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**DG Internal Market Services Working Document on
storage of regulated financial information in relation to issuers whose securities are
admitted to trading on a regulated market.**

Introduction

This working document¹ aims at presenting a possible way forward to facilitate the implementation of the **Transparency Directive**² as regards the **storage of regulated financial information**. It is divided into two parts.

- **Part A** of the working document presents the minimum quality standards to be respected by the central storage mechanism, in connection with Article 21 of the Transparency Directive.
- **Part B** of the working document presents an initial position in relation to the minimum conditions required for the effective functioning of a pan-European network of national central storage mechanisms, in connection with Article 22 of the Transparency Directive.

Pro memoria: In July 2005, the Commission granted the Committee of European Securities Regulators (CESR) a mandate for technical advice in relation to possible implementing measures concerning the storage of regulated financial information under the Transparency Directive. CESR's formal advice was sent to the Commission on 30 June 2006³.

Extracts from the Transparency Directive

Article 21 - Access to regulated information

1. The home Member State shall ensure that the issuer, or the person who has applied for admission to trading on a regulated market without the issuer's consent, discloses regulated information in a manner ensuring fast access to such information on a non-discriminatory basis and makes it available to the officially appointed mechanism referred to in paragraph 2. [...].

2. The home Member State shall ensure that there is at least one officially appointed mechanism for the central storage of regulated information. These mechanisms should comply with minimum quality standards of security, certainty as to the information source, time recording and easy access by end users and shall be aligned with the filing procedure under Article 19(1).

[...]

¹ This document does not prejudice any decision of the Commission on this subject.

² Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC; OJ L 390, 31.12.2004, p. 38.

³ The mandate to CESR and CESR's advice are available at DG Internal Market website at: http://europa.eu.int/comm/internal_market/securities/transparency/index_en.htm
Other documents in connection to the work undertaken by CESR are available at: www.cesr-eu.org

4. In order to take account of technical developments in financial markets, to take account of developments in information and communication technology and to ensure the uniform application of paragraphs 1, 2 and 3, the Commission shall adopt implementing measures in accordance with the procedure referred to in Article 27(2).

The Commission shall in particular specify:

[...]

(b) minimum standards for the central storage mechanism as referred to in paragraph 2.

Article 22 - Guidelines

1. The competent authorities of the Member States shall draw up appropriate guidelines with a view to further facilitating public access to information to be disclosed under Directive 2003/6/EC, Directive 2003/71/EC and this Directive.

The aim of those guidelines shall be the creation of:

(a) an electronic network to be set up at national level between national securities regulators, operators of regulated markets and national company registers covered by the First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 48 (1) of the Treaty, with a view to making such safeguards equivalent throughout the Community (2); and

(b) a single electronic network, or a platform of electronic networks across Member States.

2. The Commission shall review the results achieved under paragraph 1 by 31 December 2006 and may, in accordance with the procedure referred to in Article 27(2), adopt implementing measures to facilitate compliance with Articles 19 and 21.

PART A

Minimum Quality Standards for the central storage mechanism

The central storage of regulated information referred to in Article 21(2) of the Transparency Directive 2004/109/EC should comply with the following minimum standards.

1. SECURITY

1. Security of communication

- 1.1. The storage mechanism must have in place sound security mechanisms designed to ensure the security of the means of communication used to link the issuer⁴ with the mechanism, and to provide certainty as to the source of the information being filed.
- 1.2. The storage mechanism may, for security reasons, limit the means of communication to be used but it must be able, as a minimum, to receive electronic filings through a system accessible to the issuer.

In any event, the types of means of communication to be used must be easily accessible, commonly used and widely available at a low cost.

2. Integrity of stored regulated information

- 2.1. The storage mechanism must store the information in secure electronic format and must have in place appropriate security mechanisms designed to minimize the risks of data corruption and unauthorized access.
- 2.2. The storage mechanism must ensure that the regulated information it holds as received from the issuer is complete and that the content of the regulated information is not editable while stored.

In case that the storage mechanism accepts the filing of information using means of communication other than electronic, the storage mechanism must ensure, when converting the documents into electronic documents, that the content of the information is complete and unedited as originally sent by the issuer the information.

