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PRESS RELEASE

CESR STARTS WORK ON COMMISSION PROVISIONAL MANDATES ON THE NEW INVESTMENT SERVICES DIRECTIVE – THE FINANCIAL INSTRUMENTS MARKETS (FIM) DIRECTIVE

The European Commission published today its first set of provisional mandates requesting CESR's advice on possible technical measures to implement the proposed Financial Instruments Markets Directive (FIM) which will revise the existing Investment Services Directive (ISD). The decision to revise the ISD, originally adopted in 1993, reflects common agreement that structural changes in EU financial markets requires legislation to be adapted in order to advance integration of the single market in financial services. The FIM will form the cornerstone of the EU's securities regulatory regime, and is intended to deliver an effective 'single passport' allowing investment firms to operate across Europe.

The new Directive, once agreed, will for example broaden the range of investment services for which authorisation is required under the existing ISD Directive; clarify and expand the list of financial instruments that may be traded on regulated markets and between investment firms; it will also introduce rules on the provision of investment advice and conflicts of interest. Standards for regulated markets and multilateral trading facilities will be included, as well as new rules on handling client orders. The European Parliament adopted its position at first reading on the proposed FIM Directive on 25 September 2003, and the European Council reached a common position on the proposal on 8 December 2003.

The EU Commission's provisional mandates, published today by CESR (under the cover note Ref. CESR/04-021), request CESR to submit its advice on the appropriate measures to implement the Directive by 31 January 2005. CESR therefore announces a call for evidence from interested parties on all the provisional mandates issued, sets out how it intends to structure its own expert working groups to deliver the advice requested by the European Commission, and provides a timetable for the work and the consultation process. In addition, CESR announces the formation of a specific Consultative Working Group. A second set of mandates from the European Commission is likely to follow after the final adoption of the Directive.

• **Call for evidence**

Under these mandates, CESR has undertaken to consult widely all interested parties according to the principles set out in the Final Report of the Committee of Wise Men and as set out in our Public Statement on Consultation Practices (Ref.CESR 01-007c). The first step in CESR's consultation process begins today with the launch of a call for evidence from all interested parties. Views from Market Participants on any or particular parts of the mandates are welcomed by 19 February 2004. These can be addressed to the Secretary General, Mr Fabrice Demarigny, at the CESR Secretariat (email address: secretariat@europesefco.org).

• **The structure of CESR's expert working groups**

CESR announces the establishment of three ISD Expert Groups:

- **Expert Group on Markets:** This expert group will be chaired by Mr Jacob Kaptein (Commissioner at the Dutch securities regulator, the Netherlands Authority for Financial Markets [Autoriteit Financiële Markten]). This expert group will cover the provisional mandates relating to: the admission of financial instruments to trading; pre-trade transparency requirements for multilateral trading facilities (MTFs) and regulated markets; post-trade transparency requirements for MTFs and regulated markets; post-trade disclosure by investment firms.



- **Expert Group on intermediaries' issues:** The expert group will be chaired by Mr Callum McCarthy (Chairman of the UK's Financial Regulator, The Financial Services Authority [FSA]). This expert group will cover the provisional mandates related to: organisational requirements; conflicts of interest; conduct of business obligations when providing investment services to clients; best execution; client order handling rules, with particular regard to prompt, fair and expeditious execution of client orders.
- **Expert Group on cooperation and enforcement issues:** This expert group will be chaired by Mr Michel Prada (President of the French Securities Regulator, the Autorité des Marchés Financiers [AMF]). This will cover the provisional mandates related to: transaction reporting, co-operation between competent authorities and exchange of information.

A steering group has also been established to consider horizontal issues and to ensure overall consistency in the advice prepared by each expert group. This will be composed of the three chairmen of the experts groups and chaired by CESR's Chairman, Arthur Docters Van Leeuwen.

Additionally, CESR publishes today with the mandates the key milestones in CESR's work programme for this Directive (Ref. CESR/04-021) which includes an indicative consultative timetable.

The formation of an ISD Consultative Working Group

A consultative group of market participants has also been appointed to provide technical advice to the expert groups. The market participants are experts drawn from across the European Markets. They are not intended to represent national or a specific firms' interest and do not replace the important process of full consultation with all market participants.

