

REPORT 1999-2000

FESCO



THE FORUM OF EUROPEAN
SECURITIES COMMISSIONS





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FOREWORD BY THE CHAIRMAN OF FESCO

**Georg Wittich,
Chairman of the Bundesaufsichtsamt für den Wertpapierhandel (BAWe), Germany**

Since its foundation towards the end of 1997, the Forum of European Securities Commissions has contributed significantly to the integration of the European single market in the area of financial services. The driving forces behind the work of FESCO, our efforts and successes are described in detail in this annual report.

In this decisive phase where market and regulatory structures alike are under review, FESCO has provided the European lawmakers with important contributions to the future structure of European regulation, which is based on enhanced regulatory co-operation. Through a number of agreed regulatory standards, adopted after extensive consultation of the market participants, we have furthermore demonstrated that regulators acting in concert can achieve results rapidly and efficiently.

Most importantly, these regulatory standards agreed in FESCO, our “club” of national regulators, take account of the diversity within Europe, channelling this into high-quality regulation harmonised across Europe. This allows investors to safely access a wide variety of investments, regardless of where the investor or the market, the product or the service provider is located. What we are aiming to achieve now is harmonised regulation close to the markets and close to the investors, and we will seek to obtain a future regulatory framework for Europe that is suited to this commitment.

At a time when technological evolution, innovative financial products and pan-European strategies of firms, issuers, investors and exchanges are creating new challenges for regulators throughout Europe, FESCO will continue to make an active contribution to the development of European processes and assure that regulatory concerns be adequately heard and understood. We will also continue to strive for maximum harmonisation of regulation and regulatory practices under the existing legal framework.

ORGANISATION CHART

Chairman	Georg Wittich (BAWE)	
Participants	The Chairs of 17 statutory securities commissions of the EEA	
Observers	EU Commission + Chairman of IOSCO European Regional Committee	
Secretary General	Fabrice Demarigny	
Secretariat	Christoph Crüwell, Frank Dankers, Ester Martínez and Nigel Phipps	
Expert group on European Public Offers	Expert group on Standards for Investor Protection	Expert group on Market Abuse
Chairman: Salvatore Bragantini (CONSOB) Rapporteur: Nigel Phipps	Chairman: Jacob Kaptein (STE) Rapporteur: Ester Martínez	Chairman: Stavros Thomadakis (CMC) Rapporteur: Nigel Phipps
Expert group on Primary Market Practices	Expert group on Alternative Trading Systems	Expert group on Accounting
Chairman: Kaarlo Jännäri (Rahoitustarkastus) Rapporteur: Christoph Crüwell	Chairman: Howard Davies (UK FSA) Rapporteur: Frank Dankers	Chairman: Henrik Bjerre-Nielsen (Finanstilsynet) Rapporteur: Frank Dankers
FESCOPOL	Chairman: Dan Waters (UK FSA)	Rapporteur: Christoph Crüwell



SUMMARY OF OUTPUTS - CALENDAR OF EVENTS

FESCO since January 1999

(check the website for any documents: www.europefesco.org)

January - 1999	Fourth Meeting of FESCO Chairmen
February	Multilateral Memorandum of Understanding on the Exchange of Information and Surveillance signed and published
April	<ul style="list-style-type: none">- Fifth Meeting of FESCO Chairmen- Standards on Fitness and Propriety to provide Investment Services (99-FESCO-A) adopted- Market Conduct Standards for Participants in an offering (99-FESCO-B) out for consultation
May	First meeting of the FESCO Expert Group on European Public Offers
June	Standards for Regulated Markets (99-FESCO-C) issued for consultation
September	<ul style="list-style-type: none">- Sixth Meeting of FESCO Chairmen- Market Conduct Standards for Participants in an offering (99-FESCO-B) issued for consultation
October	<ul style="list-style-type: none">- First meeting of the FESCO Expert Group on Market Abuse- FESCO invited to send observers to the EU Commission's industry practitioners Forum Groups
November	<ul style="list-style-type: none">- Categorisation of investors for the purpose of conduct of business rules (99-FESCO-A) issued for consultation- First meeting of the FESCO Expert Group on Primary Market Practices- First meeting of the FESCO Expert Group on Alternative Trading Systems- Ad Hoc workshop on Exchange Alliances
December	<ul style="list-style-type: none">- Seventh Meeting of FESCO Chairmen- Market Conduct Standards for Participants in an offering (FESCO-99-B) published- Standards for Regulated Markets (99-FESCO-C) published



