

CHAPTER V

Supervision of securities markets

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Pursuant to the Law of 23 December 1998 on the supervision of securities markets, the CSSF has stepped up its monitoring of stock exchanges, public offerings and its investigations into insider trading. The entry into force from 1 January 2000 of the obligation to disclose transactions on financial assets (the TAF project) created the conditions of transparency needed to supervise the markets.

1. Supervision of stock exchanges

Establishing a stock exchange in Luxembourg is subject to the granting of a concession under a Grand Ducal regulation. The only stock exchange currently granted such a concession is the Société de la Bourse de Luxembourg. The CSSF monitors the proper functioning of the market in financial assets and the relevant regulations. It also attends the meetings held by the Board of directors of the Stock exchange authorities.

A. The Luxembourg stock exchange in a context of mergers

Following the ambitious project to merge the Frankfurt and London stock exchanges into a single entity with the participation of the Nasdaq and the attempted hostile take-over bid from Sweden's OM for the London Stock Exchange, the only successful instance of closer stock exchange co-operation to be noted in an eventful 2000 was the alliance of the Paris, Brussels and Amsterdam stock exchanges to form Euronext. In this process of European stock exchange consolidation, the Luxembourg Stock Exchange, after due reflection, decided to maintain its independence, at least in the short term, in view of the specific features of the Luxembourg financial market, preferring to prioritise a strategic agreement rather than a merger.

Against this background, on 16 November 2000 the Luxembourg Stock Exchange signed an agreement with Euronext on cross-membership and cross-access, which replaced the cross-membership agreement signed by the Benelux stock exchanges on 14 December 1998. Members of the Luxembourg Stock Exchange will therefore have access to Euronext's single trading platform while Euronext members will have access to the trading platform of the Luxembourg Stock Exchange. When the agreement was signed, the Luxembourg Stock Exchange comprised 101 members, 36 of which were cross members from the Benelux exchanges.

B. High volume of admissions

During the year under review the Luxembourg Stock Exchange admitted 5,750 new securities to its official price list, increasing the number of listed securities to 19,690. Its market share of listed international debt securities rose to 65%. Over one year, securities listings increased by 15.5%. The number of total securities listed at 31 December 2000 breaks down as follows: 13,679 bonds, 297 stocks and shares, 1,089 warrants and 4,625 investment funds. The volume of transactions rose 12.8% compared with 1999 to total EUR 2,820 million, while the number of transactions

climbed 4.1%. Equity trading was noticeably greater than in the previous year, with Luxembourg equities representing 46.9% of the total in volume terms.

Five new flotations of Luxembourg companies were authorised in 2000: BGL Investment Partners S.A., Le Foyer Compagnie Luxembourgeoise S.A., Upspretta Icelandic Capital Venture S.A., Ventos S.A. and Yeoman International Holdings S.A.

C. Public Offerings

Any person wishing to make a public offering of transferable securities or to apply for the admission of these securities to official listing on the Luxembourg stock exchange shall notify the *Société de la Bourse de Luxembourg* which shall immediately inform the *Commission de surveillance du secteur financier*. The *Société de la Bourse de Luxembourg*, under the supervision of the CSSF, is in charge examining the prospectus pursuant to the Grand Ducal regulation of 28 December 1990 on the requirements for the drafting, scrutiny and distribution of the prospectus to be published when transferable securities are offered to the public, or of listing particulars to be published for the admission of transferable securities to official stock exchange listing.

The CSSF has tightened its supervision of prospectuses for the offer of transferable securities to the public in Luxembourg. While these prospectuses are being scrutinised by the *Société de la Bourse de Luxembourg*, the CSSF receives a copy of the files so that it can handle specific details in relation to the offer. This procedure was introduced in the interests of better investor protection.

