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CESR Public Consultation

(ref: CESR/09-1215b)

Proposal to extend major shareholding notifications to instruments of similar economic effect to holding shares and entitlements to acquire shares

- Comments by AMAFI -

1. *Association française des marchés financiers* (AMAFI) has more than 120 members representing over 10,000 professionals who operate in the cash and derivatives markets for equities, fixed-income products and commodities. Nearly one-third of the members are subsidiaries or branches of non-French institutions.

2. While AMAFI welcomes the opportunity to respond to the Consultation Paper (CP) issued by CESR on its proposal to extend major shareholding notifications to "*instruments of similar economic effect to holding shares and entitlements to acquire shares*" (hereafter referred to sometimes as "SEE Instruments"), it would like - before answering the specific questions raised by CESR - to make a number of general comments regarding (i) the duration of the consultation process (ii) the context and purpose of this consultation which need to be clarified (iii) the content of CESR's proposal which appears to be very one sided and (iv) the position that AMAFI wishes to express in relation to this matter.

GENERAL COMMENTS

- ***THE DURATION OF THE CONSULTATION PROCESS IS TOO SHORT IN THE ABSENCE OF ANY URGENCY***

3. The CP was published on CESR's web site on 9 February 2010 and the deadline to submit contributions is 31 March 2010, i.e. a total of 7 weeks or less than two months. Undoubtedly, CESR is aware of the fact that professional associations need to consult with their members in order to elaborate their response to the consultations which are important for their industry and that such internal working process takes a certain amount of time, particularly since, in recent months, there has been a significant increase of the number of consultations launched by the various authorities (international, European and national) acting in the financial sector. Such time period can reasonably be estimated to be around three months. Naturally, there may be special circumstances which may justify a shorter time period and when such special circumstances exist, they are understood and accepted. Unfortunately, AMAFI has noted

that in the recent year or so[1], the duration of the consultation process initiated by CESR in relation to various subjects has often been much shorter than three months without justification for the shortened time period granted to the participants. This appears to be the case, again, as regards this consultation.

4. Indeed, in the present case, one fails to understand what could justify such a short time period. CESR explains that "*several member states have taken or are planning to take steps to broaden the scope of their national regime for the reporting of major holdings to include such instruments or to establish specific disclosure rules regarding them*". Looking however at the national initiatives listed in the CP (*§ 28 to 37*), one understands that only two European countries (the UK and France) have recently adopted new rules regarding disclosure of SEE Instruments and only two other European countries (Portugal and the Netherlands) are in the process of consulting the industry on the "possible" adoption of new rules. The CP also mentions three initiatives outside the EU – one of them being simply the start of a consultation on the subject and only one of them concerning a major international financial center – which, even if they are interesting, are not, as such, directly relevant to the work carried out by CESR. On the basis of these examples, one fails to understand the urgency of this matter.

5. Looking also at the "recent cases" which are put forward by CESR to explain its initiative, one notes that they are five of them in total, the most recent case dating back to the autumn of 2008. This means that there has not been any major new case which could justify CESR's initiative being conducted in such a hurry.

6. CESR does not invoke either any initiative undertaken by the European Commission to modify the Transparency Directive (TD) that could justify the present consultation and particularly the short time period within which it is conducted. In paragraph 6 of the CP, it is simply stated that "*the broad approach proposed by CESR (…). will also be part of the feedback to the European Commission for its future review of the TD*". This raises an issue regarding CESR's role which is discussed in § 9 below. Regarding simply at this point the duration issue and the conditions under which CESR is to advise the Commission[2], either such advice is given "*at the Commission's request, within the time limit which the Commission may lay down according to the urgency of the matter*" or "*on the Committee"s own initiative".* In the absence of request from the Commission, one must assume that this consultation was launched at CESR's own initiative which confirms the impression that no time limit was fixed by the Commission. It should be mentioned furthermore that the European countries have just achieved the transposition of the Implementing Transparency Directive of March 2007 and, to our knowledge, no time table for possible amendments to the TD has been announced yet.

