

## **EAPB Position on CESR's Draft Technical Advice on Possible Implementing Measures of the Directive 2004/39/EC on Markets in Financial Instruments for professional client agreements (CESR/04-689)**

The European Association of Public Banks and Funding Agencies (EAPB) would like to thank the Committee of European Securities Regulator's for the opportunity to comment on its call for opinions on CESR's Draft Technical Advice on Possible Implementing Measures of the Directive 2004/39/EC on Markets in Financial Instruments for professional client agreements (CESR/04-689). The EAPB represents the views of public banks, funding agencies and associations of public banks throughout Europe, which together represent some 100 public financial institutions with a combined balance sheet total of EUR 3,000 billion and over 170,000 employees.

The European public banks are of the opinion that no advice on level 2 measures for professional client agreements should be provided. Especially, there should be no requirements for agreements in written form. It should be left to the market to decide which form agreements should have and what they should contain. The reason why we believe that there should be no prescription on the form and content of the investment advice given to professional clients is that professional clients usually have ample investment experience, knowledge and expertise. Retail clients, in contrast, in this respect need more protection. Professional clients also have an interest in being able to react flexibly and in not being prevented from doing so by rigid rules. Therefore, any over-regulation would simply lead to more bureaucracy and would indeed make business with professional clients more expensive.

Brussels, 18 February 2005