

By e-mail – secretariat@europefesco.org

Mr. Fabrice Demarigny
Secretary General
CESR

13 June 2003
H 550 – msp,lbj

Dear Mr Demarigny

Market Abuse – Additional Level 2 Implementing Measures – Consultation Paper April 2003

In April 2003, the CESR put forward the Consultation Paper on Market Abuse Additional Level 2 Implementing Measures. Realkreditrådet (Association of Danish mortgage banks) wishes to add its comments to the proposed rules in the following areas:

- Guidelines for determining accepted market practices
- Insiders' lists.

Guidelines for determining accepted market practices

Realkreditrådet finds that the proposed guidelines of the CESR aimed at determining accepted market practices provide a suitable basis for such a determination.

In Question 5 the CESR asks for examples of current market practices that should be classified as accepted market practices. Realkreditrådet wishes to point out that it is important that the Danish mortgage banks' market making in less liquid mortgage bonds is an accepted market practice. This is due to the manner in which the mortgage banks conduct their lending.

The Danish mortgage banks fund their mortgage lending by issuing mortgage bonds on tap. The bonds are issued in varying series and with varying maturities, and in principle we are talking about redemption trades throughout the lifetime of the bond. The mortgage banks set bid and offer prices continuously towards their borrowing and deposit customers (the market making function) from the day when the bond is opened for the entering into fixed price agreements – typically 6-9 months before the 1st day of the disbursement of the loan to the borrower – until the bond matures with the last loan in the series. A significant point in this connection is that this way the mortgage banks may set prices in the relatively many less liquid series.

If the usual market making function of the mortgage banks would not in future be comprised by the concept of accepted market practices, it would result in a serious problem. In that case the mortgage banks would be unable to continuously offer their customers disburse-

ment and redemption prices for the bonds of the mortgage bank in question, except for the relatively few bonds where there are bids and offers on the Copenhagen Stock Exchange on a current basis.

In addition, Realkreditrådet wishes to point out that the Danish mortgage banks invest in its own mortgage bonds for their own portfolio throughout the year. This practice stems from the fact that under the Danish Mortgage Credit Act, the mortgage banks are required to have not less than 60 per cent of their capital base in listed bonds. The function of this legal requirement in regard to the placing of funds is to take into consideration the aspect of the security of the bonds. The placing in liquid assets is thus meant to ensure that the mortgage bank will at all times, and irrespective of whether the pre-calculated payments should fail to be made to the mortgage bank due to eg borrowers in arrears, be able to cover the amounts owing to the bond holders as they fall due.

Insiders' lists

The CESR has proposed that issuers are to keep a list of persons with inside information – one list per matter or event.

Realkreditrådet believes that this proposal could very easily lead to heavy bureaucracy in connection with both the preparation and the updating of such ad-hoc lists. Realkreditrådet would prefer a solution based on permanent lists of key employees etc and a list of departments/job titles that could come into possession of inside information.

If the proposal for ad-hoc lists is maintained, it must be ensured that lists should only be drawn up in connection with information that may actually affect the pricing of the bonds.

Yours sincerely

Mette Saaby Pedersen