January - 2000	<ul style="list-style-type: none">- FESCO website launched – www.europefesco.org- FESCO internal directory of contacts issued to members of FESCO
February	<ul style="list-style-type: none">- First participation of the Chairman of FESCO in the Financial Services Policy Group (FSPG)- Eighth Meeting of FESCO Chairmen- Categorisation of investors for the purpose of conduct of business rules (00-FESCO-A) adopted and published- FESCO hosted a workshop on Alternative Trading Systems- First participation of the Secretary General in the High Level Securities Supervisors Committee (HLSSC)
March/April	Cross-Sectoral Round Table of European Regulators launched with the participation of FESCO
May	<ul style="list-style-type: none">- Ninth Meeting of FESCO Chairmen- FESCO letter responding to the SEC's concept release on accounting- A passport for issuers (ref. Fesco/99-098e) out for consultation
September	<ul style="list-style-type: none">- Tenth meeting of FESCO Chairmen- The regulation of Alternative Trading Systems in Europe (ref. Fesco/00-064c) published and sent to the EU Commission and the European Parliament- A European regime against Market Abuse (ref. Fesco/99-096l) published and sent to the EU Commission and the European Parliament- Creation of an Expert Group on Accounting- Stabilisation and allotment: a European supervisory approach (ref. Fesco/00-99b) out for consultation- Status of implementation of the Standards for Participants in an Offering (99-FESCO-B) and the Standards for Regulated Markets (99-FESCO-C) in FESCO members respective jurisdictions published- Participation of the Secretary General in the HLSSC
October	The Chairman of FESCO appears in front of the Committee on the Regulation of European Securities Regulation (Committee of Wise Men, chaired by Mr. Alexandre Lamfalussy).



SIGNIFICANT DEVELOPMENTS IN THE SECURITIES MARKET

The past year has seen high levels of activity in securities markets within the EEA, together with continuing developments in the evolution of market structure.

High levels of market activity Many EEA markets experienced record transaction levels in 1999, as well as a +35% increase on average of the stock indexes in the EU. This was very much in line with global trends, with market activity benefiting from both the full recovery in confidence following the Russian debt and LTCM crises in the second half of the previous year and the continuing favourable economic background of higher than expected growth (2,9%) and low inflation. Most European markets also benefited significantly from the introduction of the Euro in January 1999. The resultant lowering of transaction costs and extensive rebalancing of investment portfolios proved powerful drivers of trading activity.

Bond markets and the coming of age of Euro denominated debt

The redenomination of debt issues among member states adopting the Euro proceeded smoothly, creating a bond market in euro-denominated debt of an estimated 450 billions. 19,7% of which are “corporate issues” and 30% are non Euro zone issuers. In 1999, euro-denominated corporate debt represented 40% of all international debt issues.

A notable feature of the new marketplace is the increasing use of screen-based trading systems for trading euro-denominated bonds, particularly government bonds. A number of additional trading systems are in prospect during the course of 2000. The development of a more integrated market in euro-denominated bonds has also given a major boost to repo activity. This has been further facilitated by the development of repo trading facilities and the provision by a number of clearing organisations of repo clearing facilities.

Equities

Equity markets continued to push into new high ground, benefiting from the favourable economic background and continuing buoyancy in equity markets globally (30% Market capitalisation increased in average in 1999) with 1193 new listed companies (+28%). In addition, market volumes were driven higher by a number of more specific factors. These included:

- the surge in demand, particularly towards the end of the year, for ‘technology’ stocks;
- a high level of merger activity as the process of industry rationalisation continued both within member states and across borders;
- extensive reweighting of portfolios as investors moved from country to sectoral approaches within the EU and increased equity weighting in sectors expected to gain most from the Euro;
- a significant increase in retail investing activity, particularly as a result of the wider availability, and investor interest, in on-line trading facilities.

