



SJ –n° 2298/Div.

Mr Fabrice Demarigny
Secretary General
Committee of European Securities
Regulators (CESR)
11-13, Avenue de Friedland
75008 Paris

Paris, 17 September 2007

AFG RESPONSE TO CESR'S QUESTIONNAIRE ON ASSESSMENT OF CESR'S ACTIVITIES BETWEEN 2001 AND 2007

Dear Mr Demarigny,

The Association Française de la Gestion financière (AFG)¹ welcomes CESR's questionnaire regarding the questionnaire on assessment of CESR's activities between 2001 and 2007.

For many years now, AFG has been actively contributing to European discussions and consultations relating to financial markets, directly and through the European Fund and Asset Management Association (EFAMA).

Therefore, regarding CESR's questionnaire, we hope our experience will be helpful for improving even further the positive role of CESR in the future.

¹ The Association Française de la Gestion financière (AFG)¹ represents the France-based investment management industry, both for collective and discretionary individual portfolio managements.

Our members include 365 management companies and 772 investment companies. They are entrepreneurial or belong to French or foreign banking or insurance groups.

AFG members are managing more than 2500 billion euros in the field of investment management, making in particular the French industry *the leader in Europe in terms of financial management location* for collective investments (with nearly 1500 billion euros managed, i.e. 22% of all EU investment funds assets under management), wherever the funds managed from France are domiciled in the EU, *and ranks second at worldwide level after the US*. In the field of collective investment, the activity of our members includes – besides UCITS – the management of employee savings schemes funds and products such as regulated hedge funds/funds of hedge funds as well as private equity funds. AFG is of course an active member of the European Fund and Asset Management Association (EFAMA) and of the European Federation for Retirement Provision (EFRP). AFG is also an active member of the International Investment Funds Association (IIFA).

Please find attached our detailed response.

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If you wish to discuss the contents of this letter with us, please contact myself at 01 44 94 94 14 (e-mail: p.bollon@afg.asso.fr), Stéphane Janin, Head of International Affairs Division, at 01 44 94 94 04 (e-mail: s.janin@afg.asso.fr) or Catherine Jasserand, Deputy Head of International Affairs Division, at 01 44 94 96 58 (e-mail: c.jasserand@afg.asso.fr).

Yours sincerely,

(signed)

Pierre Bollon

Date: July 2007
Ref: 07-460

**Questionnaire on
Assessment of CESR's activities
between 2001 and 2007**

ASSESSMENT of CESR'S ACTIVITIES BETWEEN 2001 AND 2007

Purpose

Since the establishment of CESR in September of 2001, CESR has delivered all its mandated level 2 advice in the securities field, and has also delivered level 3 measures, standards and recommendations and guidelines. CESR's work is now increasingly focused on level 3 of the Lamfalussy structure and to fostering supervisory convergence in the day-to-day application of financial regulation.

CESR "should have the confidence of the market participants" as set out in point 6 of the Stockholm Resolution. CESR now considers this an opportune time to assess the extent to which that is the case. CESR wants to know how the market rates CESR's performance to date, to see which areas for improvement the market finds and to consider whether the market believes that CESR is appropriately fulfilling its mandated obligation to involve the market in its activities. 2007 is the year in which the evaluation of the Lamfalussy process and its structures is taking place and an important component of such an evaluation is the markets view on CESR. CESR will report on the results of this questionnaire to the EU institutions within the remits of the Lamfalussy evaluation.

For an explanation of what CESR is and does, and an overview of the Lamfalussy system, please see the annex to the Press release.

Key areas of questions

The questionnaire has five sections. For each question you are asked to mark how well you think CESR has performed against a five grade scaling system. Please mark the relevant box with an X. In the event that further explanation of an answer is necessary, there is also room to do so at the end of each section.

Addressees of this questionnaire

The questionnaire is open to everyone who takes an interest in CESR's work and in particular to all market participants including consumer/retail investor representatives.

CESR has endeavoured to keep this questionnaire as short and to the point as possible, and anticipates that it should not take longer than 30 minutes to complete. CESR thanks you in advance for your time and willingness to participate in this important consultation.

Procedure

This questionnaire is open for answers until the 14th of September 2007. All responses should be posted on the CESR web-site function for responding to consultations.
<http://www.cesr.eu/index.php?page=consultation&mac=0&id=>

All responses will be made public on the CESR-web-site unless the respondent explicitly states that publication should not take place.

FIRSTLY

Please fill out the name of the respondent you represent below.

AFG- French Asset Management association
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a. Who are you?

