



SUPERVISION OF SECURITIES MARKETS

1. Reporting of transactions on financial assets
2. Investigations conducted by the CSSF in its supervision of securities markets
3. Supervisory practice

SUPERVISION OF SECURITIES MARKETS

1. REPORTING OF TRANSACTIONS ON FINANCIAL ASSETS

1.1. Reporting requirements

Since no changes have been made to the legislation as regards reporting of transactions on financial assets in 2004, the CSSF focused more particularly on the supervision of investment firms so that they comply with the requirements laid down in circular CSSF 99/7 on reporting to the CSSF, in accordance with the law of 23 December 1998 on the supervision of securities markets as amended.

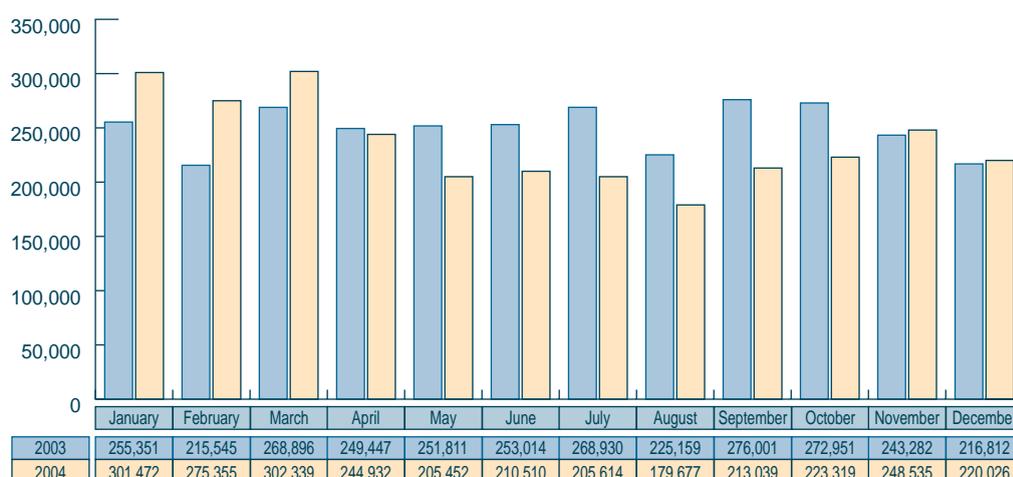
In this context and within the scope of its daily supervisory mission, the CSSF addressed a total of 82 letters, covering the following subjects, to investment firms:

Subject	Number
Mailing of the <i>Recueil</i> to new firms	6
Various authorisations / refusals (reporting via fax, exemptions, deferrals)	6
Reporting irregularities (technical problems, erroneous quotes, quotes deviating from the market, block transactions)	31
Request for explanations	20
Code of ethics	5
Reminders	9
Various	5
Total	82

1.2. Development in the number of trades reported

The number of trades reported in 2004 amounted to 2,830,270, representing a decrease of 5.57% as compared to 2003, when the number of trades reported amounted to 2,997,199.

Monthly volume of trades reported



Breakdown of transactions by type of instrument

Type of instrument	Number of trades reported (as a % of total)	
	2003	2004
Shares	62.19%	63.11%
Bonds	33.34%	32.78%
Futures	0.99%	0.90%
Options	1.77%	1.67%
Warrants	1.37%	1.38%
Bonds with warrants attached	0.34%	0.16%

The reported data allow to monitor the trends of the European markets and more particularly the Luxembourg market. The main purpose of the supervision of the securities markets is to prevent and detect infringements of financial and stock market laws and regulations. In this context, weekly internal reports, as well as specific internal reports, based on the trades reported, are drawn up. These *ex post* analyses of transactions on financial assets can be used as a starting point for inquiries of the CSSF.

2. INVESTIGATIONS CONDUCTED BY THE CSSF IN ITS SUPERVISION OF SECURITIES MARKETS

A distinction should be drawn between investigations conducted into breaches of stock exchange regulations, investigations into non-compliance with the rules of conduct in the financial sector as laid down in circular CSSF 2000/15 of 2 August 2000 and investigations conducted within the scope of general supervision of securities markets.

2.1. Investigations into breaches of stock exchange regulations

The CSSF is the administrative authority competent to ensure that the provisions of the law of 3 May 1991 on insider dealing are applied. Its aim is twofold: ensure fair and equal treatment of investors, as well as protection against the illegal use of insider information.

In the context of its supervision of securities markets, the CSSF either initiates inquiries itself or conducts them in response to a request for assistance from a foreign administrative authority within the framework of international co-operation.

