commission that this situation is not acceptable and that particular focus should be put on developing a harmonised approach.

The key issue regarding liability of the depositary relates to the conditions under which a depositary may delegate its custody functions to a sub-custodian. In its response to the consultation, CESR set out its view that these conditions should be clarified and strengthened by introducing due diligence requirements in relation to the selection, appointment and periodic review of the sub-custodian.

Next steps

CESR will finalise its mapping on the duties and liabilities of UCITS depositaries, the results of which will be published at the beginning of 2010. CESR will also monitor potential legislative developments in this area as a follow-up to the Commission's consultation and give input where appropriate.

➤ MiFID Level 3 Expert Group



Other objectives served

Investor Protection

Convergence

MiFID: CESR issues questionnaire on re-hypothecation

In September 2009, CESR asked its Members to complete a questionnaire on re-hypothecation. The purpose of the questionnaire was to identify each Member's legal and regulatory practices regarding re-hypothecation, with the aim of drawing comparisons between Member's practices across the jurisdictions and identify whether any further policy development was required in this area. The questionnaire identified that only a small number of CESR Members have any firms in their jurisdiction which undertake re-hypothecation business, and for the majority of Members, re-hypothecation remains a contractual agreement between sophisticated market counterparties. With regards to the practices in place for re-hypothecation, the questionnaire identified that there is a range of re-hypothecation practices across Europe, largely based on the requirements found within Article 19 and Article 32(7) of the MiFID Implementing Directive (2006/73/EC).

Next Steps

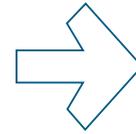
For the aforementioned reasons it was agreed that additional work on this area would not be taken forward. Nevertheless, it was agreed that the organisational elements necessary to identify proprietary positions both in terms of client assets and client money would be looked at as part of the MiFID review together with elements of segregation of assets and client consent. In addition, it was agreed that continuity of business may be an area which would benefit from further investigation.

CESR publishes supervisory briefing on information and reporting to clients

MiFID specifies the conditions and minimum content of information which should be provided by firms to clients to enable them to make informed decisions about the services they are being offered. Given the importance of the information provided to clients and as part of its work to promote supervisory convergence, CESR produced, with input from market participants, a supervisory briefing (Ref. CESR/09-590) on information and reporting to clients. The aim of the briefing is to assist supervisors with their assessment as to whether the information provided by the firm is sufficient for the client to make an informed decision in respect of the service offered.

The briefing focuses on:

- The set up arrangements and procedures necessary for the firm to be compliant;
- The types of information provided to the client; and
- The medium via which the information will be provided.



Other objectives served

Market efficiency

Market integrity

Convergence

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➤ Prospectus contact group

CESR assesses equivalence of non-European prospectuses

Market efficiency relies on access by issuers to the markets in a quick and cost-effective manner. With regards to third country issuers, many of whom are subject to regulatory oversight in their own jurisdictions, market efficiency is best served by ensuring that European investors receive substantially the same information as they do in relation to European issuers. CESR's prospectus contact group has continued to work in 2009 on the equivalence of prospectuses (Article 20.1 PD) from countries outside the European Economic Area (EEA). This work was summarised in a statement (Ref. CESR/08-972) published by CESR in December 2008.

In this statement, CESR clarified its interpretation of Article 20.1 PD, informing market participants that, at the date of the statement, no Member State had taken any blanket or unconditional decision with respect to the equivalence of the prospectus standards of any third country. During 2009, CESR has worked on a common assessment of the prospectus requirements of certain third countries compared to the EU requirements, focusing to begin with on the requirements of Israel.



Other objectives served

Convergence

Investor protection

Next steps

The group will undertake a common assessment of the prospectus requirements of certain third countries compared to the EU requirements, starting with Israel and the United States. As a next step, CESR will make a statement on the requirements of Israel.

3.5

Technical advice and reporting to EU institutions, implementation of EU roadmaps

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3.5 Technical advice and reporting to EU institutions, implementation of EU roadmaps

This objective, referred to (in short) as ‘advice and reporting to EU institutions’, refers to CESR’s role to act as an advisory group to assist the Commission in particular, in its preparation of draft implementing measures of EU framework Directives in the field of securities. Furthermore, CESR has committed to reporting to the European institutions on how it is undertaking its work and in particular on how it is implementing the various roadmaps established at a European level.

➤ Investment Management Expert Group

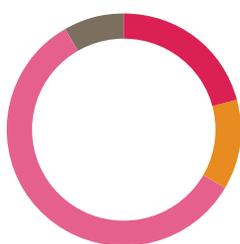
CESR consults on implementing measures of future UCITS Directive

On 13 February 2009, the Commission requested CESR’s assistance on the content of the implementing measures to be adopted pursuant to the revised UCITS Directive (2009/65/EC). On receipt of the request, CESR immediately published a call for evidence on possible implementing measures of the future UCITS Directive (Ref. CESR/09-179). As the Directive imposes a strict deadline by 1 July 2010 for adoption of certain Level 2 measures, the Commission felt it was important that CESR start its work as soon as possible.

