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**Press release**

**ERGEG and CESR consult on a proposed EU market abuse framework for energy markets**

The European Regulators' Group for Electricity and Gas (ERGEG) and the Committee of European Securities Regulators (CESR) today published a consultation paper on market abuse issues relating to energy trading. In the joint consultation paper ERGEG and CESR advise the European Commission to explore a tailor-made EU market abuse framework for the electricity and gas sector, and note that there are substantial interdependencies between electricity and gas markets and some other markets, such as emission allowances, coal and oil markets. Trading in these markets is to a large extent conducted by the same market participants. CESR and ERGEG also call for legally binding disclosure obligations in energy sector regulation including sanction mechanisms. The regulators drafted their advice following a mandate from the Commission in the context of the Third Energy Package.

The existing EU securities legislation (i.e. the Market Abuse Directive – MAD) may not properly address potential market integrity issues in the electricity and gas markets. MAD applies almost exclusively to financial instruments admitted to trading on a regulated market. Physical products (e.g. spot market products) are not covered, and derivatives markets products are covered only if they are admitted to trading on a regulated market. Therefore, and particularly with regard to the physical markets, ERGEG and CESR propose that the Commission should evaluate the creation of a tailor-made EU market abuse framework for electricity and gas products not covered by MAD.

ERGEG Chair Lord Mogg stated: *“The growing linkage between the energy and financial markets requires proper regulation and greater transparency in order to safeguard a properly functioning competitive electricity and gas market. This mandate from the Commission has brought together the expertise of the energy and financial regulators to consider these complex issues and provide advice for the Commission to take forward.”*

CESR Chair Eddy Wymeersch said: *“Promoting integrity of financial markets is one of the primary goals of securities regulators. To achieve that goal, a comprehensive market abuse framework is needed. That has been CESR’s experience with MAD. Whilst looking at the developments of energy markets, ERGEG and CESR concluded that there is a need for an EU framework addressing these concerns also for energy markets.”*

In December 2007, the Commission issued a joint mandate to ERGEG and CESR requesting joint advice on issues concerning record keeping and transparency of transactions in electricity and gas supply contracts and derivatives in the context of the Third Energy Package. Advice was also sought on a possible clarification of the scope of the MAD in relation to trading in energy and energy derivatives, in the context of the review of that Directive by the Commission to be completed in early 2009.

ERGEG and CESR have also conducted a fact-finding exercise on the current situation in the EU Member States with regard to pre- and post-trade transparency and trading

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oversight on the basis of a questionnaire circulated to their members. The results of the fact finding exercise will be sent to the Commission.

ERGEG and CESR invite market participants to comment on their draft advice. The closing date for the public consultation will be 29 August 2008. All responses should be submitted online on CESR's website and via email to [fis@ergeg.org](mailto:fis@ergeg.org). A final advice from ERGEG and CESR will be provided to the Commission by early autumn 2008.

#### **Notes to Editors:**

1. The consultation document has been prepared by the joint group of ERGEG and CESR – under chairmanship of Johannes Kindler (ERGEG Vice President and Vice President of the Federal Network Agency) and Carlo Comporti (CESR Secretary General). The document is available on the ERGEG ([www.energy-regulator.eu](http://www.energy-regulator.eu)) and the CESR ([www.cesr.eu](http://www.cesr.eu)) websites.
2. The European Regulators Group for Electricity and Gas (ERGEG), made up of the national energy regulatory authorities of the EU's Member States, was established in 2003 as an advisory group of the Commission on Internal Energy Market issues.
3. 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 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.
4. The Commission's mandate sought the ERGEG and CESR advice on issues concerning record keeping and transparency of transactions in electricity and gas supply contracts and derivatives. The mandate was given in order to determine if additional measures are necessary with respect to transparency in energy trading. It is also meant to provide to the Commission the adequate technical background to adopt the guidelines under Articles 22f/24f and Recitals 20 and 22 in the two proposals for Directives amending Directive 2003/54/EC and Directive 2003/55/EC. The Commission has also requested advice on a possible clarification of the scope of the Market Abuse Directive in relation to trading in energy and energy derivatives. The final advice on market abuse has to be delivered to the Commission by the end of September, the advice on record keeping requirements and transparency by the end of December 2008.
5. Relevant EU legislation in this area includes: Directive 2003/54/EC concerning common rules for the internal market in electricity, Directive 2003/55/EC concerning common rules for the internal market in natural gas, Market Abuse Directive (Directive 2003/6/EC on insider dealing and market manipulation – MAD), Markets in Financial Instruments Directive (Directive 2004/39/EC – MiFID).

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