

ZENTRALER KREDITAUSSCHUSS

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By e-mail

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Response of the Zentraler Kreditausschuss to the Forum Group's recommendations to the European Commission of 4 September 2003: *Financial analysts: best practices in an integrated European financial market*

Dear Mr Jowers,

The ZKA¹ welcomes the opportunity to comment the Forum Group's recommendation to the European Commission. We share the Group's view that an adequate level of investor

¹ 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 Hypothekenbanken (VDH)*, for the mortgage banks. Collectively, they represent more than 2,500 banks.

confidence is fundamental to healthy financial markets and welcome measures designed to strengthen this confidence. This is true of many of the Forum Group's recommendations, whose aim is to prevent potential conflicts of interest and thus ensure that published research is reliable and objective. At the same time, however, we strongly caution against any form of overregulation. Increased bureaucracy undermines the desired efficiency of the financial markets and gives rise to unjustifiable costs, which ultimately have to be borne by the investor. The principle-based approach adopted by the Group and the emphasis on self-regulation are therefore to be warmly welcomed and should continue to play a key role in the ongoing debate. The goal should be to focus on essential elements and harmonise the standards needed to deal with potential conflicts of interest on a pan-European basis.

Furthermore, we believe it is extremely important when addressing possible conflicts of interest at universal banks, for example, not to focus on bans and disclosure alone, but to take account also of internal conflict management mechanisms, such as effective Chinese walls.

We have the following observations regarding some specific aspects of the Forum Group's recommendations:

- We expressly welcome the Group's endeavours to define the terms "investment research" and "analyst". This should be the starting point for any kind of regulation initiative. If problems of interpretation are to be avoided at a later stage, it is essential to begin by establishing a common understanding of what is meant by the terms "research" and "analyst".
- We endorse the objective of working towards an EU passport for research – that is to say mutual recognition, first within the EU and at a later stage between EU member states and third countries.

- Like the Forum Group, we support – in general – the concept of research that reflects the needs of its target group. It is essential, both when preparing and when publishing research, to take account of the specific requirements of different target groups, namely retail and wholesale investors. The knowledge and experience of retail clients is completely different to that of professional investors and even the retail clients' investment behaviour may differ from that of wholesale clients. Finally, it must be borne in mind that research often is a service investment firms perform on the basis of specific contractual relationships. Whether they want to extend the service to customers outside this relationship, or even to non-customers, is a business policy decision in which there must be no interference.

Finally, we would like to point out that research reports are normally disseminated via media such as Reuters and Bloomberg – albeit generally somewhat later than the reports are made available to wholesale customers and in the bank's sales and trading department. In principle, therefore, retail customers have access to the research as well.

- There should be no blanket ban on analysts participating in sales pitches and road shows. Sales pitches, for example, depend on the participation of analysts. Investment banks bidding for a mandate to underwrite corporate actions are normally expected to present their expertise in the research department. Analysts therefore have to be taken along to sales pitches. Prohibiting analysts from participating in road shows at all would also be inappropriate. The analyst should of course not be in possession of any inside information at the time the road show takes place. Rather, it can be necessary for analysts to take part. They represent a link between investors and the underwriting bank. Investors listen to their opinion and advice. We believe it is sufficient in both cases for a firm's compliance department to have controlling mechanisms in place, as the Forum Group suggests.

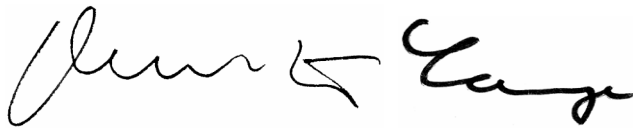
We look forward with great interest to the further discussions which will most certainly take place in light of the proposals put forward by IOSCO and the Forum Group, as well

as against the background of the implementation of the Investment Services Directive and Market Abuse Directive, including the level 2 measures. We would like to send you our comments to the IOSCO Statement of Principles for addressing sell-side securities analyst conflicts of interest. We would welcome the opportunity to continue to play an active role in these discussions.

Yours sincerely,

For and on behalf of the Zentraler Kreditausschuss
Federal Association of German Cooperative Banks/
Bundesverband der Deutschen
Volksbanken und Raiffeisenbanken e.V.

by proxy

The image shows two handwritten signatures in black ink. The signature on the left is more fluid and cursive, while the one on the right is more structured and blocky. An arrow points from the right signature towards the left one.

(Dr. Pleister)

(Dr. Lange)

Enclosure