

MEMO# 13618

June 11, 2001

CREATION OF EUROPEAN SECURITIES COMMITTEE AND COMMITTEE OF EUROPEAN SECURITIES REGULATORS

[13618] June 11, 2001 TO: INTERNATIONAL COMMITTEE No. 39-01 RE: CREATION OF EUROPEAN SECURITIES COMMITTEE AND COMMITTEE OF EUROPEAN SECURITIES REGULATORS On June 6, 2001, the European Commission adopted two Decisions that created a European Securities Committee (ESC) and a Committee of European Securities Regulators (CESR), as recommended by the Committee of Wise Men.¹ In its final report on the Regulation of European Securities Markets, the Committee of Wise Men had proposed a four-level approach to securities regulation in which two new formal committees – ESC and CESR – would be created.² These committees would assist the Commission in implementing the regulatory approach under which directives and regulations containing framework principles would be adopted and the power to adopt implementing rules would be delegated to the Commission and the ESC. At the Stockholm European Council meeting, the heads of state adopted a resolution calling for the implementation of the four-level approach and welcoming the intention of the European Commission to establish these committees. Under the Commission Decisions, the ESC would be comprised of high-level representatives of the member states and CESR would consist of senior representatives from the national public authorities competent in the field of securities regulation. The Commission would chair the ESC and would be represented and permitted to participate at all meetings of the CESR. To ensure a close relationship between the two committees, the chairperson of the CESR would participate at the meetings of the ESC as an observer. The Decisions establish the committees in their advisory capacity. Specific legislation, which would be proposed by the Commission and adopted by the European Parliament and the Council of Ministers in a co- decision process, would define the functions of the ESC as a regulatory committee. Under the new approach, at the request of the Commission (after consultation with the ESC), the CESR would draft the implementing measures for a directive or regulation. Proposals for the implementing rules would be submitted by the Commission to the ESC in its capacity as 1 For the complete text of the decision on European Securities Committee in English, see http://europa.eu.int/comm/internal_market/en/finances/mobil/com1493en.pdf. At this time, a complete text of the decision on Committee of European Securities Regulators is available only in French. 2 See Memorandum to International Committee No. 14-01 (Feb. 23, 2001) (final report of the Committee of Wise Men). 2a regulatory committee, and the ESC would vote on these rules. The CESR also would ensure consistent implementation of both the directive or regulation and the implementing measures in the member states. According to the Decisions, the Commission would keep the Parliament informed on a regular basis of the proceedings in which the ESC acts in its regulatory capacity and provide Parliament

with all relevant documents. The Commission also would inform the European Parliament of any formal mandate it gives to the CESR. Before the approach suggested by the Committee of Wise Men could be fully adopted, the interinstitutional impasse between the Parliament and the Commission (along with the Council) regarding the role of the Parliament under the new approach must be overcome. The Parliament has indicated that it must be given a greater role with respect to implementing legislations or it would limit severely the scope of delegation for adopting implementing measures. Jennifer S. Choi Assistant Counsel

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