Please indicate in which area you are active: (could be more than one):

Banking	
Insurance, Pension, Asset Management, Institutional investor	X
Legal & Accountancy	
Issuers	
Investment Services	
Investor Relations	
Government regulatory & Enforcement	
Regulated markets, Exchanges & Trading systems	
Sovereign Issuers	
Individuals or consumer association	
Credit Rating Agencies	
Press	
Others	

b. Where are you active?

Please indicate your principle area of activity geographically

In one EU/EEA member state only	In two-three EU/EEA member states	In multiple EU/EEA member states	Outside EU, with headquarter, with or without a permanent presence in the EU/EEA
X			

Section I Understanding the role of CESR

This section is meant to assess your understanding of the role of CESR.

1. How clearly do you understand CESR's objectives, (namely the role given to CESR and reflected in the Stockholm resolution, the Commission decision setting up the CESR and the CESR Charter)?

Not at all	Only a little	To a fair amount	Quite well	Very well
			X	

2. How clearly do you understand CESR's priorities?

Not at all	Only a little	To a fair amount	Quite well	Very well
			X	

3. How well do you understand the specific role given to CESR in relation to its position in the EU legislative framework?

Not at all	Only a little	To a fair amount	Quite well	Very well
			X	

4. How would you assess the influence of CESR in the EU legislative framework?

Very low	Quite low	A fair amount of influence	Quite high	Very high
		X		

5. How well do you understand the function CESR performs in facilitating the day-to-day application of financial regulation in the EU?

Not at all	Not very well	Only a little	Quite well	Very well
		X		

6. How well do you think CESR has been in explaining its objectives (A), role in the EU institutional system (B) and its priorities (C)?

A) CESR's objectives

Not at all	Not very well	Adequately	Quite well	Very well
		X		

B) CESR's role in the EU institutional system

Not at all	Not very well	Adequately	Quite well	Very well
		X		

C) CESR'S priorities

Not at all	Not very well	Adequately	Quite well	Very well
		X		

7. Please provide comments and suggestions for any improvements you may have regarding questions raised in Section I.

Open answer:

Until now, CESR has worked quite well explaining its working method as well as the results of its work and especially the technical advice and standards that it has drafted according to the Lamfalussy procedure . However, more communication on the role and functions of CESR should be made on its website. Basic explanations on what CESR brings to the financial markets are necessary, especially for the consumers/ retail investors.

In any case, it will remain difficult to communicate very clearly on the role of CESR, as long as a clear decision on this role is not made at political level: the main issue remains the mission to be delivered to CESR by European institutions. By letting it remaining a mere network of regulators with non-binding Level 3 standards, AFG is afraid that progress for convergence of practices at EU level will remain slow. We think that the positive experience of CESR until now should pave the way to setting up a European entity with real regulatory powers, in order to get both more consistency between practices from one Member State to another and also to get a stronger voice out of the EU when discussing with non-European real regulators.

Section II Openness, transparency and consultation practices

This section seeks to assess the openness, transparency and quality of CESR and its consultation processes.

8. Would you say that CESR is an open and transparent organisation?

No not at all	Only to a limited extent	To a certain extent	Yes quite open and transparent	Yes fully transparent
	X	X		

Regarding the Consultation Committees, we do not clearly understand how they work and on which criteria their composition is based.

9. How do you think the consultation process of CESR is working overall?

Not working at all	Works only to a limited extent	Works adequately	Works quite well	Works very well
	X			

10. What is your overall assessment of the consultation papers CESR publishes?

Weak quality	Quite weak quality	Acceptable quality	Good quality	Very high standard
	X	X		

In fact the quality of consultation papers depends on each practical case. In some cases, CESR's papers were rather weak, as for instance the first consultation paper on MiFID inducements. We have the feeling that the quality of consultation papers is very variable, due to the variable knowledge of the relevant topics at stake by CESR working groups' members.

11. What is your assessment of the comprehensibility of the consultation papers CESR publishes in relation to each of the following Directives/Regulation? ²

Directive/Regulation	Very poor	Poor	Average	Quite high	Very high
MAD			X		
PD				X	
TD				X	
IFRS					
MiFID			X		
UCITS				X	

12. How do you think that your written contributions to consultations are dealt with by CESR?

Poorly	Not very well	Acceptably	Mostly fairly and accurately	Absolutely fairly and accurately
		X	X	

Once again, the quality of the taking into account of our contributions varies, depending on each relevant CESR's consultation.

13. How do you rank the usefulness of the open hearings that CESR holds?

² MAD= Market Abuse Directive, PD= Prospectus Directive, TD Transparency Directive, IFRS= International financial Reporting Standards, MiFID = Markets in Financial Instruments Directive, UCITS= Units in Collective Investment in Transferable Securities

Not useful at all	Limited usefulness	Adequate	Useful	Very useful
		X	X	X

14. What is your assessment of the CESR web page in terms of its usefulness for transparency and openness towards markets participants and consumers/retail investors?