From a regulatory viewpoint, market developments have posed several concerns. Regulators have been particularly concerned to ensure that private investors are as fully aware as possible of the risks involved in ‘day trading’, of rapidly rising markets in general and of technology stocks in particular, and of over-borrowing for investment purposes.

Market organisation

Trading platforms – the search for efficiency

The introduction of the euro and the creation of a potentially homogenous market in euro-denominated securities added urgency to the process of developing efficient trading arrangements for this market. Many market users and participants pressed hard for the development of more unified ways of trading, clearing and settling euro-securities.

In equity markets, the leading national exchanges continued to explore ways of developing these services. Last year eight exchanges embarked on a programme to harmonise trading hours and in September announced their intention of introducing common order-book functionality and harmonised rulebooks. In March 2000 was announced the creation of EURONEXT (Paris, Amsterdam, Brussels). Plans for other platforms to trade European equities have been announced by the Swiss exchange and Tradepoint, a UK-based exchange and Jiway, a joint venture of OM Gruppen and Morgan Stanley International.

A further feature of market development over the year has been the announcement by several major exchanges to alter their ownership structures and to develop as "for profit" providers of market services. This trend for exchanges to develop as commercial enterprises outside mutual structures has raised a number of regulatory issues. Regulators have needed to consider, in particular, whether increased conflicts of interest may arise between the commercial interests and regulatory responsibilities of exchanges and, if so, how this should be best addressed.

*Clearing and settlement –
a search for cost savings*

The moves towards developing more integrated trading of Euro-securities has been accompanied by parallel moves to provide more integrated systems for the clearing and settlement of cross-border transactions in the EU – an area where it is generally recognised that considerable cost reductions can be achieved.

Deutsche Börse Clearing and Cedel International combined to form Clearstream and Euroclear announced a strategic alliance with Sicovam. Moves are also a foot to develop a central counterparty for Europe's markets.

*Firms are not standing
still*

And Europe's financial firms have not been slow to respond to these market opportunities. Within and beyond the Eurozone, consolidation both sectorally and cross-sectorally has been gathering pace at a national level with clear indications of cross-border activity as well.

Regulators

For Europe's securities regulators, the objective is not to pre-judge where all these market developments are heading to but to ensure that, in the face of massive change, investors do not lose the protections that they can rightly expect to receive from the regulatory system. At the same time, barriers that stand in the way of cross-border investments must be removed. FESCO is the vehicle chosen by Securities regulators to work on those priority areas that require a common European response – market standards, conduct of business rules, market abuse, primary market issues, including a passport for issuers, and information sharing. Much of this work is being undertaken in the context of the EU's Action Plan for Financial Services (COM(1999)232).



FESCO – A SNAPSHOT

FESCO was set up by Charter in December 1997 by 17 statutory Securities Commissions of the member States of the European Economic Area (EEA).

What does it do?

Through its expert groups:

- FESCO develops standards that flesh out high level principles that exist in European directives (e.g. standards for regulated markets);
- FESCO provides regulatory input to the EU Commission on priorities set out in the EU Action Plan for Financial Services (e.g. the categorisation of investors, the single passport for issuers).

FESCO also provides:

- A high level forum for the Chairmen of the Securities Commissions to develop a common regulatory understanding in the face of the rapid developments occurring in Europe's financial markets;
- A specialist forum – FESCOPOL – for senior enforcement officials to strengthen cross border co-operation.

How does it work?

The work of FESCO is done through:

- Regular meetings of the Chairmen (usually four a year);
- A Secretariat based in Paris with a Secretary General and four other Officers all drawn from different FESCO members and working for FESCO but based at their home Commission;
- Expert groups working to specific mandates agreed by the Chairmen. Each group is staffed by experts from the member Commissions and is led by a chair from one of those Commissions. Once the mandate is completed, the group is dissolved.

