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**ESMA’s policy orientations on**

**possible implementing measures under the Market Abuse Regulation**

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the entire Austrian banking industry, appreciates the possibility to comment on the ESMA Discussion Paper regarding ESMA’s policy orientations on possible implementing measures under the Market Abuse Regulation and would like to submit the following position:

Q1: Yes, we agree that the mechanism used in the Transparency Directive or comparable mechanism should be used for public disclosure regarding buy-backs.

Q2: We definitely agree that aggregated figures on a daily basis would be sufficient for
public disclosure.

Q3: We feel that the current deadline works very well and therefore see no reason to
change it.

Q4: The same deadline for disclosure towards a competent authority as the one chosen
of public disclosure makes sense.

Q5: The determination of one single competent authority makes sense. However, we do
not have a preference for one of the proposed options.

Q6: Yes we agree that with multi-listed shares the price should not be higher than the last traded price or last current bid on the most liquid market.

Q7: Yes, we agree that during the last third of the regular time of an auction the issuer must not enter any orders to purchase shares.

Q8: Yes, we agree with the proposed cumulative criteria for extreme low liquidity.

Q10: Yes, we think that for the calculation of the volume limit, the significant volumes on all trading venues should be taken into account and that issuers are best placed to perform calculations.

Q11: Yes, we agree with the approach suggested to maintain the trading and selling restrictions during the buy-back and the related exemptions.

Q12: Yes, we agree with the proposed specifications of duration and calculation of the stabilisation period.

Q13: We think that the disclosure provided for under PD is sufficient.

Q14: We think that transparency conditions for offers not falling within the scope of the
Prospectus Directive should be aligned with the ones for offers falling under that Directive.

Q15 and 16:
A clear allocation of responsibilities is essential. We prefer to entrust the
entity, which is actually undertaking the stabilization, with the responsibility to comply with both the transparency and the reporting obligations.

Q17: Yes, we think that the reporting regime should be centralised by one competent
authority.

Q18: Yes, we agree with these price conditions for shares/other securities equivalent to shares and for securitised debt convertible or exchangeable of shares/other securities equivalent to share.

Q20: Yes, we agree with the proposed conditions for ancillary stabilisation.

Q21: Yes, we agree with ESMA that sell side trading cannot be subject to the exemption provided by Article 3(1) of MAR and that therefore “refreshing the green shoe” does not fall under the safe harbour.

Q22: Yes, we agree that “block-trades” cannot be subject to the exemption provided by Article 3(1) of MAR.

Q23: Yes, we agree with ESMA’s proposals for the standards that should apply prior to conducting a market sounding.

Q27: In general, we agree with the proposals regarding sounding lists. Regarding the
access of such information to regulators, it should be clarified that access should be provided only upon request of the regulator. An automatic or electronic access of the regulator to such systems would be too far-reaching.

Q28: Yes, we agree with the requirement for disclosing market participants set out in paragraph 89.

Q29: Yes, we agree with the proposals regarding recorded lines.

Q30: Yes, we definitely support an ex post confirmation procedure.

Q31: Yes, we agree with such an approach.

Q32: Yes, we agree with the proposals regarding disclosing market participants’ internal processes and controls.

Q33: In our view, the buy side should also always do their own assessment.

Q35: We think that the risk could be reduced and appropriate action could be taken if
the buy side also informs the sell side in case where the sell side considers information not to be inside information, but the buy side does.

Q36: In general, we agree, but we think that when the buy side believes that the sell
side disclosed inside information (in contrary to the sell side) it should inform the sell side (see Q35).

Q38: No, we believe that the proposed content regarding the buy-side is sufficient.

Q39: Under option 1, financial institutions will/can have different cleansing strategies
with different investors; this could cause a risk. We are therefore in favour of option 2.

Q48 and 49:

Yes, we agree with the proposed approach regarding OTC trading as well as entities which can perform or execute an AMP.

Q51: No, we do not you consider that there is specific additional information that should be disclosed when executing an AMP.