In recent years the confirmed interest among investors for transferable securities has led to an increased supply of innovative products available to the general public, e.g. bond issues whose income and/or reimbursement are linked to equities, bonds, indices or other underlying assets. To ensure that private investors are aware of the specific risks inherent in such financial instruments, the description of investment risks requires special attention. Short of a legal or regulatory definition of a public offer of securities, the CSSF assesses the private or public character of offers on a pragmatic basis. It has always deemed that an offer of securities for subscription or sale is public when it is announced in the press. Moreover, the placing at bank counters of issue prospectuses for securities is considered as constituting a public offer, as is information conveyed through circulars or leaflets.

Co-operation with foreign authorities on prospectuses has led to a growing number of cross-border offers for which the different authorities coordinate to monitor information communicated to the public while ensuring the highest standards through mutual recognition. During the year, the CSSF cooperated with almost all the authorities in the European Economic Area, especially with the Belgian *Commission bancaire et financière* owing to a large number of public offers or public



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offers of exchange involving both countries and concerning shares, investment fund units/shares or derivatives such as reverse convertible notes.

2. Monitoring of information published by companies admitted to official listing on the Luxembourg Stock Exchange

A. Monitoring of financial reporting

The Law of 23 December 1998 on the supervision of securities markets lays down the principle of monitoring the disclosure of information by companies admitted to official listing on the Luxembourg Stock Exchange.

The CSSF verifies all financial data submitted to it, in particular the annual and half-yearly reports published by these companies. As part of this mission, the CSSF had to take action in connection with several companies which did not meet the deadlines on the publication of their financial reports or whose interim financial reports were not compiled in accordance with the regulations in force.

B. Reporting of major holdings

The CSSF systematically verifies compliance with the Law of 4 December 1992 on reporting requirements linked to the acquisition or disposal of a major holding.

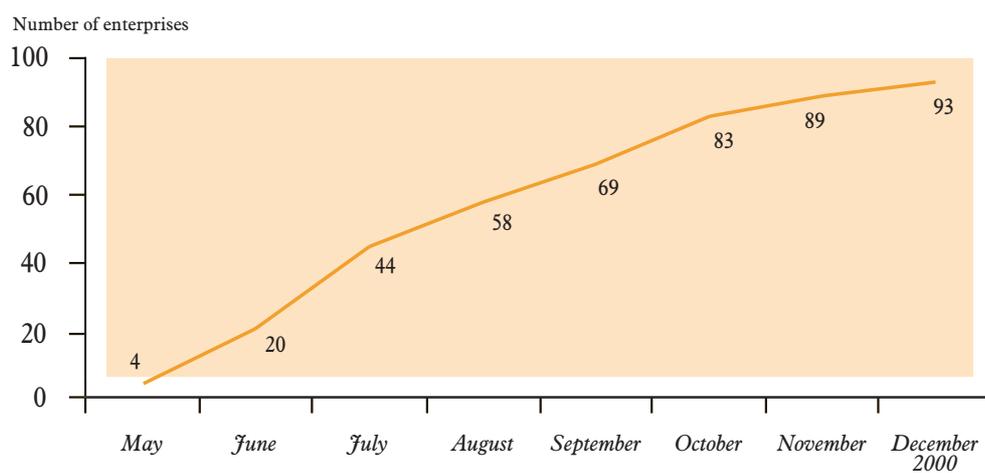
The CSSF noted that the statutory provisions on the reporting of acquisitions and disposals of major shareholdings were not always met. It took action as appropriate.

3. Supervision of securities markets: the TAF project

The TAF project (reporting of transactions on financial assets) derives from the Investment Services Directive 93/22/EEC. This Directive sets standards on the supervision of stock markets by the Supervisors of the different EU member states. These standards were incorporated into Luxembourg legislation through the Law on the supervision of securities markets dated 23 December 1998 and by the Grand Ducal regulation of 23 December 1999 which lays down the terms for the application of this law. 2000 was devoted to the technical and practical implementation of the TAF project.

