


POSITION PAPER



ESBG response to CESR consultation on the second part of the draft third set of CESR guidance on the operation of the Market Abuse Directive

(CESR/08-717)

December 2008



The European Savings Banks Group (ESBG) welcomes the opportunity to comment on the second part of the draft third set of CESR guidance on the operation of the Market Abuse Directive.

In general, the ESBG welcomes the proposals included in the draft third set of CESR guidance, as they contain a number of valuable practical details as regards the application of the Directive and will lead to a convergent application within the European Union.

The ESBG would like to comment on some specific points included in the CESR draft:

Stabilisation and buy back programmes:

We are of the same opinion as CESR that stabilization outside the exemption in Article 8 should not be regarded as abusive solely because it occurs outside of the safe harbour. We also agree that sell transactions are not subject to the exemption provided by Article 8. In both cases it is necessary to assess on a case-by-case basis whether market abuse is on hand.

The two-fold notion of inside information:

We agree to CESR's idea to extend paragraph 1.5. of the 2nd set of guidance to publications which are not resulting from the issuer's initiative in relation to its disclosure obligations. Issuers should be under no obligation to respond to speculation or market rumours which are without substance. In this context we would like to highlight that CESR's comments included in paragraph 34 are very important and could even be described in more detail. Furthermore we encourage CESR to consider the inclusion of a paragraph as regards "No comment policy"; clarifications on level 3 in this area would be helpful



About ESBG (European Savings Banks Group)

ESBG (European Savings Banks Group) is an international banking association that represents one of the largest European retail banking networks, comprising about one third of the retail banking market in Europe, with total assets of € 5215 billion (1 January 2006). It represents the interest of its members vis-à-vis the EU Institutions and generates, facilitates and manages high quality cross-border banking projects.

ESBG Members are typically savings and retail banks or associations thereof. They are often organised in decentralised networks and offer their services throughout their region. ESBG Member banks have reinvested responsibly in their region for many decades and are one distinct benchmark for corporate social responsibility activities throughout Europe and the world.



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