



Date: 30 October 2003

Ref.: CESR/03-383

## Press Release

### **CESR BEGINS PREPARATIONS FOR NEW ROLE IN THE REGULATION OF ASSET MANAGEMENT AND UNIT COLLECTIVE INVESTMENT SCHEMES (UCITS)**

CESR's consultation paper set out today how it proposes to prepare for its new role in the regulation of Asset Management and Unit Collective Investment Schemes (UCITS) in Europe. This also includes establishing how European securities regulators will work until these responsibilities are transferred to CESR from the UCITS Contact Committee established by the Commission and includes specific areas where it proposes to begin work.

CESR's consultation paper follows the decision of the ECOFIN Council on 3 December 2002 and anticipates the proposal for a Directive by the Commission. This Directive will bring into being the extension of the 'Lamfalussy procedure' to other sectors as agreed at ECOFIN and will include the transfer of UCITS responsibilities to the European Securities Committee and to CESR. At present regulatory issues related to collective portfolio management are considered by the UCITS Contact Committee established by the European Commission. In the meantime, CESR was invited to attend the UCITS Contact Committee, and already attends in an observer capacity.

Securities regulation and supervision has traditionally included within its scope the regulation of collective investment schemes, therefore, all CESR members are also the competent authorities responsible for implementing the UCITS Directive. For this reason, the effect of bringing UCITS within the ambit of CESR represents a rationalisation of the new regulatory structure for European financial services established under the Lamfalussy process. This will also ensure that regulators are better placed to ensure the rights and obligations of the securities industry on both the 'sell side' and 'buy side' (including both individual and collective asset management) are managed coherently on EU wide basis.

CESR sets out the three principles that will underpin its work in this area until it formally receives responsibility for providing advice to the Commission for portfolio management activities from the European Union.

These principles include the commitment that:

- Any future work done by CESR regarding UCITS would have to be conducted in full coherence with the EU institutional framework.
- CESR should take in a global vision of the so-called "buy side", and not limit its activities to investment funds.
- Account should be taken of the outcome of work already done by the International Organisation of Securities Commissions (IOSCO).

CESR proposes four priority work streams and sets out what each of these streams of work might include as follows:

- i. Areas where supervisory convergence should be achieved, such as:
  - Elaboration of common supervisory techniques by exchanging experiences and developing standards regarding, in particular, risk management, marketing policy, fee structures, and conflicts of interest
  - Co-operation between competent authorities concerning Asset Management companies being active in several Member States
  - New activities in the UCITS sector (e.g. distribution techniques)
  - Collection of data by supervisors



- ii. Areas where input to ensure the harmonized implementation of the UCITS Directive could be provided to the UCITS Contact Committee, ideally on its request. In relation for example to:
  - Depositories
  - Outsourcing/delegation of functions
  - Scope of the passport of asset management companies
  - Use of indexes
  - Money-market instruments
- iii. Areas not harmonised at EU level but where a common approach by regulators is necessary :
  - Non-harmonised Collective Investment Schemes (such as real-estate funds, and possibly private-equity funds)
  - Hedge funds
- iv. Areas where consistency with other EU Directives are needed:
  - Investment Services Directive (ISD) – passport issues, conduct of business rules (regarding for example, best execution and conflicts of interest);
  - International Accounting Standards (IAS) – in particular its impact on listed UCITS, consolidation and the scope of application;
  - Distance Marketing Directive
  - E-Commerce Directive

In order to accomplish these new tasks CESR proposes the establishment of a Consultative Working Group of market participants in the sector which will include practitioners, consumers and end-users. The role of this consultative working group would be to provide technical expertise to the provisional Expert Group and to express an opinion on the proposed priorities of the Expert Group.

All interested parties are invited to comment on this consultation paper by 1 December and to attend an open hearing at CESR's offices in Paris on 20 November 2003.



## Notes for Editors:

1. CESR is an independent Committee of European Securities Regulators. The role of the Committee is to:
  - Improve co-ordination among securities regulators;
  - Act as an advisory group to assist the EU Commission, in particular in its preparation of draft implementing measures in the field of securities;
  - 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. Baron Alexandre Lamfalussy chaired this group. The report itself was endorsed by the European Council and the European Parliament. The relevant documents are available on the CESR website.
2. Each Member State of the European Union has one member 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. The following eight Authorities of the Candidate Countries joined CESR in 2003 with observer status: the Cyprus Securities and Exchange Commission, the Czech Securities Commission, the Estonian Financial Supervision Authority, the Hungarian Financial Supervisory Authority, the Lithuanian Securities Commission, the Malta Financial Services Authority, the Slovakian Financial Market Authority and the Slovenian Securities Market Agency.
3. The UCITS Contact Committee has been set up by the European Commission on the basis of Article 53 of the UCITS Directive (85/611/EC). Its original functions were:
  - to facilitate the harmonised implementation of the Directive;
  - to facilitate consultation between Member States on more rigorous requirements;
  - to advise the Commission on additions or amendments to the Directive

The Committee has been recently empowered with new "regulatory" powers (Article 53a), introduced by the Directive 2001/108/EEC. Comitology is sought to assist the Commission "in regard to technical modifications" to be made to the Directive in the following areas:

- clarification of the definitions;
- alignment of terminology.

In accordance with Article 53a(3), the rules of procedure (the same for the European Securities Committee, ESC) for the exercise of implementing powers conferred on the Commission have been approved by the Committee.

4. For further information please contact:

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