7. Finally, no link has been established between the use that, in a limited number of cases, has been made of the SEE Instruments to acquire or influence the exercise of voting rights, and the financial crisis which could justify that urgent measures be taken in that respect.

8. On the basis of all of the above, one must conclude that there is no reason that justifies that this consultation be conducted in such a short time period. Having said that, the subject matter is important and AMAFI, which believes that full harmonization on this topic should be the ultimate goal (*see in particular below § 20, 25,26, 27,35*), is in favour of having a large debate with all parties concerned for as long as the time period for such debate is reasonable and the pros and cons of the various possible

[1] See in the annex to this note a chart showing the time periods granted by CESR for its 2009 consultations.

[2] Commission decision of 6 June 2001 establishing the Committee of European Securities Regulators, art. 2: "*the role of the Committee shall be to advise the Commission either at the Commission's request, within a time limit which the Commission may lay down according to the urgency of the matter, or on the Committee's own initiative, in particular for the preparation of draft implementing measures in the field of securities".*

alternatives are presented in a fair way. It also means that the context in which such debate is taking place must be clear. In the case of this consultation precisely, one fails to see how this consultation fits in with the role of CESR and the initiatives of the European Commission.

> ***THE CONTEXT AND PURPOSE OF THIS CONSULTATION NEED TO BE CLARIFIED TO UNDERSTAND HOW IT IS FITS IN WITH CESR'S ROLE AND THE WORK UNDERTAKEN BY THE EU COMMISSION ON THE SUBJECT***

9. In paragraph 2 of the CP, it is stated that "*CESR intends to widen this scope* (i.e. the scope of the TD) *to include all instruments referenced to shares that allow the holder to benefit from an upward movement of the price of these shares".* From a legal standpoint, such a statement is most surprising as it is not within CESR's powers to modify the scope of European directives.

The CP also indicates (§ 6) that "*the broad approach proposed by CESR seeks to coordinate national effort in this area to achieve a more uniform approach for possible regulatory initiatives at national level".* This statement is also *prima facie* quite surprising as CESR's role is to ensure consistent and equivalent transposition and interpretation of level 1 and level 2 European legislation. In other words, CESR's role is limited to the implementation of existing EU legislation. It is not, at least not for the time being[3], to propose new legislation when such new legislation is not a way of achieving coordinated interpretation of an existing European legislation. In the case of the SEE Instruments, there is no doubt – as confirmed in the CP (§ 2) – that they are outside the legal scope of the TD. Therefore, they are strictly speaking outside the scope of CESR's missions.

10. Having said that and beyond the purely legal aspect of this matter, one could consider that proposing new legislation in this area is a positive initiative for as long as such proposal *inter alia* (*see comments in § 8 above*) is coordinated with the EU Commission. As regards this consultation, precisely, one cannot help wondering how it fits in with the work of the Commission.

The most troubling element in that respect is the fact that CESR fails to mention the one important development that has taken place recently on this particular subject, i.e. the publication in November 2009 of ESME's "*Views on the issue of transparency of holdings of cash settled derivatives[4]".* The recommendations of such report issued by a group of experts commissioned by the European Commission[5] are quite different from those which CESR would like to see adopted (*see infra § 17*). It is therefore particularly regrettable that CESR failed to mention this report and discuss its conclusions. It would have helped understand how CESR's initiative fits in with the Commission's own thinking on the subject. It would also have given a broader and more objective basis to this consultation.

> ***THE CP IS VERY ONE SIDED AND FAILS TO EXAMINE ALTERNATIVE SOLUTIONS***

11. CESR's CP appears to be strikingly one sided. From the start, it announces its objective which is to propose to "*extend major holdings notifications to include all instruments that give a similar economic effect to holding shares and entitlements to acquire shares in the broadest sense" (§ 4)* adding that

[3] It is possible that CESR's proposal anticipates on the enlarged role of the new European authority (ESMA) which will replace it in the future.