The request for assistance was split into three parts:

- Part I – Request for technical advice on the Level 2 measures related to the management company passport;
- Part II – Request for technical advice on the Level 2 measures related to key investor information – supplement to the Commission’s April 2007 ‘request for assistance on key investor disclosures for UCITS’; and
- Part III – Request for technical advice on the Level 2 measures related to fund mergers, master-feeder structures and the notification procedure.

Responses to consultation on technical issues relating to Key Information Document (KID) disclosures for UCITS (CESR/09-179)



- 5 Banking
- 3 Insurance, pension and asset management
- 14 Investor relations
- 2 Legal and accountancy

CESR works on implementing measures for management company passport

Part I of the mandate focuses on areas where the Commission is obliged to adopt implementing measures, in some cases by a deadline of 1 July 2010. The issues covered are primarily related to the management company passport. CESR published a consultation on its draft technical advice on Part I of the mandate in July 2009 (Ref. CESR/09-624). 25 responses were received by the deadline of 10 September. Respondents broadly welcomed the approach CESR had proposed; comments made at the open hearing held in Paris on 1 September were also positive. As such, CESR did not make significant changes in finalising its advice, which was submitted to the Commission in October 2009 (Ref. CESR/09-963).



Other objectives served

Convergence

Investor protection

The advice on Part I covers the following key areas:

Organisational requirements and conflicts of interest for management companies (Article 12(3))

The advice follows the clear direction in the Commission's mandate to seek maximum alignment with the MiFID rules in this area, while taking into account the specificities of the UCITS sphere. There was broad support for this approach among respondents to the consultation.

Rules of conduct and conflicts of interest for management companies (Article 14(2))

In line with the advice on organisational requirements and conflicts of interest, the approach taken on the advice on rules of conduct is to seek maximum alignment with the relevant MiFID provisions. Respondents to the consultation expressed broad support for this approach. The advice includes requirements applying to the direct sale of UCITS by management companies, as well as best execution, order handling and inducements.

Measures to be taken by a depositary of a UCITS managed by a management company situated in another Member State

The mandate sought advice from CESR on additional requirements that should apply to the relationship between the management company and the depositary when these two entities are located in different Member States. CESR's advice places particular focus on the written agreement to be drawn up between the management company and the depositary. Although the mandate clarified that the implementing measures cover only cross-border situations, CESR's advice proposed to extend their application also to purely domestic arrangements.

Risk management

Article 51 of the revised UCITS Directive sets out the general principle that a management company shall employ a risk management process which enables it to monitor and measure at any time the risk of different positions and their contribution to the overall risk profile of the portfolio. CESR's advice sets out more detailed requirements on the basis of this principle in relation to the adequacy of the risk management process.

Supervisory co-operation

The Commission sought CESR's advice on two key elements of supervisory co-operation: i) on-the-spot verification and investigation; and ii) exchange of information between competent authorities. The advice takes into account the existing legal framework in relation to international co-operation, as well as best practice developed within CESR and IOSCO.

Responses to consultation on CESR's technical advice to the European Commission on the level 2 measures related to the UCITS management company passport (CESR/09-624)



Second consultation on risk measurement

CESR published a separate consultation paper on 15 June 2009 concerning risk measurement for the purposes of the calculation of UCITS' global exposure (Ref. CESR/09-489). The issues covered under that consultation form part of the response to the Commission's mandate on risk management¹⁶.

¹⁶ The work on risk measurement, as well as CESR's work on risk management outside the context of the UCITS IV advice, are covered in more detail in the respective reports.

KII implementing measures

Part II of the mandate covers the implementing measures foreseen by the UCITS Directive in relation to key investor information (KII) disclosures.

Cross-border mechanisms for UCITS

The third part of the request for assistance covers the other chapters of the UCITS Directive for which the Commission also received implementing powers in the areas of mergers, master/ feeder structures and the notification procedure. CESR began work on its advice on Part III once sufficient progress had been made on Parts I and II. This led to publication of a consultation paper on 17 September 2009 (Ref. CESR/09-785), to which CESR received 21 responses. Feedback was also gathered via an open hearing held in Paris on 6 November. CESR delivered its final advice to the Commission on 22 December 2009 (Ref. CESR/09-1186). The advice covers the areas set out below.

Fund mergers

CESR's advice focuses on the information to be provided to unit holders of both the merging and receiving UCITS in the case of a merger. The requirements are based on the key principle that the information should be tailored to meet the different needs of the two groups of unit holder.

Master-feeder structures

The second section of CESR's advice under part III of the mandate relates to implementing measures concerning master-feeder structures. The advice covers the content of the written agreements that should be put in place between the master and feeder UCITS, as well as their respective depositaries and auditors. In this context, CESR recommends that the parties to the agreements be free to choose whether the applicable law, should be that of the jurisdiction in which the feeder or master UCITS is located. CESR also sets out detailed requirements on the steps to be taken in the case of a liquidation, merger or division of a master UCITS in order to satisfy the time constraints set out in the Level 1 Directive.