A. Expansion phase

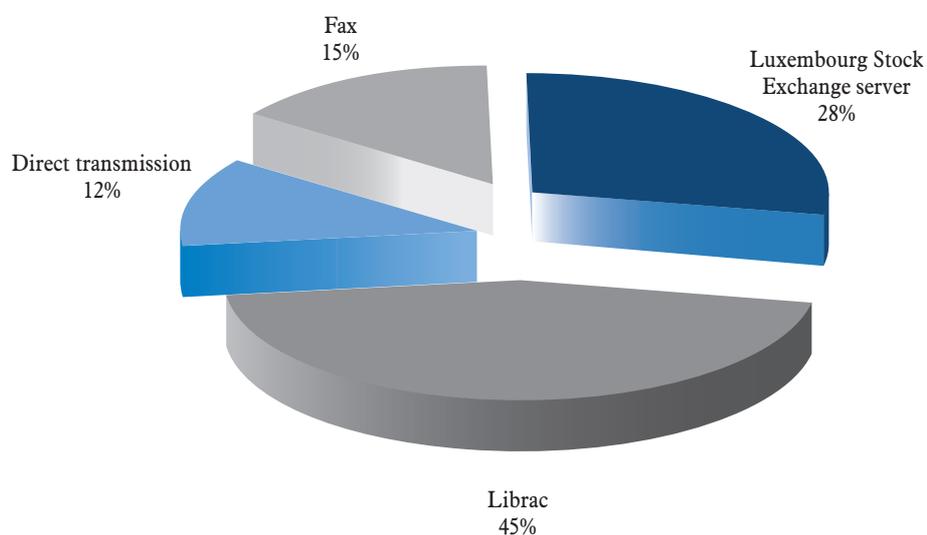
Movements in the number of connections



The above graph records investment firms which report their transactions electronically.

B. Breakdown by method of transmission

The following pie chart breaks down the different transmission methods and frequencies of use.



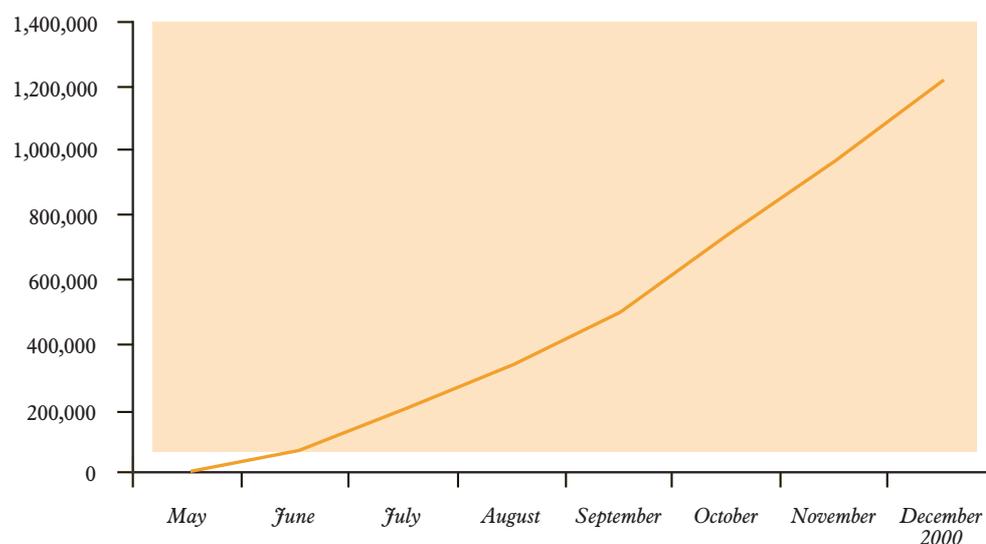
The following electronic transmission methods are used:

- direct connection to the CSSF,
- use of the Luxembourg Stock Exchange server (SBL),
- use of the Librac (Luxembourg Interbank Reporting and Communication) network.

Taking into account non-electronic transmissions (fax), the number of reporting firms totalled 109.

C. Movements in the number of trades reported

On 5 December 2000 the CSSF's central system processed its one millionth trade reporting. A total of some 1,219,000 trades were reported during the year.