Very poor	Poor	Adequate	Good	Very good
		X		

15. How would you describe the change in the nature and level of transparency and openness of the legislative process in the EU's securities sector since the establishment of CESR (i.e. before and after September 2001)?

Less transparent and open	Slightly less transparent and open	There is no difference	More open and transparent	Much more open and transparent
			X	

16. Please provide any other comments you may have regarding questions raised in Section II, regarding openness, transparency and consultation practices?

Open answer:

Obviously, openness, transparency and consultation practices have improved a lot regarding the legislative process in the EU's securities sector since the establishment of CESR in 2001. We might regret that the same level of transparency is not always applied by the European Commission either in drafting Level 1 legislation or in taking into account or not CESR's advice for Level 2 measures.

In addition, regarding consultation practices: ideally it would be very useful to have open hearings at least two weeks before the consultation papers' deadlines.

Moreover, to enhance the transparency of its committees: CESR should provide feedback statements after each consultation.

Section III Rule making activity

This section of the questionnaire seeks to assess CESR's rule making quality in the course of the last five and a half years.

17. How would you rate the quality of the work CESR has done in relation to each of the Directives/Regulations for which CESR has given advice to the Commission during the last five and a half years, using the parameters A) to C) below?

A) Workability – How would you rate the workability of the rules in the sense of fit for their practical purposes in their day-to-day application?

Directive/ Regulation	Very poor	Poor	Average	Quite high	Very high
MAD			X		
PD				X	
TD				X	
IFRS					
MiFID			X		
UCITS				X	

B) Accuracy/Technical soundness – How would you rate the accuracy in the sense or being correct and detailed enough and do they capture the relevant issues?

Directive/ Regulation	Very poor	Poor	Average	Quite high	Very high
MAD			X		
PD				X	
TD				X	
IFRS					
MiFID			X		
UCITS				X	

C) Striking the right balance – How would you rate the rules in striking the correct balance between different opposing interests?

(For example between i) flexibility in adaptation to changing markets and legal foreseeability, ii) big market participants and small market players, iii) the securities industry and the consumers, etcetera?)

Directive/ Regulation	Very poor	Poor	Average	Quite high	Very high
MAD			X		
PD				X	
TD				X	
IFRS					
MiFID			X		
UCITS			X		

IV Supervisory convergence

18. How would you rate the quality of the level 3 measures (standards, guidelines, recommendations) that CESR has produced in relation to each of the following Directives/Regulations?

Directive/ Regulation	Very poor	Poor	Average	Quite high	Very high
MAD			X		
PD				X	
TD				X	
IFRS					
MiFID			X		
UCITS				X	

19. How do you value the usefulness for the achievement of supervisory convergence of the tools that CESR has developed for strengthening supervisory convergence among EU/EEA supervisors?

The tools in question are:

- The guiding recommendations: for increasing legal foreseeability and harmonisation of day-to-day supervisory practices (Q/A-(Questions & Answers) Documents and databases of cases)
- Review Panel – documents as well as activities
- Mediation system
- Operational cooperation – there are operational groups in the Prospectus contact group, ad-hoc groups under CESR-Pol and CESR-Fin

Directive/ Regulation	Very poor	Poor	Average	Quite high	Very high
Q/A documents Databases of cases				X	
Mediation			X		
Review Panel			X		
Operational cooperation groups			X		

V Overall assessment

20. What is your overall rating of CESR's contribution to the creation of a genuine single market for financial services (FSAP and the Lamfalussy approach)?

Please provide an overall grade as well as a written response.

Weak	Of limited importance	Acceptable quality	Good	Very good
			X	

Open answer:

Until now, we are in general satisfied by the work carried out by CESR; at least, it is a clear improvement as compared to the past, when there was no similar body. In particular, it helps getting a higher degree of convergence from one Member State regulator to another Member State regulator. However, we regret that for the moment Level 3 standards are not binding and therefore cannot give safety for market participants that these standards will be implemented in practice in the same way everywhere in the EU. The role played by the consultations in the creation of a single market should be better defined.

Beyond reinforcing the crucial issue of co-operation between CESR members (even if CESR is on the right way), we think that European institutions have to start thinking urgently on giving regulatory/enforcement powers to CESR in the medium term.

21. Which aspects of CESR' work do you think CESR should further improve and why?

Open answer:

See right above: CESR has to develop even further its actions for reinforcing co-operation between regulators, even if European institutions have also to think urgently on this topic.

22. Which aspects of CESR's legal and institutional framework do you think the EU institutions and Member States should further improve and why?

Open answer:

Beyond what we mentioned right above, we think that in the medium term a single securities regulator should be set up in the European Union.