Responses to CESR's technical advice to the European Commission on level 2 measures relating to mergers of UCITS, master-feeder UCITS structures and cross-border notification of UCITS (CESR/09-785)



Notification procedure

The recast UCITS Directive introduces significant changes in the area of notification of cross-border marketing of UCITS. CESR took account of its existing Level 3 guidelines on notification (Ref. CESR/06-120b) in preparing its advice, which covers: the information that Member States should make available in relation to marketing in their jurisdiction of UCITS established in another Member State; how the competent authorities of the home state should facilitate the host state's access to updated notification documentation; the content and format of a standard notification letter and attestation; and the procedure for electronic transmission of notification files.

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Next steps

The Commission will finalise its package of implementing measures taking into account CESR's technical advice. In addition, CESR has identified a number of areas of the advice where the future implementing measures could usefully be complemented by guidelines at Level 3; on certain points, CESR will aim to adopt the relevant guidelines in line with the timetable for adoption of the implementing measures, i.e. by 1 July 2010.

➤ ECONET

CESR reports to EU institutions on economic trends and risks

Due to the financial crisis, the network of financial economists of CESR, ECONET, produced a significant number of reports that were subsequently discussed with European institutions. In particular, CESR's contributions to the EFC of the EU increased during 2009, compared to previous years.

In these reports, ECONET provided an assessment on the key drivers and causes of the financial turmoil, as well as emerging risks in financial markets.

At that time, the following key risks were identified:

- A significant increase in uncertainty, that existed since autumn 2008 in European financial markets, was likely to persist;
- Valuations by asset managers might have been inadequate due to the proliferation of illiquid assets, a lack of resources or distorted incentives arising from performance fees schemes;
- The launch by ISDA of standards expected to diminish transactional and operational risks linked to credit default swaps;
- That competition between European exchanges, MTFs and dark pools of liquidity became stronger;
- The significant reduction in the total notional amount of outstanding CDS contracts since the Summer 2008 was in large part due to a reduction linked to index products in contrast to single CDSs, so that key risks in that market may well have prevailed as before.
- Systemic risks and threats to investor awareness exist in some areas of the money market funds industry.
- Against the background of abundant liquidity and low real interest rates in the post-crisis context, a strong upturn in financial markets since March 2009 had been fuelled by expectations of a fast recovery together with a search for yields by investors.
- A perception of continuous declining risk, as testified for instance by the downward trend of implied volatilities in several market segments, had contributed to a reduction of risk premium, a contraction of spreads, and pushed equities prices up.
- The European financial sector benefited significantly from such ongoing risk premium compression, both at the riskier (subordinated debt) and less risky level (senior debt). However, the levels of spreads remain higher than their pre-crisis levels.
- The emerging markets assets class witnessed strong equity inflows and a reduction of both corporate bond spreads and cost of insurance against EM debt default as captured by the Emerging Markets CDX index spread. Here, albeit on a declining trend, the risk was priced at a higher level than before the crisis. Looking ahead, there was a risk that declining risk aversion could fuel pernicious bullish asset price dynamics.
- The exit process from some non-standard liquidity measures by the ECB and the exit strategies of governments, which had strongly contributed to support economic activity. Although the demand for ECB liquidity by banks had fallen due to the improvement in bank funding markets, the ECB deposit facility remained significantly used (€150bn on 9 November 2009), which pointed towards unresolved issues regarding the banks' behaviour with respect to liquidity.
- A quasi-halt in private equity activity that dominated most of 2009. The challenge ahead lied in private equity funds' existing portfolios, which could be expected to suffer from the combination of equity bought at high prices and considerable debt to be refinanced over the next years.

On the other hand, the reports identified the following key trends, among others:

- UCITS continued to shrink mainly due to strong competition from banks in search of liquidity;
- The hedge funds industry experienced its worst performance ever in 2008, but started showing signs of recovery;
- Analysts' assessments of earnings per share in Europe were increasingly pessimistic while the percentage of companies cutting their ordinary dividend per share could increase significantly;
- After the strong decline in the number and the total offering values of IPOs in Europe over the precedent year, the market was likely to be subdued as long as there was a lack of liquidity in capital markets;
- The cost of insuring against counterparty default had risen considerably in the CDS market;
- Recent industry initiatives concerning netting and compression of positions may have contributed to reduce outstanding amounts of CDS contracts and increase transparency in CDS pricing.
- The rebound of the private equity activity may depend on the capacity of the banking sector to provide financing.
- As a result of restructuring funds in Europe, their number declined for the first time in 30 years;
- Selling pressure on hedge funds diminished and, as a result, they increased their long positions to "pre-Lehman" levels – though hedge fund attrition rates were at an exceptionally high level. The decline in the number of funds also seemed to indicate a consolidation movement. At the same time, boundaries between fund types continue to blur as mutual funds increasingly use strategies (like 130/30, i.e. long-short) that were hitherto reserved to hedge funds.
- The overall value of M&A deals continued to evolve at low levels during 2009.

