Mr F Demarigny  
Secretary General  
The Committee of European Securities Regulators  
11-13 Avenue de Friedland  
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Paris  
FRANCE

18 October 2004

Dear Mr Demarigny

Consultation Paper: CESR’s recommendations for the consistent implementation of the European Commission’s Regulation on Prospectuses no 809/2004

We are pleased to be given an opportunity to comment on the proposed recommendations for the consistent implementation of the European Commission’s Regulation on Prospectuses no 809/2004 (the Regulation) (the Consultation Paper).

We have confined our comments in this letter to the principle points that we wish to make. The overriding requirement of CESR’s recommendations must be that they are clear, with limited need for interpretation. We are concerned that current practice in the European Union is disparate, with some member states having more robust regulatory regimes than others at present. All member states must, therefore, be in a position to apply the regulations with equivalence of understanding and interpretation and therefore greater and more detailed guidance is required in some areas.

Our areas of material concern are in respect of the following:

- complex financial histories
- reporting on prospective financial information including profit forecasts and working capital statements.
Complex Financial Histories

In the guidance in the Regulation on the presentation and reporting on historic financial information in a prospectus, the references are to "the issuer" without taking account of complex situations such as the issuer's acquisition of material subsidiaries during the reporting periods or where the issuer is a new company formed to acquire an existing trading entity and then seek a listing. The omission of information about the ongoing trading entities which are part of the issuer's group at the time of listing but not for the whole of the period under review would be misleading within the context of a prospectus. We therefore believe that it is essential that this matter is addressed in full in the recommendations by CESR to ensure clarity and consistency of approach across the European Union and to ensure that documents are not misleading.

Prospective Financial Information

In the context of prospective financial information (including working capital statements and profit forecasts) it is essential that guidance is given on what CESR means by "properly compiled". This term is likely to have a wide variety of interpretations in different member states from simply checking that the forecast information is arithmetically correct to a comprehensive review including an assessment of the assumptions and other bases on which it is prepared.

We note CESR's recommendation that a "clean", unqualified working capital statement is one that makes no reference, for example, to the funds to be raised in the proposed fund-raising or the facilities at the date of the document available to the issuer and its group for at least the period covered by the working capital statement. We would prefer that issuers are allowed to provide this information within working capital statements where it is relevant to the working capital position of the issuer. However, it is essential that any additional information does not confuse the reader.

We would be pleased to discuss any of the matters contained in this paper further with you, in which case please contact Ian Smart on 00 44 870 324 2465.

Yours sincerely

For and on behalf of
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