[4] The European Securities Markets Expert Group (ESME) provides legal and economic advice to the EU Commission on the application of the EU securities directives.

[5] The ESME report addresses a series of specific questions raised by the European Commission.

"CESR considers the scope of major shareholding disclosure should include all instruments that give similar economic effect to holding shares or entitlements to acquire shares" (*§ 38*).

12. On two occasions, though, CESR admits that these instruments "*are generally*[6] *entered into to give economic exposure without wishing to gain access to voting rights and are an important source of liquidity to the market"* (*§ 8*) and that *"not all such instruments are used to acquire or influence the exercise of voting rights. Rather the majority are used simply to gain economic exposure to the issuer"* (*§15*).

These statements are most interesting because they express the reality of the matter. Unfortunately, after having made these statements, CESR draws no consequence whatsoever from them and the fact that the vast majority of the SEE Instruments is not used to gain access to voting rights is in fact simply ignored by CESR…

13. Likewise, while the CP states (*§ 8*) that "*CESR's proposed approach aims for meaningful notification avoiding disclosure of information which is either unnecessary or potentially misleading to the market"*[7]*,* no practical consequence is drawned from such statement. CESR's proposal provides for full aggregation of all SEE Instruments whether they are settled in cash or physically[8] and the CP contains no discussion regarding whether such an approach is meaningful or not and whether it is not likely to be misleading to the market.

14. One really wonders how CESR can put forward a proposal without discussing the pros and cons attached to it and without presenting alternative options. This is particularly surprising after all the discussions that have recently taken place, *inter alia*, in the UK, in France, and for the preparation of ESME report mentioned above.

15. CESR undoubtedly is aware of the fact that **in the UK**, the only member State which, in September 2009, adopted legislation along the lines of what is proposed by CESR, the introduction of new rules followed an extensive consultation - in fact two consultations - conducted by the FSA over a period of 18 months. As part of this consultation process, and notably in the first consultation (*FSA, CP 07/20*), three options were proposed with an extensive discussion of the merits and drawbacks of each of them.

16. **In France**, the adoption, on the 1st of November 2009, of a new disclosure regime followed a large consultation with the industry during which the pros and cons of the solution proposed today by CESR (one of two options that were proposed) were discussed at length. As part of this discussion, the French industry and authorities were able to benefit from all the experience gathered by the FSA in the course of the two consultations mentioned above. At the end of the consultation process, the French authorities, with the same objective of improving the transparency of the SEE Instruments and having considered the solution adopted by the FSA decided against the adoption of a similar regime. In this regard, AMAFI would like to stress out that **the way the French position is presented in the CP is quite misleading** as it could be construed as confirming the position that CESR is trying to promote whereas in fact, the position adopted in France is the opposite of what CESR would like to see adopted.

[6] Underlined by the author of this note.
[7] *Idem.*
[8] Regarding the exact content of CESR's proposal which is not clearly expressed, see footnote 10 below.

Indeed, the new French regime provides for the disclosure of the SEE instruments but this disclosure is to be effected by way of a separate notification and not by way of an aggregation with holdings in shares[9].

17. **The ESME report** (*see § 10 above*), having also considered the various options available and the need for a meaningful transparency recommends a reporting obligation – **separate from the present arrangements for positions in normal shares** and **only for cash settled derivatives** and for **significant positions** in these particular instruments (at least 5-10%). ESME explains that they did not want "*to add further to the existing confusion and complexity and proposes a simple measure to be carried out at the pan-European level".*

18. In view of the above, the CP appears to be totally one-sided, ignoring the arguments that could support other solutions – which in fact are not even proposed for discussion as part of this consultation – to the point that the new French regime is wrongly presented and the ESME report not even mentioned…. AMAFI considers that this is not a fair way of consulting the industry on such an important issue.