2.1.1. Inquiries initiated by the CSSF

- ***Inquiries concerning insider dealing***

In 2004, the CSSF initiated one inquiry into a possible infringement of the law of 3 May 1991 on insider dealing. This investigation is still in progress.

In one inquiry opened in 2003, the CSSF decided to pass the file on to the Public Prosecutor in accordance with article 6, paragraph 2, of the law of 3 May 1991 on insider dealing. In this case, the insider information related to interim financial statements of a listed company. The CSSF analysed the different documents and information it received following its investigations at national and international level.

A second inquiry opened in 2003 which concerned several listed companies, has been closed without any further action taken.

SUPERVISION OF SECURITIES MARKETS

- ***Inquiries into price manipulation***

At the request of certain investors, the CSSF has conducted investigations as regards price manipulation of a security listed on the Luxembourg Stock Exchange, as well as on another European stock exchange. Based on the information received, the CSSF could not conclude that the price of the listed security had been manipulated by any fraudulent means and has closed the case without taking any further action.

2.1.2. **Inquiries conducted by the CSSF at the request of a foreign administrative authority**

- ***Principles to abide by when transmitting information***

During the last years, the CSSF received on several occasions requests for information concerning the direct communication of information by Luxembourg professionals of the financial sector to foreign authorities. The main underlying reason for these requests was the compliance with the operating conditions of foreign regulated markets. In practice, certain foreign markets provide that foreign financial institutions can only trade on and/or have access to these markets provided that they subscribe to direct communication of information on the transactions' final beneficiaries to the market authorities and/or the supervisory authorities of these countries' markets. Is the Luxembourg banking secrecy opposable to this communication, which would raise a barrier to the entry into these markets, preventing the clients of the professionals of the Luxembourg financial sector from entering these markets?

The CSSF considers that a Luxembourg professional of the financial sector can transmit confidential information concerning a client directly to a market authority and/or a foreign markets supervisory authority provided that the client concerned gave his prior consent, thus mandating the professional to give such confidential information to a third party if required so. The main purpose of the banking secrecy being client protection, the latter can indeed agree that certain confidential information be revealed to a third party. Further information is available in the CSSF's Annual Report 2003 concerning the nature and scope of the banking secrecy.

- ***Inquiries into insider dealing***

In 2004, the CSSF processed 47 requests concerning inquiries into insider dealing (against 51 in 2003).

The CSSF handled all these requests with the necessary diligence befitting co-operation between authorities and no major issues relating to the involved financial institutions have arisen.

- ***Inquiries into price manipulation, fraudulent public offers, breaches of the requirement to report major shareholdings and other breaches of the law***

The CSSF received four applications for assistance from foreign authorities regarding price manipulation, five applications regarding fraudulent public offers of securities, two applications regarding breaches of the requirement to report major shareholdings, one application regarding financial fraud from an administrative authority of a country outside the European Economic Area, two applications regarding non-compliance with UCI investment policy, one application concerning false information in the prospectus published in relation with a capital increase, two requests relating to financial information disseminated by listed companies (one of them from an administrative authority of a country outside the European Economic Area) and one request covering several breaches of stock market regulations across several Member States of the European Union.

The CSSF responded to all these requests within the scope of its legal competence.

2.2. Inquiries into non-compliance with the rules of conduct in the financial sector and within the scope of general supervision of securities markets

The CSSF's interventions as regards non-compliance with the rules of conduct in the financial sector and/or within the scope of general supervision of securities markets were mainly motivated by the will to protect investors and ensure market integrity. The decisions to open an investigation or to intervene with a professional of the financial sector are, at first, based on analytical reports of daily trading activity on the Luxembourg Stock Exchange, as well as on the analysis of trades reported to the CSSF. The CSSF then analyses this information and decides on the appropriateness of an intervention.

In this context, the CSSF conducted, in 2004, one investigation into several securities listed on the Luxembourg Stock Exchange. Within the context of this inquiry, the CSSF reminded an investment firm that transactions without real change in the title of ownership are against the code of ethics laid down in the Rules and Regulations of the Luxembourg Stock Exchange and the provisions of circular CSSF 2000/15 concerning the rules of conduct in the financial sector, which specifies in section IV. that: *“The professional shall refrain from any act liable to impair the market transparency and the proper operation of market activities. At no time shall he manipulate the market, alone or in concert with others, to his advantage or to the advantage of a third party, by means of any single or a series of acts, silences, spreading of false information or rumours, through misleading practices or any other means, without prejudice to the professionals' right to intervene in order to ensure the success of securities issues or to stabilise a market price”* and that the professional *“shall comply with all regulatory requirements governing the conduct of his business activities so as to promote the best interests of his clients and the market integrity.”* Following the intervention of the CSSF, the investment firm concerned ceased the activities in question. It has to be noted that certain other aspects concerning this investigation are still in progress.