Next steps

Looking forward into 2010, CESR will be assigned the following tasks:

- Identify, monitor and assess existing and emerging trends, risks and vulnerabilities in financial markets, including:
 - Written contributions for the European Financial Committee's Financial Stability Table, EFC-FST, including, in cooperation with CEBS and CEIOPS, written contributions on cross-sector risks;
 - Report to the Financial Services Committee, FSC;
 - Report to the European Parliament, the Council, the Commission and the European Systemic Risk Board (ESRB).
- Analyze the strategic and medium/long-term implications for CESR of the trends, risks and vulnerabilities identified and assessed;
- Make suggestions/ recommendations as to how these trends, risks, and vulnerabilities should be taken into account by CESR concerning regulation and supervision;
- Support activities related to Impact Assessment by giving advice or carrying out Impact Assessment as appropriate on the basis of the 3L3 Impact Assessment Guidelines;
- Carry out studies, conducting or promoting research and analysis in order to enhance CESR's functions;
- Act as a centre for expertise in quantitative techniques applied to financial markets analysis;
- Develop projects with research departments of the EU institutions, academics, think tanks and other economic research centers in order, in particular, to enrich its function of financial markets analysis, as well to improve the impact assessment component.

04

Looking ahead: 2010

CESR launched preparations for a smooth transition to ESMA and continues to deliver on its many policy priorities as set out in the 2010 Work Programme.

04 Looking ahead: 2010

In 2009, CESR started preparing for becoming a part of the new European System of Financial Supervisors (ESFS), a decentralised EU network of national supervisors who will continue to carry out day-to-day supervision. The ESFS will consist of three newly set up European Supervisory Authorities (ESAs) to replace the existing three pan-European Committees of banking, insurance and securities supervisors known as CEBS, CEIOPS and CESR.

4.1 CESR starts preparing for a smooth transition to ESMA

CESR will introduce a new working structure to deliver its many priorities from the outset of 2010. This change in CESR's working structures will streamline processes and redefine the role of CESR's technical groups and of its plenary meeting, which brings together all the national chairs and acts as the Committee's body for final decision taking.

The restructuring of CESR has been considered carefully to ensure that the anticipated new responsibilities of the future new authority, known as the European Securities and Markets Authority (ESMA), can be carried out effectively. By re-modelling CESR's internal organisation, a smooth transition to ESMA may be achieved.

As a result, from January 2010 on, CESR will conduct its work through Standing Committees (SC), dealing with issues ranging from corporate reporting and finance to market surveillance and enforcement or secondary markets, intermediaries and credit rating agencies. Each of these SCs will be supported by one or more member(s) of the CESR Secretariat. Up to now, CESR's work was conducted by expert and operational groups, however, this will now be organised under eight SCs, two panels, and numerous task forces and networks. Following the re-organisation, new chairs to lead the SC's work will be appointed in early 2010.

As a strong signal of the continued commitment at a very senior level of CESR Members, CESR will continue to have its Members chairing the Standing Committees in most cases.

New structure shall streamline processes

The decision to rationalise the way in which CESR delivers its work was taken with the following objectives in mind, ensuring:

- The maintenance of the quality of CESR's output;
- That CESR's work remains convergent (for example, expanding the use of consultative panels for all the areas);
- That both the resources of the CESR Secretariat and those of the Member's, who send experts to the meetings, are drawn upon more efficiently; and
- Both the seniority of the experts in the SCs and their ability to commit their authority will be increased. This will enable more consensus to be reached at an earlier stage and at the technical level (i.e. before a plenary), whilst leaving the CESR plenaries, freer to focus on strategic issues and concentrate on the limited areas where agreement is proving more difficult.

CESR's work will continue to be conducted in an open and transparent manner by holding public consultations or hearings, as is CESR's current practice. In the past, on a case-by-case basis, the expert groups have formed consultative working groups which drew on expertise from the various stakeholders experienced in the market practices of the areas under consideration. This approach will be broadened, so that almost all SCs will have such a sounding board and the membership of existing consultative working groups will be renewed.

The membership of such panels will continue to be nominated by the CESR Members according to the different fields of experience identified as being necessary.

The new structure will take effect from 1 January 2010. CESR's website will also be updated to reflect this change.