19. Having said that, AMAFI would like to stress out that while the SEE Instruments are, in the vast majority of cases, used for their normal purpose, which is to gain an economic exposure to the issuer without wishing to gain access to voting rights and "*are an important source of liquidity to the market*" (*see CP § 8*), there has been a **very limited** number of cases where SEE Instruments have been used to acquire or influence the exercise of voting rights and therefore, this is an issue which should be addressed. It should however be addressed in a proportionate way with a view to finding a balanced solution (i) that truly ensures meaningful transparency and gives the right information to the market without overloading it with useless and confusing information and (ii) can realistically be carried out at the pan-European level.

20. In that respect, harmonization throughout Europe is definitely a goal that should be pursued by CESR and the EU Commission when work on the TD starts. On this particular subject and generally in respect of disclosure of major shareholdings, AMAFI is **strongly in favour of the adoption of European legislation imposing full harmonization**. The diversity of regimes currently in place throughout Europe is very hard and costly to manage and clearly lacks clarity for the investors and in fact, for all parties concerned. But one can seriously question the fact that the proposed harmonization is based on a regime which has been adopted in one single European member State - the UK - particularly since, as mentioned above, no other alternative is proposed as part of this consultation.

21. With these considerations in mind, AMAFI would like to summarize below its position on this issue, before answering the specific questions raised by CESR.

➢ ***SUMMARY OF AMAFI'S POSITION***

22. As mentioned above, AMAFI recognizes that the possible use of SEE Instruments to acquire or influence the exercise of voting rights is an issue which should be addressed. But first of all, those cases which have been highly publicized remain very limited in number and secondly they are legal means – and notably the notion of "concerted action" - which can be used to sanction such behaviour.

[9] The indication in the CP (*§ 31*) that "*there is no separate threshold for financial instruments of similar economic effect to holding shares "* gives, purposely or not, the impression that such instruments are to be aggregated with holdings in shares, which is not the case.

Having said that, AMAFI recognises that a sanction which operates *a posteriori* may not be sufficient and therefore, a reporting of such instruments to the regulators and to the market is necessary.

23. However, since the vast majority of these Instruments will never give access to voting rights and be used to gain influence, aggregating them with shares and other instruments which are physically settled is bound to create total confusion and an overload of different types of information of different nature all mixed together which is likely to be detrimental to the relevant information needed by the market and the investors.

Therefore, like ESME, AMAFI believes that the reporting of cash settled instruments should be done **by way of a separate notification**, and **only for significant positions** in these particular instruments.

AMAFI believes that only such a balanced position complies with the approach that CESR has put forward as being its own, i.e. to ensure that "*disclosure aims for meaningful notification, avoiding disclosure of information which is either unnecessary or potentially misleading to the market" (CP § 8).*

REPLY TO SPECIFIC QUESTIONS RAISED BY CESR

➢ *REPORTING INSTRUMENTS OF SIMILAR ECONOMIC EFFECT TO HOLDING SHARES AND ENTITLEMENTS TO ACQUIRE SHARES*

⇨ **Question 1: Do you agree with CESR's analysis of the issues raised by the use of instruments of similar economic effect to shares and entitlements to acquire shares**

24. No, AMAFI does not agree with CESR's analysis of the issue even if, as mentioned above, it does not deny the fact that SEE Instruments may be used to acquire and/or exercise potential influence in a listed company or allow for creeping control.

First of all, there has only been a very small number of situations in which such use has been evidenced.

Secondly, in the situations described by CESR in paragraph 17 of the CP, the control is supposedly gained *via* the shares held by the writer of the SEE Instrument as hedge. But such writer if often a bank or an investment firm which holds such shares in its trading book. As such, it is not allowed to exercise the voting rights attached to such shares and such prohibition is often confirmed by the firm's internal rules. Therefore, to assume as a general situation that "*the buyer* (of a SEE Instrument) *has the ability to exercise a significant degree of de facto control (via the writer) over the voting rights attaching to the shares held as hedge"* does not correspond to the reality.