- 2.3. Information that has been sent to the storage mechanism and displayed must not be taken out of the storage mechanism. If an addition or correction is necessary, then the correcting or additional piece of information must identify the item it corrects or adds to and must be identified as a correction or addendum. The original document relating to 'the correcting or additional information' should have a 'flag/link' to identify the fact that there is additional relevant information applicable to this document.

⁴ For the purposes of these standards, issuer should be understood as referring to the issuer of securities or the person that has applied for the admission of the securities to trading on a regulated market without the issuer's consent. Depending on the context, it will also refer to any person appointed by the issuer to act on its behalf.

3. Validation

- 3.1. The storage mechanism must be able to validate the information filed, meaning that the mechanism must enable automatically inspection of the filed documents for technical adherence to standards required, completeness and accuracy of their formats.
- 3.2. The storage mechanism must have systems in place to detect breaks in the electronic feed and to request the re-transmission of any data that it fails to receive from the sender.

4. Reliable access to Services

- 4.1. The storage mechanism must have security systems in place so as to ensure that its services can be accessed by issuers and end users, without disruption, 24 hours per day, 7 days per week.

Each Storage Mechanism must define its own requirements, based on the characteristics of its systems and the particular conditions in which it operates.

The systems capacity (namely, the capacity of its servers and the bandwidth available) should be sufficient to support the expected requests from issuers (as regards filing of information) and end users (as regards access to stored information).

- 4.2. The storage mechanism may need to prevent access to its systems for brief periods when necessary in order to perform essential maintenance or in order to upgrade its services. Where possible, such interruptions must be announced in advance.

5. Acceptance of waivers and recovery

The storage mechanism must have an evaluation process for reviewing and accepting or denying waivers for late filings due to technical issues of the storage mechanism and non-standard submissions. The mechanism must also provide recovery tools that allow the issuer to use other mechanisms of filing in place of the prescribed one when this is out of order. However, there should be an obligation on the issuer to refile the information through the main mechanism when restored.

6. Back-up systems

- 6.1. The storage mechanism must be technologically independent and have sufficient back-up facilities in place in order to maintain and to re-establish its services in a reasonable timeframe.
- 6.2. The nature of these back ups systems will need to be evaluated by each storage mechanism taking into consideration the specific characteristics of the systems in place.

2. CERTAINTY AS TO THE INFORMATION SOURCE

7. Certainty as to source of information and authenticity of origin

7.1. The storage mechanism must have in place sound systems designed to provide certainty as to the source of the information being filed. The storage mechanism must have certainty that the information it receives is from an authentic source. The Storage Mechanism must verify that any regulated financial information it receives directly originates from the person or entity that has the filing obligation or from a person or entity authorised to on its behalf.

7.2. The Storage Mechanism must be able to electronically acknowledge receipt of documents. The Storage Mechanism should either confirm validation of filing or reject submittal with explanation for rejection and it must have a “non-repudiation” function.

8. User Authentication

The security measures of the Storage Mechanism must be designed to establish the validity of the originator, or a means of verifying an individual’s authorization to send specific information. The Storage Mechanism may impose the use of digital signatures, access codes or any other appropriate measure providing with sufficient certainty.

9. Need to ensure integrity of content of regulated information.

The Storage Mechanism must assure that there is no significant risk of corruption or change of original information either accidentally or maliciously and to ascertain any alteration.

3. TIME RECORDING

10. Electronic docketing and Date and time stamp

10.1. The Storage Mechanism must be able to automatically docket electronic filings and add a date and time stamp.

10.2. In order to facilitate this process, the Storage Mechanism may impose the filing of information in pre-determined formats and templates allowing for the use of straight-through processing technology.

If particular formats are imposed, the Storage Mechanism must nevertheless use open architecture systems for the filing of information and must, as a minimum, accept:

- file formats and transmission protocols that are non proprietary and that obviate single vendor software applications; and
- commonly used and generally accepted proprietary formats.

If templates are imposed, the Storage Mechanism must ensure that they are easily accessible and, where available, they must be aligned with those used for filing the same regulated information with the Competent Authority.