LIST OF STANDING COMMITTEES, PANELS, GROUPS
AND NETWORKS OF CESR, INCLUDING CHAIRS

I. Panels	Areas	Chair
Review Panel	<ul style="list-style-type: none"> Contributing to supervisory convergence through the consistent and timely implementation of Community legislation in the Member States; Reviewing the day-to-day implementation of EU legislation, and CESR standards, guidelines and recommendations; and Conducting Mappings, Self-assessments and Peer reviews. 	Carlos Tavares, Vice-Chair of CESR and Chair of the Portuguese CMVM
Mediation Panel	Mediation procedures	To be appointed on an ad-hoc basis

II. Permanent Standing Committees	Areas	Chair
Corporate Reporting ("CESR-Fin")	<ul style="list-style-type: none"> Accounting and enforcement of IFRS; Audit; Publication of periodic information; and Storage of regulated information and OAMs. 	Fernando Restoy, Vice-Chair of the Spanish CNMV
Corporate Finance	<ul style="list-style-type: none"> Convergent implementation of the Prospectuses Directive, including Q&As; Future Level 2 advice and equivalence with third Countries; Corporate Governance; and Notification of major shareholdings under the Transparency Directive 	Hans Hoogervorst, Chair of the Dutch AFM with the assistance of René Maatman (Member of the AFM's Board)
Credit Rating Agencies	<ul style="list-style-type: none"> Convergent implementation of the Regulation on Credit Rating Agencies 	Karl-Burkhard Caspari, Vice-Chair of the German BaFin
CESR-Pol	<ul style="list-style-type: none"> Market surveillance; Enforcement of securities laws as well as CESR Members' co-operation and exchange of information, particularly in market abuse investigations; Policy making with regards to the Market Abuse Directive (MAD) 	Anastassios Gabrielides, Chair of the Greek HCMC
Secondary markets	<ul style="list-style-type: none"> Issues related to the structure, transparency and efficiency of secondary markets for financial instruments, including trading platforms and OTC markets; and Convergent implementation of the MiFID Directive and implementing rules. 	Sally Dewar, Managing Director, Risk, of the UK FSA with the assistance of Alexander Justham (FSA Director of Markets)
Post-Trading	<ul style="list-style-type: none"> All issues related to the provision of central counterparties, clearing and settlement services (including T2S) as well as operation of trade repositories. 	Jean-Pierre Jouyet, Chair of the French AMF with the assistance of Thierry Francq (AMF's Secretary General)
Investor Protection and Intermediaries	<ul style="list-style-type: none"> Issues related to the provision of investment services and activities by investment firms and credit institutions; Convergent implementation of MiFID with particular regard to investor protection, including the conduct of business rules, distribution of investment products (PRIIPS), investment advice, suitability. 	Jean-Paul Servais, Chair of the Belgium CBFA
Investment Management	<ul style="list-style-type: none"> Issues related to collective investment management, covering both harmonised and non-harmonised investment funds; and Convergent implementation of the UCITS Directive, the future directive on AIFM and depositaries. 	Lamberto Cardia, Chair of the Italian CONSOB with the assistance of Nicoletta Giusto (CONSOB's Director for International Affairs)

III. Task Forces (temporary groups)	Areas	Chair
Post-Ecofin	<ul style="list-style-type: none"> Institutional issues and implementation of the de Larosière report and transformation of CESR into ESMA 	Eddy Wymeersch, Chair of CESR
Mutual Recognition	<ul style="list-style-type: none"> Mutual recognition with 3rd countries; and Developing a procedure to be followed for mutual recognition assessments. 	Claudio Salini, Head of Markets Division of the Italian CONSOB
Retail Investment Products	<ul style="list-style-type: none"> Advice to the Commission on PRIIPS 	Anneli Tuominen, Chair of the Finnish FIN-FSA

IV. Technical/ support groups	Areas	Chair
Economic and markets analysis	<ul style="list-style-type: none"> Financial markets monitoring and analysis of emerging and existing key risks and trends; Impact Assessment: contribute to better regulation by actively supporting CESR's commitment to Impact Assessments of existing and planned/proposed regulation and supervisory practice. 	Carlos Tavares, Chair of the Portuguese CMVM with the assistance of Carlos Alves (CMVM Board Member)
IT management and governance	<ul style="list-style-type: none"> Project, develop and maintenance of CESR IT projects 	Arja Voipio, Senior Advisor of the Finnish FIN-FSA

V. Operational networks	Areas	Chair
Take-over Bids	Exchange of views and experiences on cross-border take-over bids to promote convergent implementation of the Take-over Bids Directive	Eddy Wymeersch, Chair of CESR
Other Networks	CESR secretariat also conducts work through a number of other networks, covering issues like legal matters, training, supervisory culture, communications and retail investors.	CESR Secretariat

CESR's 2010 agenda

The ECOFIN Council conclusions of December 2007 invited CESR to transmit its work programme to the Commission, the Parliament and the Council, and requested CESR to start reporting annually on progress achieved. In line with these conclusions, the content of the CESR work programme dealing with 2010 deliverables was submitted jointly with the other Level 3 Committees in November 2009.

The work programme is composed of four parts:

- Part A focuses on the new key projects that are likely to affect the activity of the Committee over the current year;
- Part B reflects the areas of work for various Expert Groups;
- Part C corresponds to Secretariat work;
- Part D represents 3L3 work streams.