What is true, on the other hand, is the fact that the buyer (of a SEE Instrument) has an information advantage over the rest of the market concerning the free float since he can assume the volume of the writer's shares held as hedge which is not available to the other market participants. Therefore, he knows that the shares held as hedge will be available in the market when the contract is closed out. Should he then wish to acquire them, he will be in a better position than the other participants to do so although this advantage is only meaningful if the size of the transaction is significant, as compared to the daily trading volume of the shares in question. Naturally, should he then acquire such shares when they become

available in the market, he will have to disclose their acquisition but the fact that he has had an information advantage beforehand is not satisfactory.

25. **A legal response - harmonized throughout the EU -** should be found to deal with this issue. But such response should be **proportionate** and, as mentioned above, AMAFI believes that such proportionate response should be **an obligation, for the holder of significant positions in SEE Instruments only, to disclose such significant positions by way of a separate notification.** For that reason, AMAFI disagrees with what is proposed by CESR which appears to be completely disproportionate to the issue which is to be cured. Furthermore AMAFI regrets that:

(i) No alternative is proposed to the only solution put forward by CESR – i.e. aggregation of SEE Instruments with shares[10] - whereas **an obvious alternative** (discussed heavily in France and chosen in the end by the French authorities and recommended also by ESME) would be to impose a **separate notification requirement** of such Instruments. In fact it is quite remarkable that the CP does not contain a single question relating to whether or not the participants agree with CESR's proposal and whether they think any alternative proposal should be considered;

(ii) CESR's proposal is asserted in a forceful way but without valid arguments to support it. Paragraph 40 of the CP - like previously § 28 to 37 - give the impression that several member States have adopted a regime identical to that put forward by CESR. This presentation is totally misleading. Only one country in the European Union - the UK - has adopted rules providing for full aggregation of SEE Instruments with shares. With the same objective of improving the transparency regarding SEE Instruments, France, as explained above (*see §16*) has adopted a regime close to what is proposed by ESME in which SEE Instruments are to be reported separately.

⇨ **Question 2: Do you agree that the scope of the Transparency Directive needs to be broadened to address these issues?**

26. AMAFI thinks that this issue should be addressed by way of a harmonized solution imposed throughout the EEA. In that sense it agrees that the TD should be modified to include such solution and such amended directive should impose **maximum harmonization**. Therefore, if this is the exact meaning of CESR's question, then the answer is positive. If on the other hand, "*broadening the scope of the Transparency Directive"* means, for CESR, including all SEE Instruments in the scope of major shareholding disclosure, i.e. proceeding by way of aggregation of these Instruments with shares, then AMAFI, as explained above, disagrees with that solution.

27. Incidentally, harmonization should also be sought throughout the EU with reference to the subject matter of the disclosure obligation regarding shares, i.e. the voting rights attached thereto. The member States which provide for a double calculation with reference to both shares and voting rights should be required to refer strictly to voting rights in compliance with article 9 of the TD.

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[10] AMAFI assumes (notably on the basis of the statements appearing is § 38 and 45 of the CP) that this (aggregation as opposed to separate notification) is CESR's proposal because it notes, again with regret, that purposely or not, the words used in CP are quite confusing in that respect.

➢ *BROAD DEFINITION*

⇨ **Question 3: Do you agree that disclosure should be based on a broad definition of instruments of similar economic effect to holding shares and entitlements to acquire shares without giving direct access to voting rights?**

28. AMAFI understands and agrees that disclosure of SEE Instruments – by way of a separate notification rather than aggregation – should be based on a broad definition of such Instruments. It agrees that such scope should only extend to instruments referenced to shares that **have already been issued** but wonders then why, after having made that statement, CESR includes in the list of such instruments convertibles which, most of the time, are converted into new shares.