- 10.3. The information must be date and time stamped as it enters into the Storage Mechanism, irrespective of whether the information is checked by the Competent Authority before (ex ante control) or will be checked after (ex post control) it enters in the Storage Mechanism.

4. EASY ACCESS BY END USERS

11. Presentation of the information

When presenting its services to the end users, the Storage Mechanism must distinguish between regulated financial information filed pursuant to a legal obligation and any additional valued-added service that the Storage Mechanism may offer.

12. Language regime

- 12.1. The Storage Mechanism should file and facilitate access to all the linguistic versions of the information as submitted by the issuer. Without prejudice to more stringent national requirements, these minimum standards should not be construed as imposing on the Storage Mechanism an obligation to translate the information filed.

- 12.2. The searching facilities in the Storage Mechanism must be available in the language accepted by the competent authorities in the home Member State and, at least, in a language customary in the sphere of international finance.

13. Technical accessibility

- 13.1. The Storage Mechanism must use open architecture systems for the access to the stored information. In designing the systems, the Storage Mechanism must ensure that its systems allow or are capable of allowing for technical interoperability with other Storage Mechanisms in the same or in different Member States.

- 13.2. Information must be accessible to end users by the storage mechanism as soon as technically feasible from its filing, taking into consideration the structures and operating procedures of the Storage Mechanism. The Storage Mechanism should not voluntarily delay the process.

- 13.3. Storage Mechanism must provide end users with access to all stored regulated information on a continuous basis, 24 hours a day, 7 days of a week.

Storage Mechanisms may prevent access to its systems for brief periods in order to perform essential maintenance or in order to upgrade its services. Where possible, such interruptions must be announced in advance.

- 13.4. The Storage Mechanism must offer service support for its users. The level of support that each Storage Mechanism decides to provide needs to be decided at national level.

14. Format of the information that can be accessed by end users

- 14.1. Regulated information held by the Storage Mechanism must be held in a format that enables users to view, download and print, in a straightforward manner, the full content of regulated information from wherever the user is located. Without prejudice to more stringent national requirements, these minimum standards should not be construed as imposing on the Storage Mechanism an obligation to provide end users with printed copies of the information stored.
- 14.2. The Storage Mechanism must offer end users the possibility to search, order and interrogate regulated information stored.
- 14.3. The Storage Mechanism must record sufficient reference information relating to the regulated information it receives. Such reference information must, as a minimum, include the following items:
- identify the information as regulated information;
 - the name of the issuer from which the regulated information originated;
 - the title of the document;
 - the time and date on which the regulated information was disseminated;
 - the language of the document; and
 - the type of regulated information.

The Storage Mechanism must organise and categorise regulated information in accordance with, as a minimum, the above items.

In order to facilitate the organisation and categorisation of the information filed, the Storage Mechanism shall be allowed to require issuers to facilitate the necessary reference information when filing regulated information.

In order to facilitate the interoperability with other Storage Mechanisms, the Storage Mechanism must align the above categories with the other Storage Mechanisms, in particular in relation to the type of regulated information.

- 14.4. In order to facilitate the comparability of information by end users, the Storage Mechanism shall be allowed to require issuers to use predetermined file formats and templates. In any event, the Storage Mechanism must, as a minimum, accept:
- file formats and transmission protocols that are non proprietary and that obviate single vendor software applications; and
 - commonly used and generally accepted proprietary formats.

If templates are imposed, the Storage Mechanism must ensure that they are easily accessible and they must be aligned with those used for filing the same regulated information with the Competent Authority.

PART B

Minimum conditions for a pan-European network of national central storage mechanisms

1. INTRODUCTION

The Transparency Directive is neutral as regards the architecture of the national central storage mechanisms, but it foresees that in the future there should be some kind of networking among national systems. However, it does not make those networks compulsory.

In this context, Article 22 of the Transparency Directive calls on the competent authorities of the Member States to draw up guidelines with a view to further facilitate public access to financial and corporate information. In particular the aim of the guidelines should be the creation of two layers of electronic networks: one at national level linking the Transparency Directive storage mechanisms to the business registries (where corporate information is stored) and another one (or a platform of networks) at Community level linking national systems. Article 22 also calls on the Commission to review the results achieved by these Guidelines.