The following 23 external experts form the Consultative Working Group:

Dr Heiko Beck, General Counsel DekaBank Deutsche Girozentrale

Dr Michele Calzolari, Chairman of Assosim and CEO of BIPIELLE SIM

Mr Jean-François Conil-Lacoste, CEO of Powernext SA

Mr Henri de Crouy-Chanel, Administrateur Délégué of Aurea Finance Company

Mr Peter De Proft, Member of the Executive Committee of the Bank Nagelmackers

Mr Mark Harding, Group General Counsel of Barclays Bank Plc

Mr Brian Healy, Director of Trading of the Irish Stock Exchange

Mr Henrik Hjortshøj-Nielsen, Senior vice president Nykredit

Mrs Marianne Kager, Chief Economist of Bank Austria

Mr Socrates Lazaridis, Vice-President of the Athens Stock Exchange

Mr Jacques Levy-Morelle, Secretary General of Solvay SA

Ms Louise McBride, Research Journalist Consumers Association of Ireland

Mr Gyorgy Mohai, Advisor to the Budapest Stock Exchange

Mr Peter Norman, Executive President of Sjunde AP-fonden

Mr Anthony Orsatelli, CEO of CDC Ixis

Mr Joao Martins Pereira, Compliance officer and Adviser to the Board of Directors of Banco Espírito Santo

Mr Frede Aas Rognlien, Chief Legal Counsel in the Association of Norwegian Stock broking Companies

Mr Roger Sanders (OBE), Joint Chairman of FSA-SBPP Deputy Chairman of the Association of Independent Financial Advisers

Dr Jochen Seitz, Senior expert for European Regulatory Affairs from Deutsche Börse Group

Mr Erik Thedéen, Deputy Director General – The Swedish National Debt Office

Mr Juan Carlos Ureta, Chairman and CEO of Renta 4

Mr Renzo Vanetti, CEO of SIA S.p.A

Mr Jan-Willem Vink, General Counsel ING Group



Notes for Editors:

1. Progress to date of the proposal to revise the Investment Services Directive is as follows: The Council adopted a common position on 8 December 2003. The Parliament is now undertaking a second reading of the text. The European Parliament's first reading was concluded on 25 September 2003.
2. The European Commission's proposals in the FIM Directive can be summarised broadly as seeking to:
 - clarify and expand the list of financial instruments that may be traded on regulated markets and between investment firms;
 - broaden the range of investment services for which authorisation is required under the Directive, notably to include the provision of investment advice, clarification of ancillary services investment firms can provide.
 - reinforce the requirement that investment firms execute orders in a way that provides best result for the client (often referred to as 'best execution obligations');
 - set in place new rules for handling clients' orders;
 - set requirements for managing conflicts of interest
 - clarify standards for regulated markets and MTFs;
 - enhance the principles for co-operation between competent authorities.
3. The provisional mandates submitted to CESR assist the Commission to prepare its 'Implementing Measures' which form part of the four level approach to European legislation for financial services. The four level approach was proposed in the report by the working group chaired by Baron Lamfalussy (available on the CESR website as described in para. 5). The approach can be summarised very briefly as follows: Level one measures set out the high level objectives that the legislation must achieve. Level two measures set out some of the technical requirements necessary to achieve these objectives. Level three measures are intended to ensure common and uniform implementation by the use (amongst others) of common interpretative guidance and standards agreed amongst regulators in CESR. Level four measures relate to the enforcement of the legislation.

Page 8 of the Lamfalussy report illustrates diagrammatically how these four levels of legislation fit together and the procedure to adopt these measures. The Level 2 'implementing measures' including the conditions for their adoption are described in more detail on page 31 of the report.

4. 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.
5. 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.

6. A diagram representing the key milestones for CESR's work is attached for information.
7. For further information please contact:

CESR

Fabrice Demarigny
Secretary General of CESR

Or Victoria Powell
Information Officer

Tel: +33 (0)1.58 36 43 21

Fax: +33 (0)1.58 36 43 30

Email: secretariat@europefesco.org

Web site: www.europefesco.org



Indicative CESR Work Plan for the first set of provisional mandates under the ISD2
(Extract from CESR's cover note to mandates Ref. CESR/04-021)