FESCO seeks to involve the relevant parties through:

- A transparent process. Before adoption of any standards, FESCO will consult appropriate banking and insurance regulators, industry associations, and consumer associations both at a national and European level;
- The participation of EU Commission as an observer in FESCO meetings.

THE AREAS OF ACTIVITIES

Issuers

Constrained by Europe's barriers

A central concern at the heart of the EU's Action Plan for financial services is the need to reduce the cost of capital for European companies. There are many obstacles that add to the burden on issuers when trying to access capital on a pan-European basis to fund their growth.

As part of the action plan process, FESCO has been working to play its part in reducing those burdens. There are three parts to FESCO's work in this area:

- ▶ (A) proposals for developing a single passport for issuers;
- ▶ (B) the harmonisation of stabilisation and allotment practices in Europe;
- ▶ (C) the development of a common understanding of the role issuers can play in maintaining market integrity.

A – The single passport for issuers

A benefit to European investors

In an expert group chaired by Salvatore Bragantini, a Commissioner from Italy's CONSOB, FESCO has issued a first consultation paper on what needs to be done to develop a single passport for issuers (Fesco/99-098e). The focus in this paper is on practical steps that can be taken now together with the identification of certain amendments needed to the relevant EU Directives to facilitate the process. The key drivers of the paper are to avoid the duplication of documents, to reduce the number of national requirements and to increase access to the relevant information to all European investors. FESCO's proposals are based on extending the shelf registration system in the EU where the annual information required in a prospectus is approved and "put on the shelf". Each time a company wants to raise funds, it has to produce a "securities note" containing the key additional information in the Member State (or Member States) chosen for the capital raising exercise. All these documents can be produced in a language customary to the sphere of finance. If considered necessary, a national competent authority may ask the issuer to disclose a short summary in the relevant language. This paper will be adapted after the consultation process.



*Further work
is needed...*

In an effort to improve the ease of circulation, FESCO is encouraging the use of electronic communication facilities and exploring the possibility of incorporating documents by reference. These all form part of the further work of the group.

The ultimate aim is to establish a system of notification. If one authority has reviewed the relevant documents, these same documents become valid in another Member State subject to a simple notification procedure. Further work is being undertaken on this element.

B – A harmonised approach to stabilisation and allotment

In an expert group chaired by Kaarlo Jännäri, the Director General of the Finnish Rahoitustarkastus, FESCO has published a consultative paper with proposals on the harmonisation of stabilisation and allotment. In these areas, the group's aim was to bring together the existing diverse practices in Europe into one coherent set of standards.

*...in a market that
requires more
common rules...*

On stabilisation, the corner stones of the proposal are clear price and time limits accompanied by stringent transparency and disclosure requirements. The group has drafted standards that should be recognised by other major capital markets, thus allowing European investment services firms to operate with only one set of stabilisation rules regardless of the markets on which a particular issue is being stabilised. This demonstrates FESCO's commitment to ensure that Europe's markets are well connected internationally.

The question of allotment on the other hand is more customer oriented. Here, the group provides language that does justice to the normally diverging interests of the participants, the issuer or selling shareholder, the underwriters and the investors, both retail and institutional. The group proposes a solution which focuses on disclosure and transparency. The guiding principle is that the investor should be informed on the details of the allotment. The final objective is to adopt a "FESCO European Code on Allotment" ensuring that allotments are conducted with one single and clear set of standards across Europe.

A final paper is expected for early 2001.

C – Issuers and market integrity

...and ensures that issuers play their full part in maintaining the integrity of the markets.

The work on stabilisation and allotment complements other work being undertaken by FESCO to ensure that issuers play a full part in defending the integrity of Europe’s markets. In the paper on “Market Conduct Standards for Participants in an offering” (99-FESCO-B) issued last year, FESCO drew attention to the part played by issuers as participants in an offering in terms of information handling and trading. Currently, in a paper on Market Abuse, the role of issuers in preventing Market Abuse through the careful handling of material information is seen as a crucial preventative measure.

