

CESR



THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

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PRESS RELEASE

FIRST ACHIEVEMENT OF THE LAMFALUSSY PROCESS: A ROBUST EUROPEAN REGIME AGAINST MARKET ABUSE

CESR welcomes the adoption by the European Commission of the first set of level 2 legislation to establish Europe's new framework for promoting market integrity under the Directive 2003/6/EC on insider dealing and market manipulation (the Market Abuse Directive). The Market Abuse Directive is the first directive to be agreed using the Lamfalussy process for regulating Europe's capital markets and on which CESR has provided technical advice to assist the Commission to prepare the implementing measures for the Directive.

CESR Chairman, Arthur Docters van Leeuwen, commented:

"The Market Abuse Directive is the first Lamfalussy Directive and stands as a testament to the efficacy of the process designed by the Committee of Wise Men. The speed and accuracy with which CESR's advice has become legislation, is a tribute to the quality of the work done by all those involved in the drafting process, both within CESR and the Commission. The constructive support from the Council, in the form of the European Securities Committee (ESC), and the European Parliament, whose combined efforts to reach agreement on the final text have contributed greatly to the quality of the legislation ultimately adopted. There can be no doubt that the success of the outcome also reflects the value of extensive consultation with stakeholders and its key role in the Lamfalussy process."

The advice from CESR upon which the Commission has based its legal text was produced by the CESR Expert Group on Market Abuse under the Chairmanship of Professor Stavros Thomadakis, Chairman of the Hellenic Capital Markets Commission.

Mr Thomadakis said that:

"A key principle established in the EU's level 1 Directive is the need to enhance the efficiency, transparency and integrity of Europe's financial markets for all participants while ensuring that the imposition of additional regulatory requirements upon those participants is appropriate and proportionate. It is therefore pleasing to see that this balance underpins this level 2 legislation which is so closely based on CESR's advice. Sufficient legal certainty and clarity has been provided with regard to confidentiality, disclosure and the creation of records but excessive and onerous new requirements have not been imposed. I am sure that this package of Level 1 and Level 2 EU Legislation will greatly enhance investors' confidence in Europe's Financial Markets."

This implementing legislation, which will come into force at the latest in October 2004, defines further what will be considered to constitute market abuse and clarifies the confidentiality obligations on issuers and others who generate inside information (2003/124/EC). The legislation sets out the framework for the fair presentation of investment recommendations and the disclosure of conflicts of interest (2003/125/EC). Finally, it produces detailed rules for the creation of Europe-wide safe harbours for share buy-backs and the stabilisation of new issues (2273/2003).



Notes for Editors:

1. The Market Abuse Directive ("the Directive") entered into force on 12 April 2003.
2. On 31 December 2002, CESR submitted its first technical advice *CESR's Advice on Level 2 Implementing Measures for the proposed Market Abuse Directive (Ref: CESR/02.089d)* to the European Commission in response to the first Commission's request (mandate published on 27 March 2002) for technical advice on the Directive.
3. On 31 January 2003, the Commission published *An additional mandate to CESR for technical advice on possible implementing measures concerning the Directive on Insider Dealing and Market Manipulation (Market Abuse) (Ref: MARKT/G2 D(2003))*.
4. Under these mandates, CESR was asked to consult all interested parties according to the principles set out in the Final Report of the Committee of Wise Men and to provide technical advice to the Commission.
5. The first set of measures implementing the European Parliament and Council Directive 2003/6/EC on insider dealing and market manipulation, were agreed within the European Securities Committee (ESC) on 29 October 2003 and subsequently receive no further comment by the European Parliament.
6. The first set implementing measures of the Market Abuse Directive on the 23 and 24 of December 2003 were published in the Official Journal and can be found on the Commission website in the following links:
 - Regulation on Buy-back and Stabilisation:
http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_336/l_33620031223en00330038.pdf
 - Definition of public disclosure and market manipulation:
http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_339/l_33920031224en00700072.pdf
 - Fair presentation and disclosure of conflict of interest:
http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_339/l_33920031224en00730077.pdf
7. 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 committee 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 by European Commission Decision 2001/527/EC of 6 June 2001¹. 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.
8. 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 Candidate Countries joined CESR with observer status: the Cyprus Securities and Exchange Commission, the Czech Securities Commission, the Estonian Financial Supervision Authority, the Hungarian Financial Supervisory

¹OJ L 191, 13 July 2001, p.43

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Authority, the Latvian Financial Capital Markets Commission, the Lithuanian Securities Commission, the Malta Financial Services Authority, the Slovakian Financial Market Authority and the Slovenian Securities Market Agency.

9. 'Implementing measures' form part of the four level approach to European legislation for financial services proposed in the report by the working group chaired by Baron Lamfalussy (available on the CESR website as described in paragraph 6). The four level approach can be summarised very briefly as follows: Level one sets out the high level objectives that the legislation must achieve, through Regulations or Directives adopted in co-decision by the European Parliament and the Council of Ministers. Level two measures, adopted by the European Commission, set out technical requirements necessary to implement level 1 provisions where foreseen.. Level three is intended to ensure common and uniform implementation by the use of common standards, recommendations or guidance agreed amongst regulators in CESR. Level four concerns the enforcement of EU legislation.

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

10. For further information please contact:

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