

CONSOLIDATION OF STOCK EXCHANGES

European listed companies reiterate their views

2 May 2006

The contemplated mergers and acquisitions concerning Europe's major financial exchanges have not been out of the news over the last year and events are quickly following one another. The European Association of Listed Companies (EALIC) issued a statement with the issuers' standpoint a year ago. Given the acceleration of the process, listed companies urge market infrastructures, as well as national and European authorities, to take due account of their views.

KEY PRINCIPLES FOR BENEFICIAL CONSOLIDATION

Listed companies believe that a higher degree of consolidation of stock exchanges could be beneficial to all stakeholders - issuers, investors and intermediaries alike - provided that **the exchanges' utility function be preserved**. Smooth and unencumbered access to capital markets is indeed of vital economic importance for companies.

Further consolidation of stock exchanges will have a decisive impact on Europe's capital markets, the efficiency of their organisation and their level of integration. Important issues that affect the public interest include **competitive pricing, liquidity** (especially for mid and small caps) and **transparency** in operations and transactions as well as in indices setting. In addition, there is a clear need for an **open and competition friendly operating** structure allowing the **active involvement of issuers**. Issuers couldn't accept that the rules be changed from one day to another without even having been heard. Moreover, despite their becoming global, market infrastructures must remain **embedded in the local community** of companies that are listed or contemplating a listing. Finally, a solid **European regulatory and supervisory framework** will have to be set up, particularly for post-trading services, to ensure the stability and successful integration of financial markets.

Finally, it is time to clearly determine which national and/or European authorities should be addressing the issues raised by a consolidation. The European Commission and in particular both the **Competition and Internal Market Directorates General** must take up their role and deal with the identified issues of concern. The scope of their attention should be extended to include also a possible trans-Atlantic merger and the questions such a transaction could entail as regards, for instance, the regulatory framework applicable to the entity resulting from such merger.

Secretary General

Mrs. Dorien FRANSENS

Mail address

**Rue Belliard 4-6
1040 BRUSSELS**

Telephone

+32 (0)2 289 25 70

Fax

+32 (0)2 502 15 60

E-mail

dorien.fransens@ealic.org

EA LIC

European Association for Listed Companies

PRICING

Listed companies support consolidation among Europe's financial exchanges insofar it would yield significant cost reductions through economies of scale, standardisation, centralization and sharing of platforms. **These benefits need to be passed on to the users of the exchange.** Both the listing and trading fees are to be kept at the lowest level that the financial soundness of the exchanges levying them could possibly allow for. There is a want for an adequate mechanism to monitor this pricing process and ensure its fairness.

OPEN, TRANSPARENT AND COMPETITION-FRIENDLY SYSTEM

The UK Competition Commission, when addressing the possible acquisition of the London Stock Exchange by Euronext or Deutsche Börse, concluded that models which offer trading, clearing and settlement services in an integrated manner could lead to a substantial lessening of competition. Listed companies agree in principle with these findings as they believe that a consolidation of trading infrastructures should not lead to limit the access to post-trading facilities.

In addition, listed companies strongly support a Pan-European integration of clearing and settlement activities, but believe that **the different stages of the trading and post-trading process**, namely trading, clearing, settlement and custody call for an adequate regulation and supervision adapted to **the specificities of each of them**. The stability of the financial system and the legal certainty of capital market transactions must be guaranteed. A distinction should be drawn between i) the CSD function that is of a utility, stock-taking or notary nature and must not bear financial risk and ii) intermediaries for which the sharing of financial risk among competing players must be encouraged. Finally, the free flow and easy access of issuers to their ultimate investors should be guaranteed irrespective of the number of intermediaries.

GOVERNANCE

To compensate the loss of competitive pressure appropriate structural safeguards need to be put in place to create a sufficient level of competition. Specific **governance and supervision mechanisms** are to watch over transaction accuracy, fair price setting and transaction security to name but a few. All stakeholders including issuers must be allowed to have their say herein through adequate open governance and participation in all rule setting processes as regards listing requirements, market access, trading systems and relevant regulations in general.

LIQUIDITY AND INDICES

Appropriate arrangements have to be provided to preserve **easy access to exchanges for all issuers, irrespective of their size, nature, nationality**, etc. This is especially the case for mid and small caps whose liquidity is basically national. Consolidation should

EALIC

European Association for Listed Companies

not lead to the disappearance of indices representing the latter. It must be acknowledged that SME's play a crucial role in the growth of our economies as the breeding ground for the large caps of the future.

GLOBAL BUT LOCAL

Adequate consultation of issuers together with a strong local presence that respects the national characteristics will be needed. A consolidated or integrated stock exchange that disregards the specific needs of the constituent domestic markets would be far from desirable. The respect for the local dimension is to be ensured via local management representation at the highest level. In addition, the importance of the notion "home exchange" as a reference for issuers and end investors should not be underestimated. A sufficient level of local flexibility would ensure that innovation remains possible. Indeed, in spite of the internationalisation of the activity, there is still a strong "home" element in the composition of portfolios, media coverage and market research.

REGULATORY AND SUPERVISORY FRAMEWORK AND APPLICABLE LAW

To date there is **no clear European regulatory and supervisory framework available**. Legislation is either not (fully) established or not yet consolidated. Issuers appreciate the efforts taken by the European legislator in working towards an integrated European capital and financial services market. However, a lot still remains to be achieved in terms of implementing measures for so many important directives.

The applicable law both for the functioning of a company as well as for its financial operations should be the law of the issuing company's **registered office**, unless otherwise provided for under specific EU legislation. For matters concerning the listing on a regulated market, it should be that of the **exchange on which it has chosen to list its shares**.

Last but not least, there is the matter of the competent supervisor to deal with as regards the possible consolidated stock exchange on the one hand and the companies listed on the latter on the other hand. As far as the consolidated exchange is concerned there are many questions to be answered. Will the location of the exchange's registered office determine the competent supervisor or should we rather look for a supranational supervisory body? It still seems too early to have one single European supervisor, but we need to avoid counterproductive competition between national regimes. Priority should be given to **more advanced and better structured harmonization, coordination and cooperation** between national and European regulators and stakeholders, including issuers. As regards listed companies, at least in the short term, the competent supervisory authority should be the one **originally competent at the initial listing**.