4.2 CESR's Draft Work Programme 2010

Part A: Key new priorities for 2010

1.1 Transformation into ESMA (some work related to this item is listed under the 3L3 work streams)

- Transformation of CESR into ESMA

1.2 Credit Rating Agencies

- Credit Rating Agencies: production of guidance and process for registration and enforcement
- Credit Rating Agencies: provision of repository database for historical ratings information
- Credit Rating Agencies: analysis of third country regimes for certification purposes
- Processing of CRAs applications for registration or certification, on-going supervision of CRAs, regular reporting to the EC, mediation and enforcement

1.3 OTC Markets

- Responding to Commission mandates in relation to the 2010 MiFID review on OTC markets
- Market abuse through OTC derivatives
- Suspicious Transaction Reports on OTC Derivatives
- Central storage of data ('warehouse')
- Working Group on Derivatives

Part B: Key new priorities for CESR groups in 2010

2.1 Review Panel

- PD peer review
- Contingency measures/powers mapping
- MAD use of sanctioning powers peer review
- MiFID use of sanctioning powers peer review
- Mapping of the use of options and discretions in the Transparency Directive
- MAD use of 1st & 2nd set of Guidance
- MiFID implementing Directive on record keeping peer review & CESR Recommendations on Art. 51(3) Implementing Directive MiFID
- Key investor information
- Differences in shareholding notification
- Acting in concert

2.2 Secondary Markets

- Transaction reporting
- Responding to Commission mandates in relation to the 2010 MiFID review on secondary markets
- Calculation/estimation and publication of data relevant for MiFID pre- and post-trade transparency requirements
- Market transparency calculations
- Pre-trade transparency waivers (new functionalities)
- Fact-finding on existing pre-trade transparency waivers
- Follow-up of the report on the impact of MiFID on equity secondary markets functioning (likely to be part of the Commission mandate on MiFID)
- Maintenance of the MiFID Q&A database

2.3 Investor Protection and Intermediaries

- Responding to Commission mandates in relation to the MiFID review of 2010 related to intermediaries
- Scope of investment advice
- Re-hypothecation
- Information to clients
- Inducements
- Best execution

2.4 CESR-Pol

- Market abuse across different trading platforms in a post-MiFID trading environment
- Notifications of transactions by persons discharging managerial responsibilities
- Due diligence undertaken by journalists to verify the truth of information they publish and leaks occurred while undertaking their work
- Financial analysts: leaks occurred while undertaking their work
- MAD Enforcement Database
- Possible mandate on Level 1 or Level 2 in relation to the MAD review
- Algorithmic trading: the practical frontier with market manipulation
- Trading ahead or after dissemination of research (how the Chinese walls work)
- Transactions by a bidder in its own financial instruments or that of the target company in the context of a takeover prior to the public disclosure of the takeover bid
- Trading ahead or after dissemination of research
- IT systems for surveillance: lessons and best practices
- Sounding out investors on new offers
- Short selling
- Buy-back programmes
- The twofold notion of inside information to be analysed as a Level 3 topic
- Information on order flow imbalances: identification of market abuse conduct
- Information on book building during IPO and secondary offerings: identification of market abuse conduct
- Practices of dealing with minor market abuse cases
- Review of the CESR Protocol on the operation of notifications of MiFID article 41 suspensions and removals from trading

2.5 Corporate Reporting

- Seminars/sessions (EECS, third countries cooperation)
- Monitoring of IFRS development and endorsement.
- Contribution to the level 2 committee on accounting (ARC)
- Contribution to the level 2 committee on auditing (AuRC), based upon views developed in the Standing Committee
- Contribution to EFRAG

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- Mapping of the application of fair value IFRS requirements regarding IAS 39 financial instruments.
- Work on the application of new IAS 39 requirements post IASB review project
- On-going dialogue with the SEC to implement the CESR/SEC work programme on IFRS
- Equivalence: analysis of the application of IFRS in China and India
- Co-operation with the level 3 work of other CESR groups on accounting and auditing matters (Prospectus and Transparency).
- Monitoring of ISA development and endorsement
- Report on the types of enforcement actions and other measures that have been taken by CESR and its Members as a result of the CESR Statement.

2.6 Investment Management

- Alternative Investment Fund Managers Directive
- Depositaries
- UCITS IV
- Supervisory convergence

2.7 Corporate Finance

- Level 3 work on major shareholding notifications in relation to cash settled derivatives
- Exchange of information on equivalence decisions
- Level 3 work on standard form for notification of major shareholdings
- Level 3 work on interim management statements
- Level 3 work on dissemination of regulated information
- Collaboration with the European Commission in the review of the Transparency Directive
- Analysis of the possible use of XBRL in the financial reports of listed issuers (to be included in the report to the European Commission)
- Supervisory convergence: update and maintenance of Q&A
- Compilation and publication of 'passporting' statistics
- Monitoring review of PD, preparing its implementation

2.8 Post-Trading

- T2S
- Code of Conduct (MOG)
- OTC Derivatives Regulators Forum
- Follow-up of CESR-ESCB Recommendations
- Settlement instructions and settlement cycles
- CESAME II

