



**The Quoted
Companies Alliance**

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Fabrice Demarigny
Secretary General
CESR (The Committee of European Securities Regulators)
11-13 avenue de Friedland
75008 Paris
France

31 October 2006

Dear Mr Demarigny,

Ref: CESR/06-078 - Evaluation of the supervisory functioning of the EU Market Abuse Regime

INTRODUCTION

The Quoted Companies Alliance (QCA) is a not-for-profit membership organisation dedicated to promoting the cause of smaller quoted companies ("SQC"), which we define as those 2,000+ quoted companies outside the FTSE-350 (including those on AIM and PLUS) representing 85% of the UK quoted companies by number. Their market capitalisations tend to be below €500m.

Together SQCs employ over 2 million people and make a major contribution to the UK economy. They look to retail investors, more so than larger companies do, for investment and to provide liquidity in the market for their shares.

CALL FOR EVIDENCE - QCA RESPONSE

The QCA Markets and Regulations Committee has considered the call for evidence set out in the letter dated 19 June 2006 and would respond as follows:

1. In the view of the QCA, there is no requirement at this stage in the UK for further guidance and/or rules in respect of interpretation of market abuse concepts (including the concept of "inside information").
2. From the point of view of smaller quoted companies, such companies would not at this stage welcome any greater degree of regulation in respect of market abuse - it is considered that the rules and regulations guidance set out in the UKLA disclosure rules are deemed to be sufficient for the purposes of smaller quoted companies.
3. Although not of direct concern to smaller quoted companies, there may be concerns within the UK as to the consistency across the EU of (i) implementation of the Market Abuse Directive and (ii) the application and enforcement of market abuse laws and regulations in different EU states. In particular:

- i) CESR might consider issuing guidance on the requisite burden of proof to enforce market abuse offences - this has been the subject of debate at the Financial Services & Markets Tribunal where it was held that market abuse was a "criminal offence" for the purposes of Article 6 of the European Convention on Human Rights. The Tribunal concluded that, although the standard of proof was a civil standard (balance of probabilities) rather than a criminal standard (beyond all reasonable doubt), it was decided that such civil standard of proof was flexible depending on the seriousness of the alleged offence. As market abuse is a very serious offence, this should require a higher standard of proof. The burden of proof issue is therefore not clear in the UK. There is an argument that burden of proof ought to be clear and consistent across all EU jurisdictions.
- ii) There ought to be a system for consistent enforcement in respect of circumstances giving rise to commission of an offence in more than one EU jurisdiction (there could for example be a system by which one EU state regulator can effectively "take the lead" in bringing enforcement proceedings). Otherwise, market participants may find themselves being the subject of differing proceedings in different jurisdictions and having to fight cases on a number of fronts in respect of the same circumstances. Guidance or some form of formal co-operation between different EU regulators would therefore be welcome on this issue.

We welcome the opportunity to comment and if you require any further information, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'JPierce', with a horizontal line drawn underneath it.

John Pierce
Chief Executive