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**CALL FOR EVIDENCE  
ON THE SUPERVISORY FUNCTIONING OF THE PROSPECTUS DIRECTIVE AND  
REGULATION**

**Background**

Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading ("the Prospectus Directive") came into force on 31st December 2003, and was required to be implemented by Member States by 1st July 2005 at the latest. The Prospectus Directive is supplemented by Regulation (EC) No. 809/2004 of 29 April 2004 which became effective also on 1st July 2005.

Now that this European Prospectus regime is more than a year old it seems valuable at this point for CESR to assess whether it is really working on the ground, and in particular whether it is contributing to the development of the single market for securities. As reconfirmed by the ECOFIN conclusions adopted on 5 May 2006 by the EU Finance Ministers, CESR's main role to fully achieve the benefits of the single market is to promote supervisory convergence amongst Europe's securities supervisors. This exercise will enable CESR to determine whether its members are following the path of convergence after one year of application of the Prospectus regime (Prospectus Directive and Prospectus Regulation).

As a mechanism to foster supervisory convergence in the prospectus area CESR has already put in place a Q&A section in its website: "Frequently asked questions regarding Prospectuses: common positions agreed by CESR Members" (Q&A). This publication intends to provide market participants with CESR's responses to "everyday" questions which are commonly posed to the CESR secretariat ([prospectus@cesr.eu](mailto:prospectus@cesr.eu)) and to CESR Members. CESR's intention is to update the Q&A regularly with new questions or with modifications to the published common positions should this prove to be necessary.

The exercise CESR is undertaking now is different in the sense that it does not intend to provide answers to specific questions on the application of the Prospectus regime (which is the aim of the Q&A). Rather, CESR seeks views from market participants to enable it to make an overall assessment of said regime after one year of application.

Specifically, CESR would like to know whether market participants have found obstacles to the fluid functioning of the passport and/or divergent practices in Member States that pose a risk for the proper functioning of the single market. CESR is also interested to know if investors consider that the new Prospectus regime is enlarging the range of investment opportunities and providing an enhanced level of disclosure and protection.

Responses to this call for evidence should focus on the areas where CESR can positively act. Thus CESR is interested in knowing from market participants whether the implementation in practice of the key provisions of the Prospectus regime is divergent in the Member States.

CESR will publish a report analysing the responses received and informing of the proposed solutions to the issues where action is needed. Where a consensus from CESR members is necessary, it will be published through the regular updates in its website of the Q&A on prospectus. Where only legislative action can address the problem, CESR will inform the European Commission.



### **Call for evidence**

CESR is inviting all interested parties to submit their views regarding the way the Prospectus Directive (as implemented by the Member States) and Prospectus Regulation are working in practice. In particular, views on the following areas would be especially welcomed:

- Obstacles to the fluid functioning of the passport and/or divergent practices in Member States that pose a risk for the proper functioning of the single market.
- Range of investment opportunities and level of disclosure and protection that the Prospectus regime is providing to investors.
- Usefulness of CESR's Q&A on prospectuses.

All contributions can be submitted online via CESR's website under the heading Consultations at [www.cesr.eu](http://www.cesr.eu) by 29 January 2007.

An open hearing will be organised on 16 January 2007 (from 14:00 to 17:30) in CESR premises.