Markets and Alternative Trading Systems (ATS)

A valuable asset for Europe’s economy

A major objective in establishing high standards for markets is to foster public confidence in their operation. This in turn should help to ensure that the market process plays a fully effective role in serving the needs of issuers, savers and the economy more generally. The value to the economy of financial markets that command public confidence is now widely recognised. All the jurisdictions of the members of FESCO are committed to establishing regulatory standards for their markets that should help to achieve this.

As the evolution of Europe’s markets gathers pace with the placing of remote screens in other jurisdictions and the move to merge or form alliances, the regulatory framework cannot standstill. The EU concept of a regulated market – which gives markets freedom to do business throughout the EEA - needs to be supported by a better understanding amongst the regulators and the markets themselves of the standards expected of a regulated market.

Common standards in Europe...

The FESCO paper on “Standards for Regulated Markets” (99-FESCO-C) adds detail and supplements the requirements of the Investment Services Directive (93/22/EEC). The standards focus on three broad areas – the conditions for operation of the market; the conditions for access to the market; the conditions governing listing and/or admission to trading. FESCO members therefore agree that before any market can be deemed to be a regulated market, it must meet the standards set out in this paper.



*...flexible enough to
meet the changing
landscape*

Of course, market developments never stop and the growth of Alternative Trading Systems (ATS) poses another challenge to the markets themselves, the legislator and the regulator. In an Expert Group chaired by Howard Davies of the UK's FSA, FESCO has studied the impact of such systems in depth. The group has prepared a comprehensive report identifying and assessing the benefits and risks associated with the emergence of ATS and analysing the current regulatory treatment of such systems, within Europe and elsewhere. The report proposes both a short term and a long term option for a harmonised regulatory treatment of such systems in Europe. To achieve a harmonisation of regulatory standards under the short term option, this expert group will in a next step develop agreed specific regulatory standards for ATS's operating as investment firms (as opposed to those operating as regulated markets) under the terms of the current Investment Services Directive.

In preparing this paper, the expert group invited market participants (investment firms, exchanges, ATS's and consumers as well as trade and professional associations) to respond to a "request for information" followed by a workshop in London in February. FESCO has submitted this paper to the European Commission to contribute to its preparation of a Green Paper on possible ISD amendments.

And of course the landscape continues to change. The FESCO Chairmen at their meetings regularly review the market integrity issues relating to exchange alliances/mergers and clearing and settlement. For the time being these issues are handled by the Secretariat with the help of experts on an ad hoc basis. Thus at the end of last year, an ad hoc workshop was held to consider the implications of exchange alliances. The outcome, considered by the Chairmen, was to give a boost to bilateral efforts to ensure that exchange of information was working well and that a better understanding of regulatory responsibilities was developed.

Market integrity

One of FESCO's major objectives

The economic benefits of a genuine single market in financial services will quickly be dissipated if investors and other market participants begin to lose faith in the integrity of the markets. With the rapid growth of cross-border business, FESCO is working hard to combat Market Abuse and other fraudulent practices.

Preventing the misuse of material information...

As a first step, FESCO issued a paper on Market Conduct standards for participants in an offering (99-FESCO-B). The standards focus first on information dissemination issues and second on trading issues. As regards the first, FESCO wants to ensure the accuracy, completeness and fairness of material information when it is made public. And, prior to the information being made public, the internal arrangements of participants must be sufficient to prevent any misuse of that information. As regards the second, participants must do nothing which results in investors being misled as to the value of the securities being offered or which might create a false market in those securities.

...and ensuring that investors are treated fairly and not misled

A further step was taken, in an expert group chaired by Juan Fernandez-Arnesto of the Spanish CNMV, to develop a paper on what is required to develop an effective regime against Market Abuse in Europe. Market abuse involves insider dealing, market manipulation and the dissemination of false or misleading information.

The current legislative framework is incomplete

The current approaches amongst Member States are very diverse with different systems and different powers existing across the Union. Criteria vary among jurisdictions regarding concepts used to define infringements and to impose sanctions, as well as the scope of application to legal and natural persons. The range of criminal sanctions varies and many jurisdictions have few administrative sanctions available in this area, except with regard to regulated entities.