Q52: Yes, we agree that the factors listed seek to ensure a high degree of safeguards and proper interplay of forces of supply and demand.

Q53: Yes, we agree that the fact that AMPs may in some instances protect specific market participants.

Q54: Yes, we agree with the principle of persons performing an AMP to act independently.

Q56: Yes, an ex ante list of situations in which the AMP should be temporarily suspended or restricted should be established.

Q57: In general we agree with the principles.

Q59: Yes, we agree with these principles.

Q60: Yes, we agree with the analysis.

Q61: Yes, we agree that the proposed approach to timing of STR reporting strikes the right balance in practice.

Q62: Yes, we definitely agree, but do not have any particular views on what "good reasons" could be.

Q64: Entities should be subject to a requirement to establish automated surveillance
systems. However, this depends on the size and nature of the entity concerned as well as the particular activity it performs (see paragraph 205).

Q65: Yes, trading venues should be required to have an IT system allowing ex post reading and analysis of the order book.

Q67: Yes, we agree with the proposed information to be included in, and the overall layout of the STRs.

Q68: Yes, we agree that ESMA should substantially revise existing STR templates and develop a common electronic template. However, we do not have any particular views on what ESMA should consider when developing these templates.

Q69: Yes, we agree with ESMA’s view.

Q70: Yes, we agree with this general approach.

Q71: We agree that applying similar requirements to those set out in the TD for the dissemination of information to all issuers of RM/MTF/OTF financial instruments would be adequate.

Q72: Yes, we agree to include the requirement to disclose as soon as possible significant changes in already published inside information.

Q73: Yes, we agree with the suggested criteria applicable to the website where the issuer is posting inside information.

Q76: Yes, we agree with the approach to the ex post notification of general delays and the ways to transmit the required information.

Q77: Yes, we agree with the approach to require issuers to have minimum procedures and arrangement in place to ensure a sound and proper management of delays in disclosure of inside information.

Q78: Yes, we agree with the proposed content of the notification that will be sent to the competent authority to inform and explain a delay in disclosure of inside information.

Q79: We do not consider additional content for the notifications.

Q80: Yes, we consider necessary that common template for notifications of delays be designed.

Q81: Yes, we agree with the approach suggested in relation to the notification of intent to delay disclosure to preserve financial stability.

Q83: Yes, we agree with the main categories of situations identified.

Q84: Regarding the home address and a national identification number it should be
questioned if it would be sufficient if these data were known by the company involved.

Q86: Yes, we agree on the proposal on the language of the insider list.

Q87: Yes, we agree on the standards for submission.

Q89: Yes, we agree on the procedure for updating insider lists.

Q90: Yes, we agree on the proposal to put in place an internal system/process whereby the relevant information is recorded and available to facilitate the effective fulfilment of the requirement.

Q91: Yes, the characteristics are sufficiently clear.

Q93: No, we do not see additional types of transactions that should be mentioned to the non-exhaustive of examples of transactions that should be notified.

Q98: Yes, there should be a threshold. It would be good to have at least some guidance
on how to decide if a recommendation is intended for the public.

Q99: Yes, we agree that the existing requirements on the identity of producers of recommendations should be maintained.

Q100: Yes, we agree that as a starting point, ESMA should keep the approach adopted in the existing level 2 rules, with respect to objective presentation of investment recommendations.

Q101: Yes, we agree with the suggested approach.

Q102: Yes, we agree that, as a starting point, ESMA should keep the approach adopted in the existing level 2 rules with respect to disclosure of particular interests or indications of conflicts of interest.

Q106: No, we do not believe that additional specific thresholds should be specified with respect to other ‘non-equities’ financial instruments.

Q109: Yes, we agree with the suggested approach.

Q111: Yes, they should be updated.

Q112: Yes, we agree on the proposed approach.

Q113: Yes, we agree. The requirements should be aligned with the ones provided for in the CRD.

Kindly give our remarks due consideration.

Yours sincerely,

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