⇨ **Question 4: With regard to the legal definition of the scope (paragraph 50-52 of the CP), what kind of issues you anticipate arising from either of the two options? Please give examples on transactions or agreements that should in your view be excluded from the first option and/or on instruments that in your view are not adequately caught by the MiFID definition of financial instruments.**

29. The second option would certainly allow more legal certainty and it should include the vast majority of SEE Instruments. However, without having specific examples in mind, AMAFI acknowledges that the definition of financial instruments under MiFID may not indeed be sufficient to encompass now or in the future all such Instruments.

➢ *CALCULATION OF THRESHOLDS*

⇨ **Question 5: Do you think that the share equivalence should be calculated on a nominal or delta-adjusted basis?**

30. The share equivalence of SEE Instruments **should be calculated on a delta-adjusted basis**. It is the only relevant way to measure such equivalence as it is representative of the number of shares the person writing the instrument would need to hold in order to perfectly hedge its exposure. As explained by CESR, if any influence on the issuer can be gained by the buyer of a SEE Instrument, it is *via* the shares held by the writer of such instrument as hedge. Furthermore, if, as mentioned by CESR, the suggested short-selling rules currently being consulted under the CESR Task Force, provide for a calculation on a delta-adjusted basis, this is an additional argument in favour of such method of calculation.

CESR should however be aware of the cost of such method which requires that the instrument holder recalculates on a daily basis the delta-adjusted holding.

⇨ **Question 6: How should the share equivalence be calculated in instruments where the exact number of reference shares is not determined?**

31. AMAFI does not understand the type of situation that CESR has in mind. Clarification is required in this connection.

➢ *SCOPE OF DISCLOSURE*

⇨ **Question 7: Should there be a general disclosure of these instruments when referenced to shares, or should disclosure be limited to instruments that contractually do not preclude the possibility of giving access to voting rights (the "safe harbour" approach)?**

32. AMAFI understands the concerns expressed by CESR (*§ 69 to 73 of the CP*) in relation to the "safe harbour" approach. Therefore AMAFI does not disagree with the general disclosure approach **for as long as all such SEE Instruments to be disclosed are disclosed by way of a separate notification and not by way of aggregation**. Once more, AMAFI regrets that the alternative option of separate notification is not clearly mentioned and proposed and that under the term of "general disclosure", a confusion is entertained between two different possibilities, that of separate notification achieving equally the objective of improved transparency but in a more proportionate way.

⇨ **Question 8: Do you consider there is a need to apply existing TD exemptions to instruments of similar economic effect to holding shares and entitlements to acquire shares?**

33. Yes, the TD exemptions should apply to the SEE Instruments. For instance a CFD or equity swap held by a firm in its trading portfolio should not have to be disclosed – by way of a separate notification – unless it reaches a certain level. It should be recalled that ESME recommends that cash settled derivatives be reported separately only when they reach a significant level (estimated to be at least equal to 5 % or higher in the range of 5 to 10%).

⇨ **Question 9: Do you consider there is a need for additional exemptions, such as those mentioned above or others?**

34. The additional exemptions mentioned by CESR, notably the exemption for client-serving transactions or for accounting purposes, seem justified for as long as they apply in a harmonized way throughout the EEA.

➢ *COSTS AND BENEFITS*

⇨ **Question 10: Which kinds of costs and benefits do you associate with CESR's proposed approach?**

35. As mentioned above (*see § 6*), most European countries have just achieved the transposition of the Implementing Transparency Directive of March 2007 and the firms have adapted their systems accordingly. Therefore, any new changes to be made to the TD in the future will inevitably generate new costs for the parties concerned. Such additional costs are only acceptable if the result of such changes is beneficial for the market participants and the market itself.

