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**PRESS RELEASE**

**CESR consults on its draft work programme for MiFID Level 3 work  
~ Ensuring convergence amongst supervisors**

Following the European Securities Committee and EU Parliament approval of the draft MiFID Level 2 implementing measures, CESR is now shifting its attention to ensuring that day-to-day application of the MiFID, which is due to be transposed by Member States by January 2007 and will apply by November 2007, takes place in a convergent manner amongst supervisors across Europe.

Today's announcement by CESR launches a consultation on the details of CESR's work programme for a new MiFID 'Level 3' Expert Group, and provides all market stakeholders with the opportunity to indicate where they would find CESR guidance and consistency amongst supervisors, particularly helpful. Comments are welcomed by 11 September 2006 and can be submitted on CESR's website (as is the usual practice under 'consultations'). The full work programme (Ref. CESR/06-413) is available in the section Consultations on CESR's website, or via the following link: <http://www.cesr.eu/index.php?docid=3884>.

Briefly, CESR has identified four categories of issues of 'Level 3' work under MiFID, on which it could be helpful for supervisors to ensure convergence in their practices, these include:

- Technical issues of operational importance where consistent implementation of the Level 1 and Level 2 legislative texts need to be achieved *before their implementation* to provide market participants with pan European strategies with greater certainty. These issues largely relate to the functioning of the passport of investment firms and regulated markets. Areas of work are proposed for consultation in the work programme (set out in page 7-9) but include for example amongst others, calculations relating to market transparency (such as the definition of liquid shares and "block sizes") and publication and consolidation of market transparency information.
- Other issues of a technical and operational nature, aimed at ensuring a convergent implementation of MiFID, not all necessarily to be tackled before the date of implementation of the new legislative framework. Amongst others, priority is given in the work programme to 'Best execution' where for example, it may be considered useful to develop a convergent view amongst supervisors on, the best execution requirement for non-equity markets in particular and, clarifying interpretations of the execution performance which is also identified.
- Work to foster greater cross-sector convergence is also proposed and will be conducted with CEBS and CEIOPS. Examples of such work include outsourcing and a review of internal governance of intermediaries to ensure there is no unnecessary duplication. This joint work is set out in page 6 of the work programme.
- A number of reports or reviews are also anticipated in the MiFID legislative texts for example, a review of the possible extension of the pre- and post-trade transparency regime to transactions in classes of financial instruments other than shares. A comprehensive list of these reports and reviews are set out in the work programme on page 5. It is very likely that CESR will be asked to advise the European Commission on a number of these.



The criteria to select work that will fall under each category of the MiFID work programme has been determined by CESR on the basis of broader criteria developed by CESR in establishing its work priorities. These broader criteria for CESR work are described in a report by CESR to the Financial Services Committee (FSC), also published today (Ref: CESR/06-259b paragraph 5 page 2). A copy of the report is available on the CESR's website (and can be found using the document reference number with the search facility or in news). The 2006 Supervisory Convergence Report sets out the 'tests' CESR will apply to undertaking further work in any area and the principles established in this report apply to the MiFID and should therefore be taken into account by market participants if they wish to propose any further priorities in response to this consultation.

In the light of the changing emphasis of CESR's work on MiFID, which is now focused on ensuring a seamless application in the day-to-day practice of the rules across Europe by CESR Members rather than providing technical advice on implementing measures, CESR has decided to dissolve the previous three Expert Groups and its MiFID Steering Group which prepared and submitted its Level 2 technical advice on implementing measures. In its place, CESR has established a new single 'MiFID Level 3 Expert Group' that will undertake work to deliver supervisory convergence in the day-to-day application of the legislation (i.e. Level 3). This group will be chaired by Arthur Philippe, Director and member of the Management Board at the Commission de Surveillance du Secteur Financier, Luxembourg's securities supervisor. The secretariats' rapporteur of this group will be Carlo Comporti, Deputy to the Secretary General at CESR and Director of Markets and Intermediaries.

There will be two working sub-groups reporting to the MiFID Level 3 Expert Group:

- the 'Intermediaries sub-group', chaired by Antonio Carrascosa, Director General at the Comision Nacional del Mercado de Valores (CNMV), Spain's securities supervisor. The rapporteur of the 'intermediaries sub-group' will be Diego Escanero, Senior Officer at CESR Secretariat;
- the 'Markets sub-group', chaired by Hans Wolters, Head of Policy at the Autoriteit Financiële Markten, Holland's securities supervisor. The rapporteur of the 'markets sub-group' will be Jari Virta, Senior Officer at CESR Secretariat.

The MiFID 'Level 3' Expert Group aims to facilitate a smooth and consistent implementation of the new regime. In addition, to the proposed work programme which is developed for this purpose, the MiFID Expert Group will also foster supervisory convergence by providing a close network of colleagues which will enable Members to seek each others advice and share their experience in respect to operational issues arising out of the implementation of MiFID, where it is necessary to address certain issues at a European level.

As is often the practice, CESR will form a MiFID Consultative Working Group which will draw together technical experts from the markets and types of firms affected to provide advice on the technical practicalities of the guidance developed under the work programme. Its composition will be made public on CESR's web page. The members of the group are proposed by the each CESR members and the final list of experts is developed to ensure practical technical experience of each area for work proposed in the work programme is included.



## Notes for Editors:

### 1. **Biography details of the newly elected Chairmen of the MiFID Level 3 Expert Group:**

Mr Arthur Philippe is Directeur and member of the Management Board at the Commission de Surveillance du Secteur Financier (since 1999). Prior to this, he held the following posts:

- 1974 to 1983 : worked for the Commissariat au Contrôle des Banques;
- 1983 to 1998: worked for the Institut Monétaire Luxembourgeois where he was Secretary to the Board;
- 1998: member of the Management Board of Banque Centrale du Luxembourg.

Mr Philippe is a University Graduate in Economics from the University of Louvain, Belgium. His other functions are member of CESR, member of CEBS, former member of EU Financial Services Policy Group, former member of EU Banking Advisory Committee, former member of Basle Committee of Banking Supervision, former Chairman of EU Contact Group of Banking Supervisors.

### 2. **CESR's report on supervisory convergence:** This consists of a yearly report to the FSC and provides Finance Ministers and the EU Institutions with a formal update focused specifically on CESR's efforts to deliver supervisory convergence. The report also highlights and alerts the EU institutions and those to whom CESR is accountable of any challenges that have been identified which may hinder progress in delivering greater convergence.

### 3. **The Four Level Lamfalussy Process – in summary:** The work that CESR is carrying out in this capacity forms 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 6 of the Lamfalussy report illustrates diagrammatically how these four levels of legislation fit together and the procedure to adopt these measures. The Level 3 'strengthened co-operation between regulators to improve implementation' including the conditions for their adoption are described in more detail on page 37 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. From 1st January 2006, the securities supervisors of Romania and Bulgaria attend CESR meetings as observers.

### 6. For further information please contact:

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