

ZENTRALER KREDITAUSSCHUSS

MITGLIEDER: BUNDESVERBAND DER DEUTSCHEN VOLKSBANKEN UND RAIFFEISENBANKEN E.V. BERLIN · BUNDESVERBAND DEUTSCHER BANKEN E.V. BERLIN
BUNDESVERBAND ÖFFENTLICHER BANKEN DEUTSCHLANDS E.V. BERLIN · DEUTSCHER SPARKASSEN- UND GIROVERBAND E.V. BERLIN-BONN
VERBAND DEUTSCHER PFANDBRIEFBANKEN E.V. BERLIN

Mr Carlo Comporti
Secretary General
Committee of European
Securities Regulators (CESR)
11-13 avenue de Friedland
75008 PARIS
FRANCE

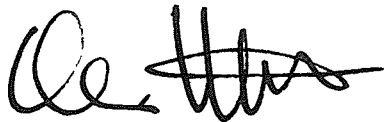
10178 Berlin, den 19. September 2008
Burgstraße 28
AZ ZKA: 413-EU-CS
AZ BdB: U 3.2.8 - Kn

CESR's Call for Evidence on regulatory arrangements for post-trading infrastructures

Dear Mr Comporti,

Enclosed please find our comments on the Call for Evidence on the „Formal request for technical advice on identification of regulatory arrangements for post-trading infrastructures and to advise on possible solutions in terms of bridging any potential differences in these arrangements“. We are grateful for the opportunity to comment on this important issue.

Yours sincerely,
for the Zentraler Kreditausschuss
Bundesverband deutscher Banken



Oliver Wagner



Felix Koehn

Enclosure

ZENTRALER KREDITAUSSCHUSS

MITGLIEDER: BUNDESVERBAND DER DEUTSCHEN VOLKSBANKEN UND RAIFFEISENBANKEN E.V. BERLIN • BUNDESVERBAND DEUTSCHER BANKEN E.V. BERLIN
BUNDESVERBAND ÖFFENTLICHER BANKEN DEUTSCHLANDS E.V. BERLIN • DEUTSCHER SPARKASSEN- UND GIROVERBAND E.V. BERLIN-BONN
VERBAND DEUTSCHER PFANDBRIEFBANKEN E.V. BERLIN

Comments of the Zentraler Kreditausschuss (ZKA)¹ on CESR's Call for Evidence

"Formal request for technical advice on identification of regulatory arrangements for post-trading infrastructures and to advise on possible solutions in terms of bridging any potential differences in these arrangements “

Ref.: CESR/08-643

(as per 19 September 2008)

¹ The ZKA is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR) for the cooperative banks, the Bundesverband deutscher Banken (BdB) for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB) for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV) for the savings banks financial group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent more than 2,300 banks.

We are grateful for the opportunity to comment on the Call for Evidence on the “Formal request for technical advice on identification of regulatory arrangements for post-trading infrastructures and to advise on possible solutions in terms of bridging any potential differences in these arrangements”. We expressly welcome the efforts to identify differences in regulatory arrangements for post-trading infrastructures and to subsequently outline ways of bridging these. This could, in particular, strongly promote the success of the Code of Conduct signed by the central services providers and, at the same time, prevent superfluous double regulation. The whole European financial market would be strengthened as a result.

Given the short deadline, we are unable to list the various European regulatory arrangements and their differences in detail. We believe that it would be more appropriate to address this special request to CESR’s Post Trading Expert Group (PTEG), which has been dealing with the issue for several months, and to the providers of market infrastructure services, who have been gathering practical experience of different arrangements for over a year now within the framework of link-related inquiries in connection with the Code of Conduct. We regret, however, that the PTEG has not made available its findings so far under the Call for Evidence. Despite the period of only four weeks allowed for a response, doing so would have enabled market participants to comment on the findings and specifically add to these.

We should, however, like to take this opportunity to input some fundamental remarks on the efforts to establish access and interoperability between infrastructure providers in particular and the post-trading area in general.

As already mentioned, we support the efforts undertaken by the European Commission and CESR to accelerate the establishment of links through the current work. Regulatory differences are a substantial barrier to this. At the same time, it should also be remembered that achieving interoperability requires an enormous amount of technical preparation for which a reasonable timeframe should be allowed if unnecessary losses of quality and an unnecessary expansion of the risks incurred (particularly in links between CCPs) are to be avoided. As far as the German market is concerned, we wish to point out – as an organisation representing associations of users of central service providers – that wide-ranging efforts are being made to overcome these obstacles.

Efforts by German market infrastructure providers

At the meeting of the Code of Conduct Monitoring Group on 9 July 2008, a representative of Deutsche Börse AG gave a detailed and transparent presentation of the Frankfurt Stock Exchange’s position on practical and regulatory issues associated with access and

interoperability. This met with an explicitly positive response from the Commission. Besides the trading level, Eurex Clearing and Clearstream Banking Frankfurt are also currently conducting an intensive dialogue with their clients and potential link partners.

A dialogue with banks as clients is particularly important, since it should not be a question of merely developing a certain number of functioning links. Instead, the aim should be to establish links that make economic sense. This is only possible in collaboration with banks.

Disclosure of findings and consultation

We believe that both the PTEG findings so far and the results and conclusions of this Call for Evidence should be disclosed. The active market participants in the trading/post-trading area are best qualified to check the completeness of any exhaustive list of regulatory arrangements. The Commission and CESR should take advantage of this expertise before making any further decisions.

Supporting current market momentum

The impact of various initiatives for the trading/post-trading area is blatantly obvious. Hardly a day goes by without some reports in the press about changes and developments in this area. The market infrastructure providers are working on price comparability, free access and interoperability in order to achieve the envisaged aims. For the German market, given the timeframe available since signature of the Code of Conduct and the Access and Interoperability Guidelines, the results obtained by the Code of Conduct demonstrate the success of self-regulatory initiatives. There have, for example, been price cuts at all three levels (trading, clearing, settlement). New competitors are also entering the market, particularly in the areas of trading and clearing. Moreover, private initiatives such as, for example, Link Up Markets would have been inconceivable in a Europe without such decisive impulses as the Code of Conduct and TARGET2-Securities (T2S).

While further improvements are undoubtedly necessary, the current positive momentum should not be interrupted unnecessarily. Creating a fertile environment for further developments should therefore be the top priority. Important steps towards this are due implementation of the recommendations of the Legal Certainty Group (LCG) and the Clearing and Settlement Fiscal Compliance Expert Group (FISCO), as well as ongoing constructive critical monitoring of the Code of Conduct and T2S. Seeking a legislative measure that goes beyond this would be counter-productive at present. Due to the lengthy legislative process and the uncertain outcome associated with it, this would bring the current progress to a standstill.

The ZKA will continue to support efforts to improve the efficiency of the financial market. We hope that our ideas will help to achieve this aim and should be pleased to discuss this subject with you further at any time.