The first benefit which is to be sought is to have a full harmonization of the European legislation on "Major Shareholding Notification", which requires either a European regulation or a maximum harmonization directive. The current situation - where there is a diversity of regime throughout Europe - is very difficult to manage and therefore very costly for the parties concerned. The European authorities should therefore seek to propose a system that can be imposed upon all member States. Realistically, as mentioned in the ESME report, it is more reasonable to seek full harmonization on the basis of a regime which is already,

give or take, quite widely spread out throughout Europe, rather than trying to impose a regime which is in place in one single member State.

The second benefit which is to be sought is to provide the market with relevant information which is going to be meaningful and truly useful. For that purpose, a disclosure obligation of significant positions in SEE Instruments only, seems far more appropriate – notably in terms of balance between costs and benefits – than the full aggregation approach proposed by CESR which is inevitably going be costly with doubtful benefits.

⇨ **Question 11: How high do you expect these costs and benefits to be?**

36. AMAFI expects the costs of implementing CESR's approach to be very high with doubtful benefits.

⇨ **Question 12: If you have proposed any exemptions or have presented other options, kindly also provide an estimate of the associated costs and benefits.**

37. There is no doubt that the option supported by AMAFI (i.e. the disclosure of SEE Instruments by way of a separate notification of only significant positions) is likely to be less costly because, it will give rise to a less important number of declarations. At the same time, it will necessarily be more beneficial to the market as it will avoid an overload of declarations mixing instruments giving access or likely to give access to voting rights with instruments which, conversely, are, for their vast majority, unlikely to ever give access to voting rights. The need for disclosure of the latter category (the SEE Instruments) is fully understood and supported but in order for such disclosure to be relevant, it must be effected by way of a separate notification for significant positions only.

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ANNEX

CONSULTATION PERIODS SET BY CESR IN 2009

Consultation Start date	Consultation Deadline date	Period	Subject
22/10/2009	22/12/2009	2 months	Consultation on Inducements: Good and poor practices
14/12/2009	14/12/2009	2 months	Consultation on understanding the definition of advice under MiFID
27/10/2009	30/11/2009	1 month	Call for evidence - The use of a standard reporting format
29/09/2009	06/11/2009	1 month 1/2	Consultation on Trade Repositories in the European Union
22/07/2009	01/10/2009	2 months & 1 week*	Consultation on classification and identification of OTC derivative instruments for the purpose of the exchange of transaction reports amongst CESR Members
08/07/2009	30/09/2009	2 months & 3 weeks*	Consultation on CESR's Proposal for a Pan-European Short Selling Disclosure Regime
08/06/2009	04/09/2009	3 months	Call for evidence on mutual recognition with non-EU jurisdictions
14/05/2009	17/07/2009	2 months	Consultation on MiFID complex and non-complex financial instruments for the purposes of the Directive's appropriateness requirements
31/03/2009	17/04/2009	2 week 1/2	CESR/ESCB Consultation on the draft Recommendations for Central Counterparties 1-2, 4-8, 14, and 15 revised for CCPs clearing OTC derivatives
10/03/2009	07/04/2009	1 month	Consultation on Proposals for the Review Panel Work Plan

02/02/2009	27/02/2009	3 weeks 1/2	Call for evidence on the technical standards to identify and classify OTC derivative instruments for TREM; CESR's transaction reporting exchange mechanism
19/12/2008	19/02/2009	2 months	Consultation on transparency of corporate bond, structured finance products and credit derivatives markets
23/10/2008	23/01/2009	3 months	Consultation on CESR/ESCB draft recommendations for securities settlement systems, and draft recommendations for central counterparties
19/12/2008	20/01/2009	1 month*	Call for evidence on regulation on short-selling by CESR Members
19/12/2008	16/01/2009	1 month*	Public review of CESR's preliminary draft advice on access and interoperability arrangements
03/10/2008	09/01/2009	3 months	Consultation on MAD Level 3 – Third set of CESR guidance and information on the common operation of the Directive to the market
03/11/2008	09/01/2009	2 months*	Call for evidence on the impact of MiFID on secondary markets functioning

* Reduced timescale with justification