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### Press Release

#### **CESR proposes how to ensure consistent application of EU legislation (Level 3 under the Lamfalussy process)**

CESR launches today a consultation paper (Ref. CESR/04-104b) seeking to engage market participants, consumers and end-users of financial services regulation in a discussion to establish how regulators can fully play their part in ensuring firstly, that there is greater consistency across Europe in the process of implementation (where CESR Members contribute towards the local transposition of European financial services legislation in their Member States). And secondly, to establish greater EU-wide convergence through the application of this legislation (that is undertaken on a day-to-day basis through the exercise of their supervisory tasks).

As the European Union reaches the final stages of an ambitious programme to modernise Europe's Financial Services Legislation, with the ultimate goal of ensuring the single market in financial services is realised, the ability of regulators to fulfil their part in working towards the realisation of this objective becomes more critical. Particularly, as consumers will need to be sure that they receive equivalent levels of protection across Europe and companies will need to know what they can expect in terms of regulation and that there is a level playing field across Europe.

The role of regulators in working towards the realisation of this objective was recognised by a Group of 'Wise Men' who proposed in June 2001 a new legislative approach for the revision of Europe's securities legislation, at the request of the Europe's Finance Ministers and which following approval by the European Parliament was introduced into the European Union's decision making processes. This established what is commonly known as the 'Lamfalussy Process'. This created a four level approach to the application of EU Financial Services legislation and established a role for CESR members to contribute to this legislative process both, in what is known as Level 2 of this process, where regulators are asked by the European Commission to provide advice during the development of EU legislation (known as technical implementing measures). And, in Level 3, which concerns a strengthened co-operation between (national) regulators to ensure consistent and equivalent transposition of Level 1 and Level 2 legislation. The Lamfalussy framework envisaged an active role for CESR in the field of common and uniform implementation of EU legislation.

In particular, the Lamfalussy Report defined the role of CESR under the Level 3 as follows:

- To produce consistent guidelines for the administrative regulations to be adopted at the national level;
- To issue joint interpretative recommendations and set common standards regarding matters not covered by EU legislation – where necessary, these could be adopted into Community law through a level 2 procedure;
- To compare and review regulatory practices to ensure effective enforcement throughout the Union and define best practice.

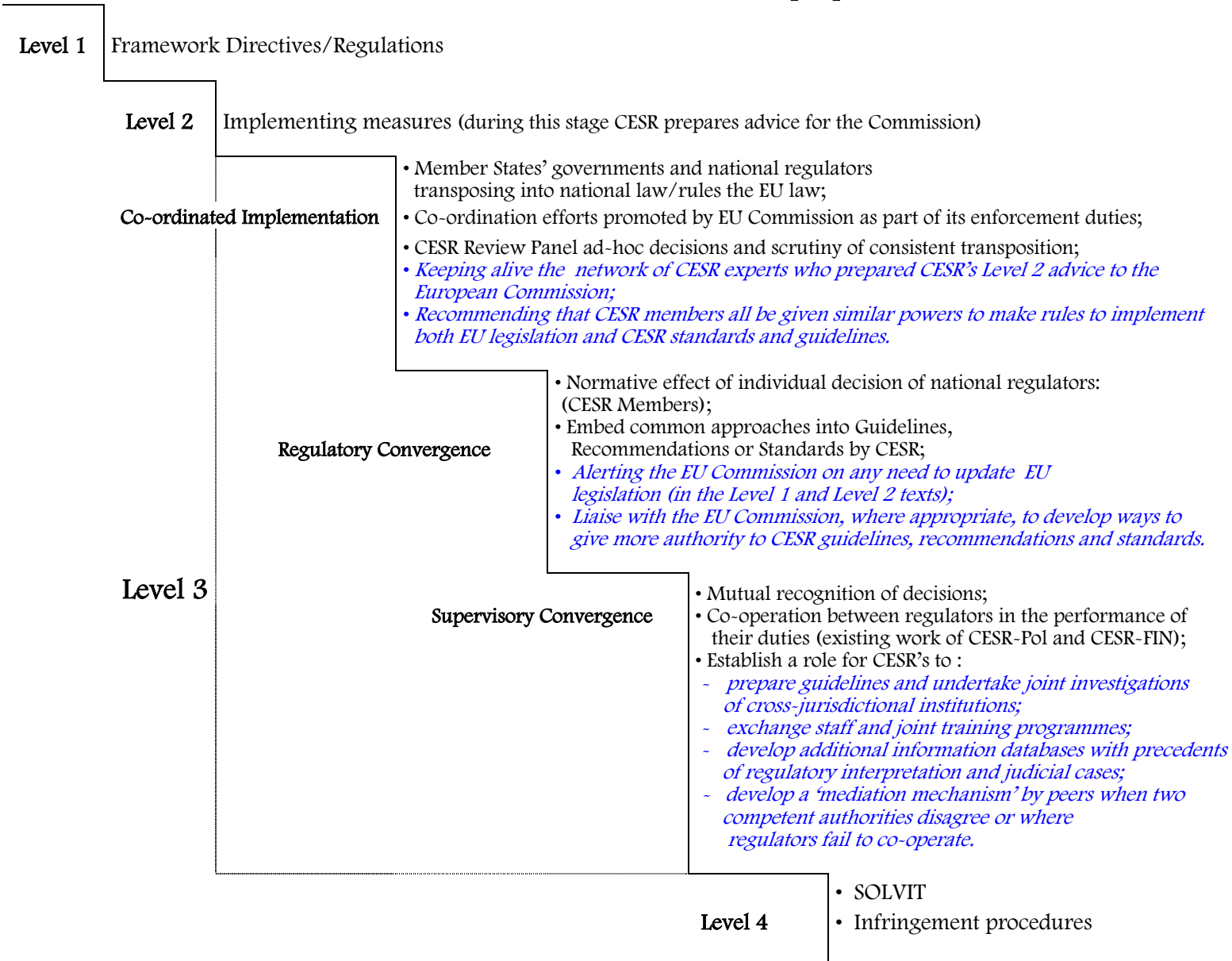
This paper explores how CESR members might fully exercise their responsibilities within the four level framework and establishes a number of proposals on how it can develop its role in Level 3 further whilst also recognising the need for CESR to co-ordinate its execution of this role with other key players such as the Member States, responsible for transposition of EU law into national legislation and, the role of the European Commission as 'Guardian of the Treaties', whose function includes enforcing by law any failure to implement legislation (Article 226 of the Treaty) under Level 4 of the legislative framework.