The competent authorities of the Member States have not drawn up individual national guidelines pursuant to Article 22. However, they have expressed their common opinion as regards the creation of a possible pan-European network of national central storage mechanisms in CESR's advice of June 2006⁵. CESR proposed 4 alternative models (A to D) for the European network with a varying degree of centralisation. Of these 4 models, CESR expresses a preference for the so-called Model C. Under Model C, the EU network would be accessed via a common interface which would contain a list of all EU listed companies. By clicking on the name of the relevant company, the user would be directed to the site of the relevant storage mechanism. The data would remain at national level and the only common element would be the list of companies.

The European Business Registries are at the origin of a research project, launched in March 2006, with a view to improve the existing electronic network (www.ebr.org) to achieve complete interoperability between business registries. This new project called BRITE (www.briteproject.net) foresees the possible integration of its network with the electronic network(s) under the Transparency Directive. The BRITE project is receiving financial support from the European Commission (6th Framework Programme on Research and Development; e-government initiatives).

2. GENERAL CONSIDERATIONS

The aim of interlinked network(s) is to provide a one stop shop for investors (and other interested parties) when looking for regulated financial and corporate

⁵ The mandate to CESR and CESR's advice are available at DG Internal Market website at : http://europa.eu.int/comm/internal_market/securities/transparency/index_en.htm
Other documents in connection to the work undertaken by CESR are available at: www.cesr-eu.org

information on listed companies. The existence of such network(s) would also facilitate the provision of added value services to investors at EU scale (e.g. processed information, comparative information at cross border level etc.)

In order to facilitate public access to financial and corporate information, it is desirable:

- to have an electronic network of storage mechanisms in place in the EU. The existence of parallel isolated and independent storage systems would only provide limited transparency;
- that such an electronic network respects some minimum conditions;
- that such an electronic network covers the maximum possible number of storage mechanisms officially appointed at national level pursuant to the Transparency Directive;
- that the electronic network is based on a sufficiently ambitious technological platform allowing for searching tools using different criteria (cf. point (3) in section 3.2.1 below) and thus guaranteeing easy access by end users.
- that the electronic network allows also for the technical interconnection with the national company registries created by the so-called first company law directive, as amended by Directive 2003/58/EC (available at http://ec.europa.eu/internal_market/company/official/index_en.htm)
- that the effective functioning of such electronic network is monitored in order to ensure that the foreseen results are achieved.

3. MINIMUM CONDITIONS

3.1. The network

Member States should take appropriate measures to ensure that the Storage Mechanism(s) under their jurisdiction take the necessary steps towards the effective interconnection of storage mechanisms in the Community in an electronic network.

3.2. Characteristics of the network

3.2.1. Governance

The storage mechanisms participating in the set up of that network should agree on the institutional and on the technical interoperability conditions for the operation of the network.

As regards the **institutional elements**, the agreement should have the following minimum content and address the following issues:

- the creation of a network platform;
- the conditions to join the network and the policy to accept future members;

- the consequences of non compliance with the conditions of participation and how to enforce them;
- the creation of a body that would manage the network platform on a daily basis and on the main conditions applicable to this management;
- the powers of that body to impose upgrades of the network on the partners;
- the dispute resolution system;
- how to ensure that the views of all stakeholders, including end users, are taken into account for the operation and upgrading of the system;
- the funding conditions (see below); and
- the conditions and methods for the modification of the agreement itself.

