



## THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

Date: 3 September 2003

Ref.: CESR/03-288b

### PRESS RELEASE

#### EUROPE'S APPROACH TO MARKET ABUSE ADVANCES

On presenting CESR's final contribution to the establishment of Europe's new framework for promoting market integrity under the Market Abuse Directive, Arthur Docters Van Leeuwen, Chairman of CESR noted:

*"CESR's advice provides the final piece of the jigsaw under the recently adopted Market Abuse Directive. Thanks to a productive dialogue with market participants we have been able to produce a sensible and flexible set of proposals which meets the objectives of the Directive to ensure Europe's financial markets function with the highest standards of integrity and transparency."*

The advice released today by CESR covers the final set of implementing measures that will, once translated into EU law, underpin the Market Abuse Directive to be implemented by Member States by October 2004. CESR was asked by the European Commission to produce its advice by 31 August.

The implementing measures covered by the advice include:

- **Guidelines for determining accepted market practices:** This includes principles that should guide regulators in assessing whether a market practice undermines market integrity, such as the need to safeguard the interplay of proper supply and demand within markets and that markets should operate efficiently and fairly.

CESR also sets out the procedures regulators should adopt when they consider whether or not a market practice is acceptable. Regulators should consult, for example, with market participants and with other regulators to increase the harmonisation and convergence of accepted market practices. The decisions adopted by regulators, and the factors underpinning them will be published by CESR and the Member State regulators to increase transparency.

- **inside information on commodity derivative markets:** CESR's advice recognises the diversity of commodities markets and stresses the need for adequate disclosure in a timely fashion.
- **the maintenance of insider lists by issuers:** CESR's advice clarifies how firms may meet their obligation under the Directive to maintain and update lists of people who have

access to inside information. CESR proposes that these lists should capture those who have habitual access to inside information and those who have occasional access.

- **the disclosure of transactions by senior managers:** CESR proposes the disclosure requirements for those individuals with managerial responsibilities and those closely associated to them, to ensure transparency in their transactions in shares (or derivatives) of the listed company in which they hold a management position.
- **the obligation by financial intermediaries to report suspicious transactions:** CESR establishes the criteria for determining how and when the competent authority should be notified of a suspicious transaction and standardises the information that should be provided within the notification.

The work on the advice was undertaken by the CESR Expert Group on Market Abuse under the Chairmanship of Professor Stavros Thomadakis, Chairman of the Hellenic Capital Market Commission. Mr Thomadakis said that “ .. he thanks all those who contributed to this advice which meets the objective of maintaining efficient and transparent markets in a fair and proportionate manner.”

CESR's expert group was also assisted by a Consultative Working Group of market experts, by representatives from Europe's commodity markets and by an expert from the US regulator, the Commodities and Futures Trading Commission (CFTC).

In developing its advice, CESR undertook extensive consultation of interests across the EU. It received over 70 written responses to CESR's consultative paper in April. Reflecting the valuable feedback received, CESR sought to introduce more flexibility for issuers and their advisers to meet their Directive obligations to maintain lists of all those with access to inside information. CESR also paid careful attention to the scope of the obligation on senior managers to report transactions. With regard to the notification of suspicious transactions by firms to the regulator, CESR has endeavoured to create a balance whereby regulators are not overwhelmed by the volume of transactions reported but where market intermediaries are encouraged to report trades where they have sufficient indications of financial wrong-doing.

#### Notes for Editors:

1. The Market Abuse Directive ("the Directive") was adopted on 3 December 2002.
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 Commission's request (mandate first 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 this mandate, CESR has been asked to widely consult all interested parties according to the principles set out in the Final Report of the Committee of Wise Men and to provide its technical advice to the Commission by 31 August 2003.
5. On 7 February 2003 CESR published its Call For Evidence (Ref: CESR/03-037) on its website and on 15 April 2003, its Consultation Paper (Ref: CESR/03-102b)
6. 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. 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.
7. 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 eight Authorities of the Candidate Countries joined CESR in 2003 with observer status: the Cyprus Securities and Exchange Commission, the Czech Securities Commission, the Estonian Financial Supervision Authority, the Hungarian Financial Supervisory Authority, the Lithuanian Securities Commission, the Malta Financial Services Authority, the Slovakian Financial Market Authority and the Slovenian Securities Market Agency.



8. '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 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 of common standards, recommendations or guidance agreed amongst regulators in CESR. Level four measures relate to the enforcement of EU 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.

9. The Members of the Consultative Working Group for this work are:

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Mr P Verelst, Interbrew NV, Belgium

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