The year 2004 was also characterised by the final stage of the progressive abrogation of the “law Rau” which generated a disinvestment of “law Rau” UCIs in securities issued by Luxembourg companies. The CSSF has conducted an investigation in order to analyse the possible consequences of sale transactions on the Luxembourg stock market. No irregularities have been observed in this context.

On the same occasion, the CSSF examined a more technical aspect, namely the quality of the trades reported to the CSSF in accordance with circular CSSF 99/7. In this context, the CSSF observed significant breaches made by certain reporting parties. These breaches have in general been explained by the technical and administrative complexity in this field and have been rectified subsequently.

3. SUPERVISORY PRACTICE

In accordance with the law of 23 December 1998 on the supervision of securities markets as amended, the CSSF supervises stock exchanges and carries out supervisory functions related to public offers and listed Luxembourg companies.

3.1. Supervision of stock exchanges

The establishment of a stock exchange in Luxembourg is subject to a concession to be granted by Grand-Ducal decree. The only stock exchange currently licensed under Luxembourg law is the *Société de la Bourse de Luxembourg* (Luxembourg Stock Exchange). The CSSF monitors the proper functioning of the securities market, as well as the proper implementation of the related regulations.

SUPERVISION OF SECURITIES MARKETS

3.1.1. Regulatory changes

In its Annual Report 2003, the CSSF indicated that the decision of the Government in Council of 19 December 2003 to revoke the decision of the Government in Council of 4 March 1988 concerning the admission to the Luxembourg Stock Exchange of foreign UCIs not subject to supervision abroad, allows the CSSF henceforth to agree to the listing of foreign UCIs which are not subject to a continuous supervision in their home country and to the listing of financial instruments whose proceeds is entirely or partly invested in funds not subject to a continuous supervision in their home country.

During 2004, the Luxembourg Stock Exchange adapted its Rules and Regulations to take account of these new regulations and notably the conditions for approval that apply to this type of financial instruments. It has introduced criteria, which are certainly more flexible, without losing sight of its objective to only admit high-standard UCIs.

As a consequence, the CSSF repealed circular CaB 91/3 of 17 July 1991 concerning the listing of foreign UCIs on the Luxembourg Stock Exchange based on the decision of the Government in Council of 4 March 1988 concerning the admission to the Luxembourg Stock Exchange of foreign UCIs not subject to supervision abroad and has published circular CSSF 04/151 concerning the information to be published in the listing particulars for the following categories of securities:

- A) shares and units of foreign UCIs whose securities are not publicly exposed, offered or sold in or from Luxembourg;
- B) securities which are redeemable or exchangeable in shares or units of UCIs or whose income and/or redemption is/are linked to underlying shares or units of UCIs.

Indeed, limiting the schedules setting forth the information to be provided in listing particulars relating to different categories of securities (appended to the Grand-Ducal regulation of 28 December 1990 on the requirements for the drawing up, scrutiny and distribution of the prospectus to be published where 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) to the categories of securities commonly traded when the Directives were drawn up was no longer in line with market developments. More particularly, the schedules concerned were not entirely appropriate for the categories of securities referred to under points A and B above.

The CSSF therefore deemed it useful to specify, in its circular CSSF 04/151, the information that should be included in the listing particulars relating to the categories of securities referred to under points A and B above.

3.1.2. The market ensured by the Luxembourg Stock Exchange and its members

The CSSF is kept informed of market activities and related issues on a daily basis by means of an activity report provided by the Luxembourg Stock Exchange.

As far as market activities are concerned, turnover increased by 50.71% as compared to 2003 to EUR 1,195.64 million. Total turnover of variable income securities represented 50.55% of trading compared to 49.45% for bonds.

At the end of 2004, the Luxembourg Stock Exchange counted 68 members (against 71 in 2003), including 11 cross members.

The year 2004 was again characterised by intense activity as regards new admissions to the Luxembourg Stock Exchange. 9,143 new securities were admitted, representing an increase of about 11% in relation to the number of quotation lines, compared to an increase of 10% in 2003. The total number of admissions as at 31 December 2004 reached 33,022 securities, composed of 24,292 bonds, 261 shares, 2,414 warrants and rights and 6,055 Luxembourg and foreign undertakings for collective investment and compartments.