As regards **the inter-operability technical issues**, the agreement should contain the following minimum technical standards and conditions:

- (1) The electronic network should at a minimum contain the functionalities described in the so-called Model C in CESR's technical advice of June 2006: a central application server and a central database containing a list of all issuers with a common interface and allowing, for each issuer, to link the end user to the storage mechanism which holds regulated information on that issuer.
- (2) Single Access Point. The electronic network should provide end users with a single access point to regulated financial information. This single access point could be achieved at a central point or at each storage mechanism individually). The following conditions should be respected:
 - (a) No language barrier: the communication languages accepted nationally by all participating Storage Mechanisms should be available as interface language to end users at the single access point;
 - (b) No document barrier: all documents available nationally in the participating Storage Mechanisms should be made available through the network;
- (3) Harmonized Searching Facilities. The single access point to the electronic network should offer to the end user searching facilities which are adapted to search for information in all participating Storage Mechanisms. These searching facilities should normally require a set of common search keys and reference data items, thus harmonizing the methods of classifying and identifying the information to store (see also minimum standard 14.3 of the annex to Part A of this working document). The following conditions should be respected by the facilities:
 - (a) Possibility of static search using category labels. The participating Storage Mechanisms should store the regulated financial information according to appropriate category labels, at least: issuer name; date of

filing; country of issuer; title of document; industry/branch of trade and type of regulated information (see appendix with a draft list).

- (b) Possibility of dynamic search or chain searches.
 - (c) Possibility of multiple-country searches.
- (4) Standardisation of input format. The inter-operability technical agreement should foresee the possibility for the body managing the network platform to impose the use of input formats where this appears necessary for the functioning of the system.
- (5) Open platform
- (a) The technical platform of the electronic network should be sufficiently flexible to carry several types of issuer related information, even if not directly mandated by the Transparency Directive
 - (b) The technical platform of the electronic network should be able to technically interconnect to the electronic network of the business registries.
- (6) Value added services
- (a) The inter-operability technical agreement should not impede the provision of value added services by the national OASM or by other parties using the information stored. The network should be designed to allow for the further use or aggregation of data where possible⁶.
 - (b) The inter-operability technical agreement should not necessarily exclude the provision of value added services by the institution running the platform when it appears appropriate to carry out these services at network level (e.g. special alert systems etc).
- (7) Security levels and reliability conditions
- (a) The electronic network should respect, *mutatis mutandis*, the minimum standards on security and certainty as to the information source contained in part A of this working document.

3.2.2. *Funding and pricing of access to information*

There are different repartition keys and that this is a matter for decision of the participating partners to the network.

However, some principles are to be respected:

⁶ For instance, upon a search for the major shareholders of a specific issuer, it could be offered to access not just the list of files with the text of uploaded notifications, but a single overview of all (current) major shareholders together with their respective percentages of voting rights/shares in the issuer.

- recital 25 of the Transparency Directive underlines that the information in the storage mechanisms should be accessible at affordable prices for retail investors;
- the European network should be neutral as regards the pricing policy of the national storage mechanisms (no interference principle);
- the national storage mechanisms should not discriminate in their pricing policy between end users accessing to their information directly through their own access or indirectly through the common network interface or through another national storage mechanism;

As recommended by CESR, the access to the information stored in the mechanism in its raw format should be free of charge to investors. It understands, however, that the pricing policy of the storage mechanism could differ depending on the storage time of the document to which access is granted. Hence, the storage mechanisms could charge investors for raw information stored for long periods: e.g. free access for recent documents, affordable price for older documents.

The provision of value added information and its pricing should be a matter for decision by the storage mechanisms.

3.3. Supervision of the functioning of the network

It is necessary to decide on who supervises the setting up and functioning of the electronic network. Two options appear possible at this stage: a single supervisor or shared responsibilities among existing national supervisors.

- Single supervisor. There are prima facie two possibilities: a college of supervisors (e.g. CESR or a body created ad hoc)⁷ or the entrustment of the task to the supervisor of the Member State in which the institution running the network is registered. The first option would require the adoption of legislation at Community level. It is however unclear that there is a sufficient legal basis for the Commission to adopt implementing measures in this connection. The second option would only require an understanding among all supervisors (and the Commission) accepting such a situation as compliant with the Transparency Directive. It would also require a minimum level of cooperation between all supervisors.
- Shared/concurring supervision. This would be another possible interpretation of the Transparency Directive: each supervisor would be able to monitor the network functioning through the supervision of the activities of the storage mechanisms under its jurisdiction. The obvious risk of the system is that one could face different interpretations by different supervisors on the same practices. Therefore, this system would require substantial supervisory convergence, possibly through the establishment of a supervision code at Level 3 among CESR members.

