



European Association for Listed Companies

Mr Arthur Docters van Leeuwen

Chairman

CESR

11-13, avenue de Friedland

75008 Paris

Paris, 12 June 2003

Our ref.: 1-06.2003

Dear Mr. Docters van Leeuwen,

Re: Market Abuse Additional Level 2 Implementing Measures

EALIC, the European Association for Listed Companies, aims to represent European listed companies and to promote their common interests on the European level. EALIC was incorporated in December 2002 as a non-profit association. Its membership is growing. Presently 37 public companies are member.

EALIC would like to comment on the Consultation paper prepared by CESR in connection with level 2 Implementing Measures for the proposed Market Abuse Directive.

While generally supportive of the objective to draw up insider lists, whether permanent or specific, EALIC is concerned that persons on such lists might automatically be presumed in possession of inside information. Drawing up for example permanent lists does not necessarily entail that the persons on these lists are in possession of specific inside information. EALIC is therefore opposed to shifting, as a matter of principle, the burden of proof to the persons included on such lists.

EALIC, on the other hand, supports the view that the insider lists should remain open until inside information becomes public and that records should be kept for possible future investigations.

EALIC is furthermore concerned about the criteria for identifying the persons subjected to the disclosure requirement. While supportive of the notion of “persons discharging managerial responsibilities within an issuer”, EALIC is of the opinion that it should be made clear that this does not cover Members of the Supervisory Board and Senior Managers, who do not perform decision making functions within the issuer.

Lastly, EALIC would like to underline that the criteria for determining when a transaction triggers the duty of disclosure should exclude a certain number of transactions, an indicative list of which could be provided separately, which by their very nature do not fall within the ambit of the Directive.

Sincerely yours,

Philippe Bissara
Vice General Secretary