

Mr. A. Docters van Leeuwen
Chairman
CESR
11-13 Avenue de Friedland
75008 Paris
France

secretariat@cesr-eu.org

BY E-MAIL

Date 1 March 2005

Your ref.

Our ref. \276\20232217\PositionPapers\b020-
276(clientagreements).doc

Re. CESR's draft technical advice on possible implementing measures of the
Directive 2004/39/EC concerning "Professional Client Agreements",
CESR/04-689.

Dear Mr. Docters van Leeuwen,

Ealic, the European Association for Listed Companies, aims to represent European listed companies and to promote their common interests on the European level. Ealic was incorporated in December 2002 as a non-profit association. Its membership is growing. Presently sixty-five public companies are member. A membership list is attached for your convenience.

Ealic is pleased to submit its comments on CESR's draft technical advice on possible implementing measures of the Directive 2004/39/EC ("**MIFID**") concerning "Professional Client Agreements". Ealic welcomes CESR's decision to expand the scope of the consultation on possible implementing measures of article 19.7 of the MIFID, which was initially limited to agreements between investment firms and their retail clients, to agreements between investment firms and their professional clients. Listed companies have an interest here to the extent they qualify as "professional clients", as defined in article 4.11 and Annex II of the MIFID.

Ealic considers that a written agreement, stipulating the rights and obligations of the parties, should (also) be required with respect to services provided to professional clients (question 1). Such agreement should be drafted prior to the providing of services. Ealic, however, would like to underline that CESR should not prescribe the

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specific contents thereof. In view of the financial expertise professional clients may have, Ealic furthermore considers that professional clients should be given the freedom to opt for not having a written client agreement. Such choice to opt-out should be formalized in writing.

Ealic considers that the aforementioned regime should be limited to portfolio management and investment advice services (question 2). With respect to other investment services, adequate protection is provided by the provisions set forth in Annex II of the MIFID. These provisions stipulate that prior to providing any services, companies are informed by investment firms that they are deemed professional clients and they are allowed to request non-professional treatment.

Ealic would be pleased to enter into a further dialogue with CESR regarding this subject matter.

Sincerely,

Paul Cronheim
Chairman Legal Committee

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EALIC MEMBERS

Listed Companies

Aegon	Mediobanca
Alcatel	Michelin
Atos Origin	Océ
Akzo Nobel	OPG
Assicurazioni Generali	P & O Nedlloyd
Autostrade	Philips
Banca Nazionale del Lavoro	PSA Peugeot Citroen
BNP Paribas	RAS Riunione Adriatica di Sicurtà
Carbone Lorraine	Reed Elsevier
Carrefour	Royal Dutch Shell
CIR	Saint-Gobain
CSM	Sanofi Synthelabo
DSM	Sanpaolo IMI
Enel	SMI
Eurotunnel	Solvay
Essilor International	Société Générale
Fiat	Stork
Finmeccanica	Telecom Italia
France Telecom	Total Fina Elf
Fortis	UCB
Fugro	Umicore
Grosch	Unicredito Italiano
Hermès International	Unilever
IHC Caland	Vallourec
Interbrew	Veolia Environnement
Italcementi	Van der Moolen
Kas Bank	Vinci
L'Air Liquide	Vivendi Universal
L'Oreal	VNU
Lafarge	Vopak
Lagardère	Wessanen
LVMH	Wolters Kluwer
Marzotto	

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Organisations of Listed Companies

- **Association Française des Entreprises Privées – Association des Grandes Entreprises Françaises (AFEP)**
- **Association Nationale des Sociétés par Actions (ANSA)**
- **Assoziane fra le società italiane per azioni (ASSONIME)**
- **Association belge des sociétés cotées (ASBL) - Belgische vereniging van beursgenoteerde vennootschappen (VZW) – (ABSC – BVBV)**
- **Vereniging Effecten Uitgevende Ondernemingen (VEUO)**

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