D. Origin of trades

The CSSF receives reports on all trades made on the Luxembourg Stock Exchange as well as reports on trades made off-exchange or on another stock exchange. Of all the transactions in 2000, 6% were traded on the Luxembourg Stock exchange.

E. Breakdown of trades by type of instrument

Type of instrument	Number of disclosures
Equities	69.7%
Debt securities	24.6%
Futures	0.8%
Options	1.1%
Warrants	3.5%
Bond warrants	0.3%

All the above data enable the “securities markets” department to monitor trends on the European market and especially on the Luxembourg market. The main purpose of supervising securities markets is to prevent and detect breaches of financial and stock exchange laws and regulations.

4. Surveys conducted by the CSSF in its supervision of securities markets

A distinction should be made between surveys conducted into breaches of stock exchange regulations and investigations into non-compliance with the financial sector rules of conduct laid down in Circular CSSF 2000/15 dated 2 August 2000.

A. Surveys into breaches of stock exchange regulations

The CSSF is the administrative authority qualified to monitor the implementation of the provisions laid down in the Law of 3 May 1991 on insider trading. The aim here is twofold: to ensure fair and equal treatment of investors and ensure protection against the illegal use of insider information.

In its supervision of securities markets, the CSSF either initiates enquiries itself or conducts them in response to a request for assistance from a foreign administrative authority under the terms of an international cooperation agreement.

Enquiries initiated by the CSSF

In the course of 2000, the CSSF initiated an enquiry into a possible breach of the Law of 3 May 1991 on insider trading. Based on the evidence and information received by the CSSF during its investigation, the CSSF decided to file the case with the State Prosecutor under Article 6 paragraph (2) of the said Law. A judicial investigation against persons suspected of illegal insider trading was immediately launched.

In a previous case submitted in 1999 to the State Prosecutor in the same context, the preliminary enquiry conducted by the State Prosecutor failed to uncover sufficient evidence against the suspects to justify the launch of a judicial investigation.

Enquiries conducted by the CSSF on the request of a foreign administrative authority

The number of requests for assistance from foreign authorities in 2000 was slightly higher than in the previous year. In the year under review, the CSSF processed 39 applications for enquiries into illegal insider trading (versus 34 in 1999) of which three were filed by government administrations outside the European Economic Area.

Moreover, the CSSF received requests for assistance from foreign authorities in connection with the manipulation of share prices and fraudulent public offers for transferable securities. The CSSF replied to all requests within its legal competence.

B. Enquiries into non-compliance with the rules of conduct of the financial sector

On 2 August 2000 the CSSF distributed Circular 2000/15 on the rules of conduct of the financial sector to financial sector professions. This Circular aims to explain the principles formulated in Article 37 of the Law of 5 April 1993 on the financial sector.

A fair number of these rules seeks to ensure that financial sector professionals act loyally and fairly, in the best interests of their clients and with a view to ensuring the integrity of the market. Principle 1.7. – often quoted by the CSSF concerning non-compliance by financial sector professionals with these rules is worded as follows:

“The professional shall refrain from all actions likely to undermine the transparency of the market and the smooth functioning of market activities. He shall not manipulate the market alone or with others for his own benefit or for the benefit of a third-party through any act or series of acts, failure to disclose information or the distribution of misinformation or rumours through misleading practices or by any other means, without prejudice to the right of intervention by professionals to ensure the good performance of the issuance of securities or to stabilise security prices”.

On several occasions the CSSF approached financial institutions which are members of the Société de la Bourse de Luxembourg S.A. to make them aware of their obligations in upholding ethical standards so that they adhere to the above-mentioned principles.

In particular, the CSSF took action on so-called compensation operations in connection with which the CSSF began a review to reconsider such operations within their regulatory context.

The system for reporting trades carried out by investment firms proved to be an effective tool during the year. It enabled the enquiry team to obtain the tangible real-time information needed to conduct its investigations. During the year the CSSF also received two requests for assistance on non-compliance with the rules of conduct from state administrations within the European Economic Area. The CSSF responded within the scope of its legal competence.