Date: 10 June 2009
Ref.: CESR/09-548

PRESS RELEASE

CESR assesses impact of MiFID on the functioning of equity secondary markets

CESR publishes today its assessment on the impact of the Markets in Financial Instruments Directive (MiFID) on the functioning of equity secondary markets (Ref. CESR/09-355). Following the first anniversary of the implementation of MiFID in November 2008, CESR launched a review of the impact that the MiFID was having on the functioning of equity secondary markets. The report published today focuses on the functioning of MiFID's provisions and those of its Implementing Regulation with regards to market transparency and integrity, regulated markets, Multilateral Trading Facilities (MTF) and systematic internalisers. The publication of CESR's report follows a call for evidence issued in November 2008, which sought stakeholders' views on the workings of MiFID and its impact.

Jean-Paul Servais, Chair of the Belgian Commission Bancaire, Financière et des Assurances (CBFA), Chair of the CESR MiFID Level 3 Expert Group stated:

> *"Despite the difficult market conditions of the past 19 months, MiFID has created a new dynamism and increased competition into equity secondary markets. The changes will certainly continue, and CESR stands ready to further analyse these changes and find solutions to any challenges arising.*
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> *When considering the impact of MiFID, it is important to bear in mind that other factors have had a significant impact on equity trading, including unprecedented market volatility and the defaults of major counterparties. In addition, many of the changes are still working their way through the system and it may be premature to draw more than provisional conclusions at this stage. Nonetheless, it is possible to identify trends in the market and areas where further work may be required."*

MiFID's impact on secondary markets

CESR's assessment showed that the introduction of MiFID significantly changed the secondary markets landscape across Europe, most importantly through the introduction of new MTF platforms. Whilst the market share of regulated markets has decreased since the implementation of MiFID, the vast majority of equity trading is transacted through the existing regulated markets rather than on the new entrants or Over-the-Counter (OTC).

Many factors have influenced the cost of trading since MiFID came into force: The increased competition between trading venues resulted in downward pressures on direct execution costs. At the same time, increase in technology spent to trade in a more fragmented environment and general widening of bid-offer spreads as a result of volatile market conditions, have tended to offset the reduction in trading fees. The findings also indicate concerns by some market participants that fee reductions by trading platforms have not been passed on entirely by trading participants to investors.

Pre- and post-trade transparency

After the implementation of MiFID, market participants expressed concerns over a number of pre-trade transparency issues ranging from interpretation issues, to potentially undesirable impacts on innovation and an unlevel playing field between various trade execution venues. CESR is already taking steps to address these concerns. For instance, a process for considering future applications for pre-trade transparency waivers has been implemented and CESR has agreed to undertake a review of all pre-trade transparency waivers starting in the latter half of this year (see press release Ref. CESR/09-467).

As a result of the increased competition in trade publication services introduced by MiFID, trade data is now available from a number of different sources. Some market players were concerned that market data fragmentation was taking place; in particular that there would be a need for better quality of post-trade data and a consolidated set of market data. CESR is aware of these concerns and will conduct further work to better understand and assess issues surrounding the calibration of the deferred publication regime, the cost of accessing post-trade data and the consolidation of data.

Level playing field

MiFID is aimed at developing competition and greater efficiency of equity trading while maintaining investor protection. Achieving greater competition is raising concerns about the level playing field among trading platforms, both by regulated markets vis-à-vis MTFs and by regulated markets and MTFs vis-à-vis investment firms' OTC activities. In its report, CESR noted the importance to recognise the challenges arising from this competition so that action can be taken or recommendations made to address issues identified.

In addition to publishing this report on the impact of MiFID on equity secondary markets functioning, CESR has already started preparing a similar report on MiFID's impact on non-equity markets. This report is expected to be finalised during the first quarter of 2010.

The work undertaken to complete this review should be viewed in the context of CESR's wider objectives. In particular, reviewing the impact of MiFID following its entry into force seeks to contribute towards the implementation of CESR's objective of enhancing transparency of implementation and in fostering market transparency, improving market efficiency and may lead to identifying further ways to enhance supervisory convergence where work has not already begun.

Notes for editors:

1. The Markets in Financial Instruments Directive (MiFID), a major part of the European Union's Financial Services Action Plan (FSAP), came into effect on 1 November 2007. It introduced significant changes to the European regulatory framework, taking account of developments in financial services and markets since the Investment Services Directive (ISD), which it replaced, was implemented in 1995.

2. 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 European 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.

3. Each Member State of the European Union has one member in 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 as its representative the Director General of the DG MARKT. Furthermore, the securities authorities of Norway and Iceland are also represented at a senior level.

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