

Luxembourg, 3rd March 2005

Re: ABBL Response to CESR's Draft Technical Advice on Possible Implementing Measures of the Directive 2004/39/EC on Markets in Financial Instruments – Admission of Financial Instruments to Trading on Regulated Markets

Dear Mr. Demarigny,

We welcome the opportunity to comment on the consultation of CESR on this subject. We first would like to make 3 general remarks:

- article 40 deals with one way of trading in financial products: through RM or MTF, both having their own procedures and model of trading;
- therefore article 40 should be seen within a broader context taking into account the financial regulation elements of the FSAP i.e. Prospectus, Market Abuse, Transparency, IAS (where some requirements already exist);
- we fear that there is a mixing of different objectives: conditions related to the functioning of the market and conditions regarding each listing per se.

Please find hereafter our comments to the questions.

Q1: We see some confusion in the first two additional requirements for shares. A listing is only one way to access a larger capital base and it is up to the company to create (according to its needs) the best conditions possible to an active/attractive listing. Put otherwise this means that liquidity or depth of float should not be set by regulation but by the market, not forgetting that the securities could also be traded through internalization. It is worth mentioning that the said shares will not enter any index if the float is not deep enough.

Historical information is already dealt with in other EU legislation (prospectus, transparency...) and therefore CESR should only refer to these legislations.

Q2: No, additional requirements are needed.

Q3: CESR advice is appropriate and no further requirements are needed.

Q4: No, ABBL does not think that additional requirements are needed but questions about the introduction of a differentiation of products with different maturities.

Q5: ABBL agrees with the requirements a., d. and f. but think that the other requirements look difficult to implement concretely and consistently.

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Precisions would be welcomed regarding what “other securities” really covers. Does it cover everything? Why then having points on derivatives? Is the definition linked to the Prospectus Directive?

We have concerns with point b. Although we understand the basic idea, it could be difficult to manage in real life. Products are sometimes sophisticated and correlation is indirect. In the case of products with threshold, correlation with the product and its underlying is not always direct.

We also consider point c. not being clear. What is the meaning of the term ‘reliable’. Does it mean that the price is “correct”, or that the source providing it is sound?

We have some concerns regarding point e.. Markets fluctuates according to the law of offer and demand and it could happen that prices of the underlying differ somewhat from the ones of the said security without being abnormal or detrimental to anyone.

Q6: ABBL has the same concerns as in the previous question. Also we could agree on the principles, these products are correlated to their underlying asset, but could sometimes deviate... (although it is fair to say that they are not supposed to do so) because of the law of offer and demand. CESR should not add requirements included in other Directives.

Q7: We have the same comments as for shares.

Q8: ABBL could agree under the condition that the above mentioned issues would be resolved.

Conclusion

To conclude we appreciate the clarification brought to article 40, but think that it should be seen in the whole context of the FSAP. Level 2 advices should be in this context very narrowly tight to article 40.

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