2.9 Corporate Governance

- Corporate governance

2.10 Takeover Bids Network

- Assisting the Commission on compilation/recording of checklist

2.11 IT Management and Governance

- TREM 3.0
- CRA Repository project
- Maintenance / production / helpdesk of IT systems
- TREM User Group
- UCITS - feasibility study

2.12 Economic Analysis

- IA-related work
- Report to EFC-FST
- Risk identification on a continuous basis
- Ad hoc reporting to other European Institutions (non-EFC-FST, FSC)
- Ad hoc studies
- Fact finding for Mutual Recognition Task Force

2.13 Training and Supervisory Culture

- Organising training seminars
- Human resources task force (implementation of secondment policy and study visits)

2.14. Communications

- Annual report
- Half-yearly report
- Press & media (answering queries, press releases, interviews, promoting CESR documents)
- New website
- Maintaining current website
- Retail investors (alerting investor network, investor days, etc.)
- CESR's internal communications

2.15 Mutual Recognition

- Mutual Recognition

2.16. Other

- Securitisation

Part C: CESR work for 2010

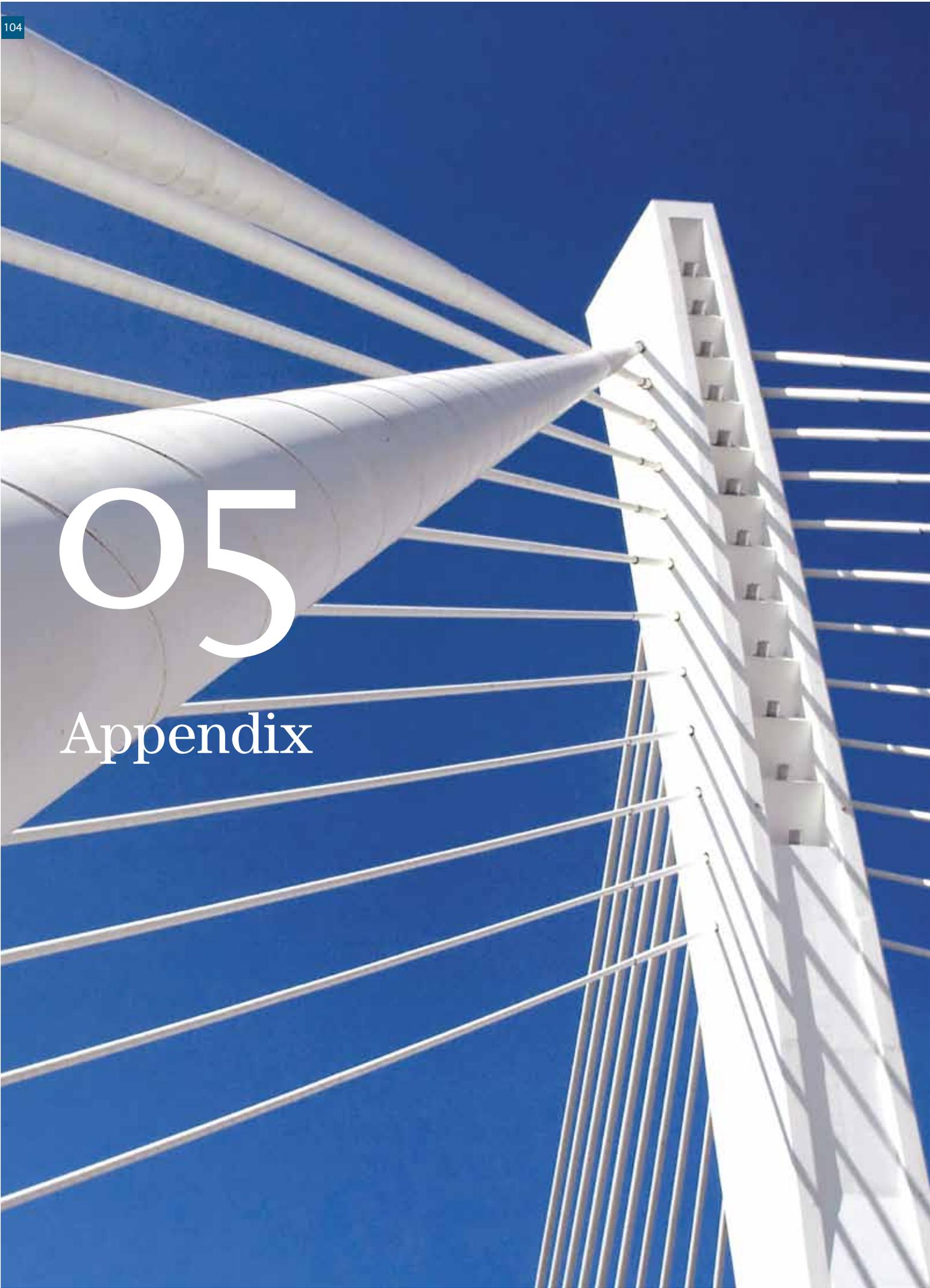
- Legal advice (including on mediation)
- Institutional activity: observership in ESC, ESME, FSC, EFC & ECOFIN hearing
- Financial and accounting reporting on CESR activities
- US contacts general
- Third countries, Switzerland etc.
- MiFID database

