

**Response to the CESR
consultation on Market Abuse
Level 3 – Third set of CESR
guidance and information on
common operation of the
Directive to the market**

30 September 2008

Introduction

The Italian Banking Association appreciates the opportunity given to it by the CESR to take part in the consultation to finalize the guidelines on market abuse level 3 with reference to insiders lists and suspicious transactions reporting (STR).

We agree with the Committee when it notes that it is the obligation to keep *insiders lists* as well as suspicious transactions report that have sensitized the market on preventing market abuse. This is due, in our opinion, to the proper functioning of the procedures and practices implemented by the *industry* in the national framework of Member States following MAD.

It is for this reason that we believe that CESR's intervention on this subject should be minimum or not impact the conditions under which such obligations, now well established, are fulfilled.

Remarks on the consultation document

1. Insiders lists

The consultation document highlights that very often insiders lists encompass an overly broad range of individuals and hopes that issuers do whatever is possible to restrict access to privileged information to only a limited number of individuals.

This appears inconsistent with the fact that CESR provides, even if only as an example, a long list of categories of individuals, having knowledge of privileged information on basis of the position they hold, that should be inserted on *insiders lists*. This, unlike what is asserted above, could lead to the inclusion of thousands of people on the list when it concerns large groups of issuing banks.

Moreover, we request that specific guidelines not be set in this area and to leave it to each issuer to identify, on the basis of its specific organization and business, individuals who will concretely be made aware of privileged information.

2. Reporting suspicious transactions

Firstly it is opportune to remember that the original spirit of the framework regarding reporting suspicious transactions was to allow supervisory authorities to better identify and prevent market manipulations by utilizing intermediaries.

CESR's proposed guidelines risk overburdening the intermediaries who would be called to carry out a role which is, instead, entrusted to the supervisory authority.

This emerges, for example, from the indications furnished by the Committee on the information an intermediary should attach to a report.

In this case as well, it is opportune that CESR not provide further indications but leave it to the national authorities to decide upon the most suitable practices to implement. We believe, for example, that it is permissible for the reporting intermediary to indicate identifying details of the suspected transaction with the related reason for reporting, provided that, upon request by the authority, all the information and necessary documents shall be furnished for further examination and investigation.

This approach would be more effective and less burdensome for both the authority and intermediary.

We also believe it would be appropriate for CESR to evaluate the opportunity to expressly allow banking groups to use one individual to make reports to the authority.