Europe needs not just criminal sanctions but also administrative sanctions

FESCO's has submitted to the EU Commission and the European Parliament the supervisors' view on how Market Abuse could be regulated on an administrative law basis that is enforced and sanctioned by an independent administrative authority. In doing so, FESCO has taken into account the international character of financial services and balanced the benefits against the costs of imposing requirements or restrictions on the markets and their participants.

As a possible scenario for the future, FESCO suggests that a “Network of Securities Regulators” acting together, with a more common base of responsibilities and powers, would be responsible for fleshing out the high-level principles set out in a directive, subject to a rigorous accountability mechanism at the European and national level. This network would also ensure the common application and enforcement of the European legislative framework against market abuse at a national level.

Under the Chairmanship of Stavros Thomadakis, Chairman of the Hellenic Capital Market Commission, the group will continue its work and draft guidance on the implementation of the Market Abuse Regime.

Other aspects of market integrity

An audit trail of market activity – transaction monitoring

Transaction monitoring is seen as a key regulatory tool in the fight against market abuse. FESCO members have completed a questionnaire on their implementation of article 20 of the ISD. It is anticipated that FESCO will undertake further work to ensure that the tool remains effective in a market with more cross-border activity.

The fair disclosure of price sensitive information

With the merger of markets, greater cross-border activity and a wider shareholding base, FESCO recognises the need to look at the existing approach to the disclosure of price sensitive information. A questionnaire for members is currently being developed to identify if there are any areas of particular concern.

A common understanding of the accounting numbers of listed entities

The EU Action Plan recognises the importance for a single market to have a single set of accounting standards at least for listed companies. For this purpose, the EU Commission has in a Communication (Com(2000)359) recognised that the International Accounting Standards (IAS) as agreed by the International Accounting Standards Committee (IASC) would be suitable for EU listed companies. FESCO is currently giving consideration to the role that securities regulators in the EU might play in the implementation and enforcement of these standards.

In September 2000, FESCO decided to create an Expert Group on Accounting, chaired by Henrik Bjerre Nielsen, Director General of the Finanstilsynet of Denmark. This group will explore both institutional and substantive issues in relation to the implementation and the enforcement of international accounting standards in the EU.

Financial intermediaries

Keeping the rotten apples out

A key protection for investors is to ensure that only fit and proper firms are permitted to act as financial intermediaries. FESCO has published the “European Standards on Fitness and Propriety to provide Investment Services” (99-FESCO-A). These standards, elaborated by an expert group chaired by Michael Deasy, from the Central Bank of Ireland, complement the principles established in the Investment Services Directive and the “post-BCCI” Directive (95/26/EEC). The objective is to prevent a firm or individual deemed not fit and proper in one Member State becoming authorised in another Member State. To achieve this, FESCO members have agreed a set of standards that will be applied when vetting the fitness and propriety of an applicant firm and the key individuals owning and running the firm.

Information needs to flow

Fitness and propriety is a continuing obligation. To ensure that, at the time of assessment and on an on-going basis, the relevant information is available to those taking the decision on fitness and propriety, FESCO is committed to facilitating information exchange. A cornerstone of this approach is the Multilateral Memorandum of Understanding on the Exchange of Information and Surveillance. Details of this MoU can be found later in this report and on the FESCO website.

Making sure Financial Intermediaries know their customer

Investor protection is also about making sure that investors get a level of protection that is appropriate to their needs. This principle is enshrined in European legislation through the Investment Services Directive. FESCO has agreed a common approach to this principle through its paper on the “Implementation of article 11 of the ISD: Categorisation of investors for the purpose of conduct of business rules” (00-FESCO-A).

This paper focuses on the criteria and procedures to implement an appropriate differentiation between categories of investors. Members of FESCO are free to implement the approach immediately. However, FESCO expects that the EU Commission will take the approach developed in this paper into account when it issues its Communication expected under the EU Action Plan.



