

-----Original Message-----

From: survgen@cssf.lu [mailto:survgen@cssf.lu]
Sent: Thursday, March 29, 2007 2:21 PM
To: MARKET F2
Subject: Storage (public consultation)

Réf.: SGE.07/90-VTH/MD
2007

Luxembourg, 28th March

European

Commission
DG Internal Market & Services
e-mail: Markt-F2@cec.eu.int

Subject: Storage (public consultation)

Dear Madam, Dear Sir,

The Commission de Surveillance du Secteur Financier (CSSF) welcomes the opportunity to provide its views on working document ESC/10/2007 rev.1 on the storage of regulated financial information in relation to issuers whose securities are admitted to trading on a regulated market.

The CSSF is the Luxembourg authority responsible for the prudential supervision of credit institutions, other professionals of the financial sector, undertakings for collective investment, pension funds, SICARs, securitization vehicles issuing securities to the public on a continuous basis, stock exchanges, payment and securities settlement systems, operators of payment or securities settlement systems. It also supervises the securities markets and will thus be the Luxembourg competent authority under article 24 of the Transparency directive.

Our comments are limited to part B "Minimum conditions for a pan-European network of national central storage mechanisms" of the above mentioned document. As a member of CESR, the CSSF fully shares CESR's preference for the so-called model C for the European network of Officially Appointed Mechanisms (OAMs). As mentioned in working document ESC/10/2007 rev.1, model C would consist of a common element, containing a list of all EU listed companies. This list would provide users of the system with hyperlinks to the national OAM's containing regulated information about a particular issuer. Regulated information itself would only be stored in the national OAMs.

We believe that model C constitutes a pragmatic and a straightforward solution living up to the requirements of the Transparency directive. As stated in CESR's advice (ref: CESR/06-292, June 2006) model C places "less of an infrastructure burden upon all Member states" and presents "most of the advantages of the more centralized systems without incurring their costs". Model C is user friendly and was supported by most of the consultees who expressed their views during CESR's public consultation.

The European Commission in section 3.2.1 of its working document states that "the electronic network should at a minimum contain the functionalities described in the so-called model C of CESR's advice". The paper goes on by giving more insides about the functionalities that the future network model should have, such as e.g. a "single access point that could be achieved at a single point or at each storage mechanism", "searching facilities which are adapted to search the information in all

CSSF.txt

participating OAMs” and the “possibility of multiple-country searches”. Most of these functionalities are far beyond what is inherent to CESR’s model C. The model described by the European Commission comes indeed very close to models A and B of CESR’s advice which were not preferred by CESR.

The CSSF considers that the model described by the European Commission is excessively complex and burdensome. The costs linked to such a model will be several times the costs of model C. This will be the case for set up costs, and more importantly, for yearly running costs. The tremendous cost of the Commission’s proposal is not vindicated by the limited added value that this complex model would offer when compared to model C. We therefore advocate that the functionalities of the future network should be limited to the functionalities described in CESR’s model C.

We further note that in section 3.2.2 with regard to funding, it is stated that “this is a matter for decision of the participating partners to the network”. The CSSF considers that if a network of the complexity (and cost) outlined by the European Commission is imposed, at political level, upon the future participants of the network, the origin of the funding and the repartition key of this funding is also an issue that has to be settled at the political level. It seems indeed simplistic to limit political action to the setting up of a long list of requirements without thorough reflection on the means by which the costs following from these requirements will be covered. This is even more the case in light of recital 25 of directive 2004/109/CE. Moreover, a solution amongst the participants of the network seems very difficult given the different nature of such participants, ranging from commercial entities to public entities and regulatory authorities.

Finally, with regard to section 3.3., we strongly oppose the idea of a single supervisor for the European network. As pointed out in CESR’s advice, each supervisory authority should be responsible for the supervision of the national OAMs in its jurisdiction, the supervision of any common parts of the network being the shared responsibility of all supervisors of the participating OAMs. In this light article 25 of directive 2004/109/EC provides for “cooperation amongst authorities whenever necessary for the purpose of carrying out their duties and making use of their powers, whether set out in directive 2004/109/CE...”.

Concluding remark:

With regard to the European Commission’s strategy for better regulation, it seems indispensable that a cost benefit analysis is undertaken concerning the different functionalities of the future European network. It would be unfortunate if the Transparency directive resulted in the creation of an excessively complex and costly technical infrastructure with limited benefits. Model C is up to the requirements of the Transparency directive and will not result in the need of creating new entities responsible for running or supervising the European network of OAMs. Complicating the infrastructure of Model C and linking it at this early stage to the BRITE network should hence be avoided.

Yours sincerely,

COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER

Directeur Simone DELCOURT

Jean-Nicolas SCHAUS
Directeur général

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER (CSSF) - Luxembourg

This e-mail and any attachments transmitted with it are solely intended for the use of the individual or entity to whom they are addressed. If you have received this e-mail in error, please delete it from your system and kindly inform the CSSF accordingly.

The CSSF excludes any warranty and any liability as to the contents of this e-mail and its attachments which shall not be binding upon the CSSF.

Commission de Surveillance du Secteur Financier, L-2991 Luxembourg
Phone : (+352) 26 25 1 -1 Fax: (+352) 26 25 16 01
E-mail: direction@cssf.lu Web site : www.cssf.lu