



*Before printing this document, please be aware of its size!*

*Regarding the provisions quoted in the response below, as far as possible, hyperlinks to these provisions (in the respective language or, if available, in English) are set out in Document CESR/04-075 for each country.*

### **IMPORTANT NOTICE**

*In the interest of transparency and to inform interested parties, CESR has published the following (together the “Tables”):*

- *the Correspondence Tables on the CESR Standards for Investor Protection (Ref. CESR/03-416b to 423b, CESR/03-134/Country);*
- *the Correspondence Tables on the CESR Standards for Alternative Trading Systems (Ref. CESR/03-415b, CESR/03-135/Country);*
- *the Synthesis Tables (Ref. CESR/03-427b and CESR/03-432b);*
- *the List of Alternative Trading Systems currently operating in Member States<sup>1</sup> (Ref. CESR/03-497b);*
- *the explanatory notes and caveats attached to the Tables.*

*The Tables were produced by the Members of CESR<sup>1</sup> within the constraints of and solely for the purposes of the CESR Review Panel process of monitoring the status of implementation of the CESR Standards for Investor Protection<sup>2</sup> and the CESR Standards for Alternative Trading Systems<sup>3</sup> in Member States.*

*The Tables have no legal effect; they do not present any interpretation of, or definitive position on, existing law or regulation in any jurisdiction. The Tables should not be relied upon for any purpose other than the purpose for which they were prepared. In particular, they should not be relied upon as a substitute for, or as guidance on, any aspect of the regulatory system of any Member State or as a defence in supervisory activities or enforcement proceedings; and they cannot be used to restrict competent authorities in taking regulatory or enforcement actions.*

*The information set out in the Tables is the response of each Member’s self-assessment. For this reason, the content of the Tables regarding a particular Member State has been prepared solely by the relevant Member on a best-efforts basis. (In a next step, the CESR Review Panel is going to conduct a common and collective peer exercise in reviewing the responses from all Members.) In case of discrepancy between the tables containing the responses from all CESR Members and the tables containing the individual responses from a particular CESR Member, the latter should be referred to.*

*The Tables provide a “snap shot” and will be up-dated on a regular basis to take account of regulatory developments in Member States. Therefore, they cannot be considered as fully finalised or definitive reflections of regulatory provisions in Member States. The Tables should also be read in light of current and future developments in the formulation of the proposed Directive on Markets in Financial Instruments (“ISD2”) and the future Level 2 implementing measures, and without prejudice to the position of any Member State in those developments.*

*For a more detailed account of the process, methodology and first, interim results, please see the “First Interim Report” by the Review Panel (Ref. CESR/03-414b).*

<sup>1</sup> For reasons of simplicity, the term “Member” in this context refers to all participants in the Review Panel, i.e. CESR Members, CESR Observers, and the Polish securities regulators; this applies to the term “Member State” accordingly.

<sup>2</sup> “A European Regime of Investor Protection - The Harmonization of Conduct of Business Rules” (Ref. CESR/01-014d, April 2002) and “A European Regime of Investor Protection – The Professional and the Counterparty Regimes” (Ref. CESR/02-098b, July 2002).

<sup>3</sup> Ref. CESR/02-086b, July 2002.

**CORRESPONDENCE TABLE ON STANDARDS FOR ALTERNATIVE TRADING SYSTEMS**  
**(REF. CESR/02-086B)**

**PORTUGAL**

**1. Market Integrity Standards fro Alternative Trading Systems**

| Standard   | Implementing authority(ies) | Implementing measure <sup>4</sup>  | Comments   |
|--|-----------------------------|--|--|
| <i>1. Investments firms should be required by their home state regulatory authority to notify the establishment of a qualifying system. They should also notify the home state regulatory authority (and, where different, the home state regulatory body in that member state responsible for the oversight of markets) of its key features and significant changes to its operation.</i> |                             | Foreseen in article 2.º , 3.º and 5.º of CMVM project of Regulation                | It is required a registration process with CMVM that has to be instructed by several documents and demonstrations; CMVM must be informed of any amendments to the information and documents of which the registration was granted. |
| <i>2. Investment firms operating a qualifying system should establish trading arrangements that result in fair and orderly trading.</i>  |                             | Foreseen in articles 2.º, n.º2, b) and 3.º, n.º1, h) of CMVM project of Regulation | The grant of the register depends upon the existence of a system that assures a fair and orderly trading   |