And protecting investors through a common understanding of the conduct of business rules

While agreeing on the categorisation of investors, FESCO recognises that effective implementation is inevitably linked to developing a common approach to the conduct of business rules. This is now a priority area of work for FESCO. The work is being undertaken by a group of experts chaired by Jacob Kaptein of the Dutch STE. A provisional timetable has been established for a draft paper to be published in the first quarter of 2001. This is a demanding schedule, but FESCO recognises the importance of this work. It should provide one of the pillars on which a cross-border market in retail financial services can develop.

The work of the experts is focused on four areas: the information to be provided to customers; the information required from customers; customer agreements and documentation; dealing requirements. Once the harmonised standards are agreed, the group will then consider the extent to which individual standards are suitable for the different categories of investors identified in the first paper.

Implementation of FESCO standards

Status of the standards

The members have committed themselves either to implementing the agreements in their own jurisdiction or, where they do not have the powers to do so, to taking all necessary steps to ensure that the agreements are implemented. FESCO members are fully alive not only to the political imperative to work towards a regulatory framework that is appropriate for a single market but also to the pressure from markets and consumers to reap the benefits of a single market.

Developing a common understanding of regulatory objectives

At one level, the intensifying links between FESCO members means that a better understanding of the different objectives and principles of securities regulation is emerging. This is a first step towards a common set of objectives that in turn will reduce the incentive for marked differences in implementation.



Greater transparency as to the status of implementation

At a more practical level, FESCO aims to encourage greater transparency in the implementation of standards. Each member has agreed to complete an implementation schedule for each set of FESCO standards to highlight those standards that have still to be fully implemented in its jurisdiction. These schedules, reflecting the status of implementation in their respective jurisdiction of two sets of standards “Standards for Regulated Markets” (ref. 99-FESCO-C) and “Standards for Participants in an Offering (ref. 99-FESCO-B) are available on the FESCO website.

Enforcement

The issue

Enforcement action can only take place in one jurisdiction, as there is no single European legal space. Financial activity can take place in multiple jurisdictions with a financial intermediary in country A selling a product to a customer in country B with all the correspondence and back office activity taking place in country C.

Cross-border activity = cross-border regulatory co-operation

FESCO’s response has been to work towards creating a pan-European regulatory network to provide the broadest possible mutual assistance between the members of FESCO. The basic instrument for this co-operation has been the signing of the Multilateral Memorandum of Understanding on the Exchange of Information and Surveillance (MoU), elaborated by an Expert Group chaired by Michel Prada, Chairman of the French Commission des opérations de bourse (COB). The scope of the MOU is broad and covers most of the areas mentioned in this report namely – market integrity, market infrastructure, issuers and financial intermediaries.

Under the terms of article 8 of the MoU, a group of senior enforcement officials have been brought together within FESCOPOL. This group has the general purpose of discussing and clarifying issues of general interest arising in the co-operation between members of FESCO.

Under the terms of article 11 of the MoU, FESCO recognises that other authorities in the EEA need to be associated in the provision of mutual assistance. Since the signing of the MoU, three authorities have joined: the Bundesaufsichtsamt für das Kreditwesen of Germany; the Securities Regulation Fund of Belgium and the Banca D’Italia.



A forum for enforcement officials to meet – FESCOPOL

Building ties

The first meeting of FESCOPOL was in April 1999 under the Chairmanship of Dan Waters, the Director of Enforcement at the UK's FSA. The interaction of enforcement professionals within FESCOPOL has allowed for the development of personal ties. These ties can be put to use in informal contacts regarding specific cases.

Solving practical problems

Individual cases raise issues relating to processes between FESCO members as well as specific matters between authorities, firms and individuals. Significant progress was made in tailoring requests for information to suit both the requesting authority's needs in terms of information and the requested authority's resources in assembling the necessary information. Several members also brought to the attention of the group individuals or firms that had acted in contravention of regulatory or statutory requirements, in order to alert other members to the activities of such firms and individuals.

Issues that FESCOPOL devoted more focused attention to included relations with uncooperative jurisdictions, relations with law enforcement authorities and the interpretation of the provisions of the MOU as regards joining parties. A first review of the operation of the MOU will be undertaken by FESCOPOL in the ahead year.

FESCO MEMBERS AND CONTACTS



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