In the absence of a clear legal basis allowing the Commission to develop implementing measures to the Directive on this issue, the most workable solution

⁷ See, mutatis mutandis, Article 33 of the Commission's Proposal for a Council Decision establishing the European Police Office (EUROPOL), 20.12.2006, document COM(2006)817final.

would be to accept that supervision of the activities of the institution running the network relies on the supervisor of the Member States in which that institution is registered.

CESR could undertake work at Level 3 to facilitate the supervisory task.

Appendix – Draft List of types of regulated financial information for the purposes of filing at the Transparency Directive Officially Appointed Mechanisms

INFORMATION REQUESTED BY THE TRANSPARENCY DIRECTIVE⁸

- (1) Price Sensitive Information/inside information [*disclosure requested by the Market abuse directive*]. Possible subcategories:
 - (a) Dividends, Interest, Redemptions and Exercising Other Rights
 - (b) Advance on financial results
 - (c) Take over bids announcements
- (2) Periodic information
 - (a) Annual Financial Report
 - Audited financial statements
 - Management report
 - Statements made by the person responsible...
 - Audit report
 - (b) Half-Yearly Financial Report
 - Condensed set of financial statements
 - Interim Management report
 - Statements made by the person responsible...
 - Audit report (if available)
 - Auditors' review (if available)
 - (c) Quarterly Report
 - (d) Interim Management Statement
- (3) On-going information
 - (a) Major holdings notifications (including voting agreements) [*cf. Art. 9 to 13 TD*]
 - Voting rights
 - Financial instruments
 - (b) Trading on own shares (acquisition/disposal) [*cf. Art. 14 TD*]
 - (c) Total number of voting rights and capital [*cf. Art. 15 TD*]
 - (d) Changes in the rights attaching to the classes of shares or securities [*cf. Art. 16 TD*]
 - (e) New loan issues [*cf. Art. 16 TD*]
- (4) Home Member State Choice [*cf. Article 2 of implementing measures*]
- (5) Dividends, Interest, Redemptions and Exercising Other Rights
- (6) Issue of new shares (including information on any arrangement for allotment, subscription, cancellation or conversion).
- (7) Other [more severe disclosure requirements impose by the home Member State – *cf. Art. 3(1) TD*]

⁸ Definition of "regulated information" in the TD: 'regulated information' means all information which the issuer, or any other person who has applied for the admission of securities to trading on a regulated market without the issuer's consent, is required to disclose under this Directive, under Article 6 of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) (1), or under the laws, regulations or administrative provisions of a Member State adopted under Article 3(1) of this Directive.

OTHER INFORMATION PURSUANT TO "SECURITIES MARKETS LAW" TEXTS THAT COULD BE STORED AT THE OFFICIALLY APPOINTED MECHANISM, IF REQUESTED BY NATIONAL LAW.

[notably information under prospectus directive – 2003/71/EC or take-over bids Directive– cf Art. 22 TD]

- (8) Documents on Admission to Trading of Securities
 - (9) Public Offer Documents
 - (10) Takeover bids
 - (a) Bid (cf. Article 6)
 - (b) Opinion of the Board (cf. Article 9)
- [p.m. Article 10 information is contained in Annual report]*
- (11) Changes, Conversion, Reconstitution and Extinction of Securities
 - (12) Loss of Public Company Status and Compulsory Takeover

OTHER INFORMATION PURSUANT TO "CORPORATE GOVERNANCE" TEXTS THAT COULD BE STORED AT THE OFFICIALLY APPOINTED MECHANISM, IF REQUESTED BY NATIONAL LAW.

- (13) Information on General Meetings *[cf. Articles 17 & 18 TD + future Shareholders' rights directive]*
 - (a) Notice
 - (b) Documents for General Meetings
 - (14) Information on board members (unless disclosed in the annual report)
 - (a) Remuneration Statement *[cf. Recommendation on remuneration of directors, §3, 5]*
 - (b) Information on independent directors *[cf. recommendations on independent directors, §13.3]*
 - (15) Corporate governance report (unless included in the annual report)
- (16) Annual Summary of Information Disclosed (where requested by national law)