Part D: 3L3 work streams for 2010

- 3L3 crisis handling
- ESAs
- Packaged Retail Investment Products (PRIPs)
- Risk assessments
- Training
- Annual Report on 3L3 work programme
- 3L3 AML TF
- JCFC
- Supervisory powers
- Fit & Proper Requirements
- Non-cooperative jurisdictions

05

Appendix



05 Appendix

5.1 Financial statements

PROFIT AND LOSS (Revenues and expenses)

As at December 31, 2009 (in Euros)	31/12/2009	31/12/2008
REVENUES		
Contributions from Members	4,510,000	4,102,712
Annual conferenes	160,100	0
Profit on marketable securities	43,261	203,596
TREM Running costs	234,733	99,948
Other	4	153,925
Training	0	0
Commission's contrubution	158,000	0
Total revenues	5,106,098	4 560,181
EXPENSES		
Salaries and employee benefits	2,611,553	2,311,182
External staff	258,922	100,921
Premises	772,004	660,758
Travelling	267,956	247,999
Office supplies	32,983	24,208
Training	11,589	0
Organization and follow-up of meetings	226,744	77,964
Telecommunications	45,343	50,461
TREM project	443,327	502,398
Transportation and communications expenses	0	0
Printing	33,400	28,979
Computer & IT development	64,476	38,823
Professional fees	67,155	133,317
Depreciation of fixed assets	143,877	48,608
Retired assets	0	60,607
Miscellaneous	7,473	2,193
Taxes	5,089	0
Total expenses	4,991,892	4,288,418
Excess of revenues over expenses	114,206	271,763

5-2 CESR Secretariat

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- | | |
|---|--|
| <ul style="list-style-type: none"> • Alexandru Dincov
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+33 (0)1 58 36 42 73 • Elena Muñoz
IT Expert
+33 (0)1 58 36 51 11 • Patrick Bartholomew
IT Administrator
+33 (0)1 58 36 43 22 • David Nadry
IT Expert
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IT Expert CRAs
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|---|--|

Supervisory Convergence and Economic Analysis Oliver Burkart, Director +33 (0)1 58 36 43 35

- | | |
|---|--|
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Senior Officer
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Economist
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<p>Corporate Finance</p> <ul style="list-style-type: none"> Almudena Guinea Vidal Senior Officer +34 91 58 51 703 Ville Kajala Senior Officer +358 10 831 5226 	<ul style="list-style-type: none"> Prospectus Corporate governance Disclosure of major shareholdings
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<p>Takeover Bids</p> <ul style="list-style-type: none"> Almudena Guinea Vidal Senior Officer +34 91 58 51 703 	<ul style="list-style-type: none"> Takeover bids
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<p>Credit Rating Agencies</p> <ul style="list-style-type: none"> Isabelle Cardon Head of Unit +33 (0) 1 58 36 42 77 Francesco de Rossi Expert CRAs +33 (0) 1 58 36 59 07 tba Expert CRAs +33 (0) 1 58 36 43 21 	<ul style="list-style-type: none"> Credit rating agencies
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- tba, Assistant
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<p>Investor Protection and Intermediaries</p> <ul style="list-style-type: none"> Diego Escanero Senior Officer +44 207 066 23 24 	<ul style="list-style-type: none"> Investment services Rules of conduct Organisational requirements Conflicts of interest Investment products (PRIIPS)
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<p>Secondary Markets</p> <ul style="list-style-type: none"> Alberto Garcia Senior Officer +33 (0)1 58 36 43 25 Eva-Christina Smeets Senior Officer +33 (0)1 58 36 43 21 	<ul style="list-style-type: none"> Regulated markets MTF Pre/post trade transparency OTC Markets Markets efficiency / MiFID Convergence on Markets
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<p>Post-Trading</p> <ul style="list-style-type: none"> Wim Moeliker Senior Officer +33 (0)1 58 36 42 70 Frederico Alcantara Senior Officer +33 (0)1 58 36 58 99 	<ul style="list-style-type: none"> Follow-up of Standards Liaison with ESCB, ECB, BSC, CEBS, G30 Liaison with CESAME T2S CCPS and warehouse
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5.3 List of CESR Members



CESR Members at the 39th plenary in Paris, on 1 February 2010 (Photo taken by Patrick Bartholomeco, CESR Secretariat).



COMMISSION BANCAIRE, FINANCIÈRE ET DES ASSURANCES / COMMISSIE VOOR HET BANK-, FINANCIE- EN ASSURANTIEWEZEN / KOMMISSION FÜR DAS BANK, FINANZ- UND VERSICHERUNGSWESEN

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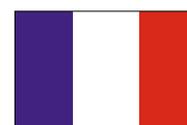
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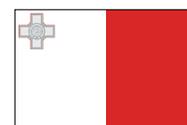
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