<sup>4</sup> Any derogation to the application of the implementing measures should be mentioned.

|   |  |  |   |
|---|--|--|---|
| <i>3. An investment firm operating a qualifying system providing trading in an instrument traded on a regulated market must make publicly available, on a reasonable commercial basis, information about quotes and/or orders that the qualifying system displays or advertises to the system users. Similarly, operators must make publicly available, on a reasonable commercial basis, information relating to completed transactions that the system provides to users.</i> |  | Foreseen in article 7.º of CMVM project of Regulation                | When the instruments traded in a ATS are simultaneously admitted to trading on a regulated market, the investment firm operating a ATS must make available, on a reasonable commercial basis, information about:<br><br>- <u>any time</u> : the better bids and asks for each instrument, as well as the price and the amount of the last transaction;<br><br>- <u>end of the session</u> : the minimum price, the maximum price and the weighted average price calculated during the session, as well as the amounts traded. |
| <i>4. Investment firms operating a qualifying system should monitor user compliance with the contractual rules of the system.</i>   |  | Foreseen in article 8.º, n.º1 of CMVM project of Regulation          |   |
| <i>5. Investment firms operating a qualifying system should, where their home state regulatory authority requires it for the purposes of investor protection and market integrity, establish arrangements with that authority to facilitate satisfactory monitoring of the markets in the instruments traded and the detection of market abuse.</i>   |  | Foreseen in article 8.º, n.º2 of CMVM project of Regulation          | It is expressly foreseen that the investment firm operating an ATS must make available to CMVM all the information and means necessary to market supervision and that they must communicate immediately any transactions suspected of market abuse.   |
| <i>6. Investment firms operating a qualifying system should be able to demonstrate to the relevant home state regulatory authorities that the system is capable of delivering the proposed service, that there are satisfactory arrangements for the management of the technical operation of the system and that there are satisfactory contingency arrangements in the event of system disruption.</i>  |  | Foreseen in articles 2.º, n.º2 and 3.º of CMVM project of Regulation | The grant of the register depends upon the ability to demonstrate to CMVM the required capabilities of the system.  |
| <i>7. Investment firms operating qualifying systems should ensure that there is clarity of obligations and responsibilities for the clearing (where applicable) and settlement of transactions.</i>   |  | Foreseen in article 2.º, n.º 2, c) of CMVM project of Regulation     |   |

## 2. Application of Conduct of Business Rules to Alternative Trading Systems

| Standard /Rule   | Implementing authority(ies) | Implementing measure  | Comments  |
|--|-----------------------------|---|---|
| <i>8. Investment firms operating a qualifying system should make clear the nature of the relationship between operator and user.</i>   |                             | Foreseen in article 6.º, n.º1 of CMVM project of Regulation | The investment firm operating an ATS has to celebrate a written agreement with the users.<br><br>One relevant aspect of the Portuguese project of Regulation is the possibility of the investment firm being simultaneously a user of the system it operates. In that case, that has to be foreseen in the system rules, trading system has to be able to identify the offers and the transactions in which the investment firm takes part. |
| <i>9. Investment firms operating a qualifying system should supply sufficient information about the system to enable a user to use the system efficiently and to understand any risks arising in using the system.</i>   |                             | Foreseen in article 6.º, n.º3 of CMVM project of Regulation | Before the celebration of the agreement, the investment firm operating an ATS has to provide to the potential user all the information relative to the system.  |
| <i>10. Investment firms operating a qualifying system should provide, or be satisfied that there is access to, sufficient publicly available information to enable users to form an investment judgement, taking into account both the nature of the users and the type of instruments traded.</i> |                             | Foreseen in article 6.º, n.º5 of CMVM project of Regulation |   |