

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

10117 Berlin, 30. März 2007
Charlottenstraße 47
Tel.: 030/20225-5353
Fax.: 030/20225-250
Dr. Carsten Nickel/We A III-23
Az.: 7228/02

European Commission
Mr. Philippe Pellé
– Directorate F.2 –
Avenue de Corthenberg 107
1040 Brüssel
BELGIEN

Working Document ESC/10/2007 rev.1 in relation to Directive 2004/109/EG (Transparency Directive)
413-EU-Transp

Dear Mr. Pellé,

The ZENTRALER KREDITAUSSCHUSS (ZKA) welcomes the opportunity to comment on the aforementioned working document in relation to Directive 2004/109/EG. 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 mortgage banks. Collectively, we represent more than 2,300 banks.

I. General remarks

We welcome the general nature of the minimum quality standards for the central storage mechanism put forward in part A of the working document, thus enabling the Member States to adhere to well established national ways to store regulated information. However, in some aspects, identified and elaborated on below, the minimum quality standards should give Member States more flexibility in how to provide for the filing of regulated information with the central storage mechanism.

With regard to the electronic network we plead for it to be geared closer to Model C which CESR put forward in its technical advice of June 2006. The Commission's proposal rather seems to tend to Models A or B.

II. Specific comments

PART A

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

According to para. 7.1. the storage mechanism must verify that any regulated information it receives *directly* originates from the person or entity that has the filing obligation or from a service provider authorised to do so on its behalf. We understand this to mean that where, in pursuance with national law, the information is filed to another governmental storage mechanism which then forwards it to the officially appointed mechanism in the sense of the Transparency Directive, authenticity of origin of such items of regulated information can be ensured by these other mechanisms. Otherwise a double or even triple filing obligation to the detriment of issuers would be the consequence.

Especially Member States where storage mechanisms are in place already may wish a more flexible approach on how to file regulated information with the officially appointed mechanism according to the Transparency Directive. In Germany, for instance, some items of regulated information had already to be filed with storage mechanisms installed by the government before the Transparency Directive coming into force. In order to prevent a double or even triple filing obligation to the detriment of issuers, Germany opted for a procedure where the aforementioned storage mechanisms forward the received regulated information to the *Unternehmensregister* being the officially appointed mechanism according to the Transparency Directive.

To ensure the authenticity of origin of such items of regulated information that are filed indirectly with the officially appointed mechanism it should suffice that the mechanism receiving these items of regulated information directly from the originator adhere to the minimum quality standards set forth in para.7. This would lower the degree of bureaucracy for market participants without detrimental effects on security and authenticity of regulated information stored in the officially appointed mechanism. Alternatively the intermediate mechanisms that forward the information could be considered as authorised – by way of statutory provision – to file this information with the officially appointed mechanism. You would oblige us by clarifying this point to the effect that a double filing obligation is avoided.

8. User authentication

We expressly welcome the variety of measures that a storage mechanism may impose in order to ensure sufficient user authentication. This flexibility should be upheld.

10. Electronic docketing and Date and time stamp

We equally welcome that according to para. 10.2. templates, if they are imposed, have to be easily accessible and should be aligned with those used for filing the same regulated information with the competent authority of the respective Member state. This would diminish costs for market participants, for they could use the same templates when fulfilling their filing obligations.

PART B

3.2.1. Governance

We would welcome the approach to devise the electronic network according to Model C as proposed in CESR's technical advice of June 2006. However, we are of the impression that the governance standards put forward in the working document in the paragraphs 3.2.1. (2) and (3) go beyond this Model C without generating any notable benefit to the end user but producing higher costs.

Thus a single access point (*cf.* 3.2.1. (2) working document), would in fact lead to Model A or B presented by CESR in its technical advice. In our opinion it is amply sufficient when the central application server names to the end user the websites of the national storage mechanisms where he/she can find information about a certain issuer. It might even provide a link to such websites. However, the further search for information about the respective issuer can easily be conducted on the website of the national storage mechanisms in question.

This would naturally mean that interfaces were manifold and not necessarily available in every EU language. However, to prevent any language barrier would anyway be no argument against such an approach, since the information to be obtained is not necessarily in the native language of the end user. Therefore the end user can be expected to use an interface in the language of the state where the storage mechanism is located and, according to para. 12.2. of Part A, additionally in a language customary in the sphere of international finance, *i. e.* English. Investors who are not able to speak English are very unlikely to be end users of an officially appointed mechanism or the electronic network from which they can get highly specialised capital markets information.

Furthermore, we do not see any need for harmonised searching facilities as envisaged in para. 3.2.1. (3). Enabling this on the centralised level would mean to adopt Model A or B with consequently higher costs for national storage mechanisms, issuers and end users. There are not so many ways to categorise regulated information anyway. It should therefore be left to the national storage mechanisms to decide on how to categorise regulated information stored by them. In addition to that officially appointed mechanisms could voluntarily align their ways of categorisation and searching facilities. However, this should lead only to similar interfaces in the national storage mechanisms, but not to one single access point with consequently one interface.

3.2.2. Funding and pricing of access to information

With respect to the funding of the network, we would like to request more detailed information. If, as suggested by CESR and underlined by the Working Document, certain information stored in the mechanism shall be available free of charge to investors, there should be a concept for funding of the network. In the event the funding of the network should be sustained by supervisors of the Member States, it must be taken into consideration how national supervisors are funded. In Germany the supervisor (*Bundesanstalt für Finanzdienstleistungsaufsicht*) is mainly funded by banks. Thus, this would lead to the effect of German banks funding part of the network even though the information disclosed on the network is information regarding all types of issuers. Therefore, we strongly support a funding concept for the network that distributes the costs for the network be-

tween all issuers that disclose required information on such network, based on the amount of information disclosed by each issuer.

We would appreciate very much if you took our comments into account when considering which steps are to be taken next. In case of any queries, please, do not hesitate to contact us.

Yours sincerely,

On behalf of

the ZENTRALER KREDITAUSSCHUSS

Deutscher Sparkassen- und Giroverband



Dr. Thomas Schürmann



Dr. Carsten Nickel