3.2. Documentation relating to public offers and listings

Under the supervision of the CSSF, the Luxembourg Stock Exchange is entrusted with examining prospectuses, pursuant to the Grand-Ducal regulation of 28 December 1990 on the requirements for the drawing up, scrutiny and distribution of the prospectus to be published where 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. Under the Grand-Ducal regulation, the Luxembourg Stock Exchange approves the prospectuses to be published where transferable securities are admitted to official listing and where public offers of transferable securities are followed by a listing on the Luxembourg Stock Exchange. Prospectuses relating to public offers of transferable securities not followed by a listing are approved by the CSSF.

In 2004, thirty-five public offers of transferable securities were made in Luxembourg, twenty-one of which were public exchange offers in relation to securities listed on the Luxembourg Stock Exchange. The CSSF approved the documentation relating to four public offers that were not the subject of an application for admission to official listing on the Luxembourg Stock Exchange.

In 2004, the Luxembourg Stock Exchange submitted around twelve application files drawn up for the purpose of due examination of the public offer prospectus or listing particulars to the CSSF in order to obtain the CSSF's written view on these issues. In addition, the Stock Exchange referred fifteen applications for an exemption from specific regulatory provisions concerning prospectuses to the CSSF. Six of them were duly justified and thus granted.

As regards co-operation with foreign authorities concerning mutual recognition of prospectuses, the CSSF issued certificates of approval relating to 114 public offers or admissions to the official stock exchange listing made simultaneously or within short interval in several Member States of the European Economic Area.

3.3. Luxembourg companies listed on the Luxembourg Stock Exchange

3.3.1. Financial information disclosed by listed companies

The law of 23 December 1998 on the supervision of securities markets as amended lays down the principle that financial information disclosed by companies listed on the Luxembourg Stock Exchange be monitored. The number of Luxembourg companies whose shares are listed amounted to 42 as at 31 December 2004.

Regulation (EC) N° 1606/2002 of 19 July 2002 on the application of international accounting standards (IAS Regulation) introduces the obligation for companies under the national law of a Member State, the securities of which are traded on a regulated market, to draw up their consolidated financial statements in accordance with the international accounting standards IAS/IFRS for each financial year starting as from 1 January 2005 or later.

SUPERVISION OF SECURITIES MARKETS

Directive 2003/71/EC of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading (Prospectus Directive) and Directive 2004/109/EC of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (Transparency Directive) have then been adopted with the same aim of harmonising the presentation of financial statements relating to listed companies. While the IAS Regulation only aims at companies under the national law of a Member State, the Prospectus and Transparency Directives extend the scope of application to issuers of securities admitted to a regulated market that have their registered office in a third country.

Continuing its works as regards the application of the accounting standards IAS/IFRS, the CSSF followed in 2004 the adaptation process of companies under Luxembourg law whose shares are listed on the Luxembourg Stock Exchange and has heightened the Luxembourg market participants' awareness of the problems linked to the transition to these accounting standards.

The CSSF started analyses on the accounting standards currently used by:

- the companies under Luxembourg law whose securities other than shares are admitted to the regulated market of the Luxembourg Stock Exchange, and
- the foreign companies whose securities are admitted to the regulated market of the Luxembourg Stock Exchange,

in order to be able to assess the consequences on the Luxembourg market of the application of the IAS/IFRS accounting standards or of accounting standards considered equivalent to the standards provided for by the IAS Regulation, the Prospectus Directive and the Transparency Directive.

- ***Scrutiny of financial information***

The CSSF verifies all the financial data submitted to it, in particular the yearly and half-yearly reports published by Luxembourg companies whose shares and units are listed on the Luxembourg stock exchange. The CSSF can ask an independent external auditor to prepare a written report on individual and consolidated annual accounts of these companies.

Since certain listed companies are in the transitional period towards the IAS/IFRS standards, the CSSF has often been contacted with a view to clarifying the application in Luxembourg of the provisions laid down by the IAS Regulation and the options given to Member States under this Regulation, as well as the possible interaction between the IAS Regulation and the Prospectus and Transparency Directives.

3.3.2. Reporting of major shareholdings

The CSSF systematically verifies compliance with the law of 4 December 1992 on the information to be published when a major holding in a listed company is acquired or disposed of, notably by considering attendance registers of ordinary and extraordinary meetings, as well as any other source of information.



| Department Supervision of Securities Markets

First row, left to right:

Malou HOFFMANN | Françoise KAUTHEN | Mylène HENGEN | Maggy WAMPACH

Second row, left to right:

Annick ZIMMER | Marie-Josée PULCINI | Marc LIMPACH | Jean-Christian MEYER | Simone GLOESENER

Absent:

Sylvie NICOLAY-HOFFMANN | Pierre VAN DE BERG