At present, CESR is working towards the fulfilment of this objective by producing administrative guidelines, interpretative recommendations, common standards, peer reviews, comparisons of regulatory practice to improve consistent application and enforcement of EU legislation or the CESR standards concerned. These existing Level 3 functions fall into three categories and the consultation paper sets out examples of work undertaken in each of these modes: the first being, co-ordinated implementation of EU law, the second includes regulatory convergence and the third includes supervisory convergence.



The diagram below summarises CESR's existing work under Level 3 and includes the recommendations for discussion in italics:

### Level 3 Framework in context and new proposals (in italics)



Responses to the consultation are requested by 1 June 2003 and can be submitted directly to CESR through our new web site (at [www.cesr-eu.org](http://www.cesr-eu.org)) under the section 'consultations'. CESR would also welcome interested parties to attend a hearing at our offices in Paris on 11 May, 2004. To book please visit the CESR website and go to hearings.



## Note to Editors

1. CESR is an independent Committee of European Securities Regulators. The role of the Committee is to:
  - Improve co-ordination among securities regulators;
  - Act as an advisory group to assist the EU Commission, in particular in its preparation of draft implementing measures in the field of securities;
  - Work to ensure more consistent and timely day-to-day implementation of community legislation in the Member States;
  - The Committee was established under the terms of the European Commission's decision of 6 June 2001 (2001/1501/EC).

It is one of the two committees envisaged in the Final Report of the group of Wise Men on the regulation of European securities markets, chaired by Baron Alexandre Lamfalussy. The report itself was endorsed by the European Council and the European Parliament. The relevant documents are available on CESR's website.

2. Each Member State of the European Union has one member on the Committee. The members are nominated by the Member States and are the Heads of the national public authorities competent in the field of securities. The European Commission has nominated the Director General of the DG Market, as its representative. Furthermore, the securities authorities of Norway and Iceland are also represented at a senior level. The following nine Authorities of the Accession Countries have joined CESR with observer status: the Cyprus Securities and Exchange Commission, the Czech Securities Commission, the Estonian Financial Supervision Authority, the Hungarian Financial Supervisory Authority, the Latvian Financial and Capital Market Commission, the Lithuanian Securities Commission, the Malta Financial Services Authority, the Slovakian Financial Market Authority and the Slovenian Securities Market Agency.
3. The Lamfalussy process defines a four level approach which can be summarised very briefly as follows: Level one sets out the high level objectives that the legislation must achieve, through Regulations or Directives adopted in co-decision by the European Parliament and the Council of Ministers. Level two measures, adopted by the European Commission, set out technical requirements necessary to implement level one provisions where foreseen. Level three is intended to ensure common and uniform implementation by the use of common standards, recommendations or guidance agreed amongst regulators in CESR. Level four concerns the enforcement of EU legislation. Page 8 of the Lamfalussy report illustrates diagrammatically how these four levels fit together. It is included as Annex A of the consultation paper on page 11.

4. For further information please contact:

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