

Regional IOSCO Seminar & Workshop on co-operation and Information Exchange between Securities Supervisors from Eastern and Southern Europe



European perspective including CESR co-operation

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1. Relevance of international co-operation

- Increasing inter-dependence of international economies and financial markets
- Increasing international activity in the securities markets
- Need to strengthen co-operation and information sharing among securities regulators
- Even more necessary in financial turmoil situations
- International co-operation as a corner stone of IOSCO and CESR

2. European perspective: CESR

Background

- Forum of European Securities Commissions (FESCO) December 1997.
- FESCO MMoU on the Exchange of Information and Surveillance of Securities Activities in 1999.
- CESR set up by the European Commission June 6th 2001 Decision
- FESCO MMoU and all other agreements, standards, commitments were taken over by CESR.

2. European perspective: CESR

CESR Charter

- Recognises that close co-operation and information exchange between regulatory authorities is essential for successful oversight of the European financial markets
- Defines CESR role:
 - Improve co-ordination among European 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 Member States;

2. European perspective: CESR

CESR MoU

- Necessary due to:
 - Increase of internationalisation, harmonisation and inter-dependence of EU financial markets
 - Competent authorities objective to achieve successful oversight of EU markets
 - CESR charter objective to strengthen co-operation among EU regulators
- Not a legally binding agreement as international treaties
- A commitment, or the declaration of willingness of the securities supervisory authorities of one jurisdiction to provide/receive assistance to/from other counterparties
- Only a tool to facilitate co-operation and information exchange among signatories.
- Signatories not governments but the securities supervisory authorities

2. European perspective: CESR

Differences: CESR and IOSCO MoU

- IOSCO MoU includes some other principles not needed in CESR MoU as the EU has a common legal framework
- CESR MMoU as an instrument used for practical application of EU legislation provisions on co-operation and information exchange.

2. European perspective: EU Directives

The Financial Service Action Plan (FSAP)

- Agreement reached amongst the EU members so as to achieve a Single European Market.
- Proposes the enactment of new legislation to enhance co-operation among EU Members as a means to achieve said single market.
- Obligations to co-operate and exchange information among European Members, is repeatedly stated in the FSAP Directives.

2. European perspective: EU Directives

Directive 2004/39/EC on markets in financial instruments (MIFID): Art. 56- 59

MiFID and its implementing measures together establish a comprehensive EU legislative framework relating to the establishment and conduct of investment firms, multilateral trading facilities and regulated markets.

- Includes one of the most important mandates concerning supervisory co-operation between Member States.
- Designation of one competent authority as a contact point to facilitate co-operation.
- Obligation for competent authorities to cooperate (possibility to refuse in limited circumstances).
- Co-operation in supervisory activities, on-the-spot verifications or investigations
- Information Exchange.

2. European perspective: EU Directives

Directive 2003/6/EC on insider dealing and market manipulation (Market Abuse): Article 16

- This Directive and Level 2 implementing directives have been one of the pillars of FSAP reinforcing market integrity through the harmonisation of the rules for market abuse (covering insider dealing and market manipulation).
- Obligation for competent authorities to cooperate.
- Co-operation in investigation activities:
 - Request another authority to carry out investigations in its territory.
 - Request that its personnel accompany personnel of other authorities
 - Refusal to cooperate in limited circumstances.
- Information exchange: immediate gathering and handing over of information.

2. European perspective: EU Directives

Directive 2003/71/EC on Prospectus: Article 22

Harmonises content of the prospectus that is the disclosure document containing key information that a company has to publish when offering its securities or admitting them to trading on a regulated market.

- Obligation to co-operate:
 - Transfer of prospectuses.
 - Request for suspension or prohibition of trading of securities in markets of various EU Member States.

2. European perspective: EU Directives

Directive 2004/109/EC on the harmonisation of transparency requirements (Transparency): Article 25

Requires listed companies to provide annual financial reports and, in most cases, half-yearly reports. It also includes the obligation for these companies to provide information on changes in major shareholdings.

- Designation of central competent authority.
- Obligation to co-operate and render assistance to other authorities.
- Information exchange.

2. European perspective: EU Directives

Directive 2004/25/EC on takeover bids: Article 4

Provides European firms with greater legal certainty for cross-border takeover bids in the interests of all concerned (including employees) and protects minority shareholders where control of a company changes hands.

- Especially in cases of cross-border takeovers.
- Co-operation shall include:
 - the ability to serve the legal documents necessary to enforce measures taken by competent authorities in connection with bids.
 - other assistance requested for the purpose of investigating breaches of the rules.

2. European perspective: EU Directives

Directive 2006/49/EC on capital adequacy of investment firms and credit institutions: Article 38

Introduces an updated supervisory framework in the EU which reflects the Basel II rules on capital standards to make the prior framework more comprehensive and risk-sensitive and to foster enhanced risk management amongst financial institutions.

- Co-operation particularly when investment services are provided through establishment of branches.
- Information exchange.

3. Conclusions

- Without co-operation and information exchange supervisors cannot do their job adequately.
- CESR and IOSCO have done a great deal to enhance co-operation by setting up the very efficient MMoUS tools.
- MMoUS as door for creating network of informal relations between supervisors:
 - Exchange of information and experiences beyond the scope of the MMoUS
 - Professional relationships between supervisors personnel
 - Seminars and courses
- The need to keep working to develop more and more efficient co-operation tools.

Thank you very much for your
attention.