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Dr. La - bh  
EG-BW-EPR/CESR  
6 February 2003

PER EMAIL

**Response to the Addendum to the Consultation Paper on CESR's Advice on possible Level 2 Implementing Measures for the Proposed Prospectus Directive (REF. CESR/02-185-b)**

Dear Mr. Demarigny,

we are pleased to take the opportunity, as the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), to comment on the Addendum to the Consultation Paper on CESR's Advice on possible Level 2 Implementing Measures for the Future Directive for the Prospectus to be published when securities are offered to the public or admitted to trading.

As the central organization of the cooperative banking group Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR) functions as promotor, representative and strategy partner of its members. 1500 German Volksbanken and Raiffeisenbanken with over 15 million members and some 30 million customers are a pillar of German banking and a major force in the German economy. Most of them are issuing continuously debt securities so that they are deeply interested in the questions of your consultation and especially the base prospectus as vehicle to flexibility and reducing cost in issuing. To the Cooperative Financial Services Network the DZ BANK and

the WGZ-Bank belong as central credit institutions. They are important players in investment banking. There are several mortgage banks members of this network.

Please let us stress that our main concern relates to the finalisation of the consultation and the fulfilling of your mandate. CESR announced at the last hearing in Paris that a second consultation on the revised possible implementing measures which will be sent to the Commission was unlikely to be held in the light of the tight timeframe. Both hearings showed there is a widespread fear that the regulations proposed in both consultation papers will result in a high degree of inflexibility. Market participants made a lot of suggestions in their written comments as well as during the open hearings. According to most market participants, care should especially be taken to ensure admission to trading is as flexible as possible, particularly with new, as yet unknown, products in minds. Furthermore a clear-cut ranking between the different registration documents is necessary to give issuers legal certainty. Although of high priority, the shape of a guideline to be given by CESR in this respect has not yet emerged.

Despite the fact that CESR is under pressure to work to a very tight schedule, we would like to underline the high importance of comprehensive consultations. In our view, therefore, it is essential to consult the market for a second time about the whole consultation complex even if this meant that the consultations would not end in March but at a later date (maybe May or June).

We welcome that the addendum encloses a specialist building block for banks. Credit institutions are indeed subject to close regulatory control and supervision, and therefore carry a lower insolvency risk. This has to be reflected by lower disclosure obligations. One has to bear in mind that the purpose of a prospectus is not to provide a due diligence report to the investor but only to inform him about the nature and the major risks of his investment (see also Art. 5 para. 1 of the Prospectus Directive).

6. Februar 2003

As we already stressed in our response to the first consultation paper we are generally in favour of the building block approach. Nevertheless we believe that the building block approach has to be significantly simplified and improved. The production of too many building blocks aiming to provide specific disclosure requirements for each sub-type of issuer or security risks impairing flexibility and the ability to deal appropriately and speedily with particular cases will be impaired. An inflexible system could counteract the aim of the Prospectus Directive to facilitate the raising of capital for issuers.

As we have also stated in our last response and at the hearing, the base prospectus is of high importance for the banking industry. It will probably be the mainly used prospectus in the future in the whole European banking industry because this sector will use offering programmes for issuing non-equity securities. CESR has not yet been instructed by the Commission to consider this format. We consider it essential to develop valid disclosure requirements for base prospectuses so as to give market participants as well enough time to contribute to the search for a practicable solution for all market participants during the consultation process. One important point is the flexibility which the base prospectus must grant to the issuer, especially in respect to the finalisation of the incomplete prospectus. Here it is absolutely necessary to pay attention to the necessities arising out of the current practices in the market.

The BVR has elaborated jointly with the Zentraler Kreditausschuss (ZKA) a response to the paper which we like to present you as an **annex** to this mail.

Sincerely yours

BUNDESVERBAND DER DEUTSCHEN  
VOLKSBANKEN UND RAIFFEISENBANKEN · BVR  
Federation of German Cooperative Banks  
By proxy



(Dr. Möller)



(Dr. Lange)

**Enclosure**