

## **INTERNATIONAL CAPITAL MARKET SERVICES ASSOCIATION**

### **COMPETITION LAW COMPLIANCE POLICY**

The Management Committee of the International Capital Markets Services Association ("**ICMSA**" or the "**Association**") has adopted the following policy to ensure that all activities of the Association operate in compliance with UK and European competition laws.

#### **1. INTRODUCTION**

It is the Association's policy to comply with UK and European competition laws in letter and spirit. This policy applies to anyone acting on (i) the ICMSA's behalf; and (ii) behalf of an ICMSA member.

Members are reminded that UK and European competition laws apply to their business activities and actions including the actions and activities which take place under the auspices of trade associations such as the ICMSA.

This policy statement is necessarily general in nature and cannot anticipate every legal issue or fact pattern that might be faced by the ICMSA, its members, or its staff. Therefore, it is important that individuals consult the ICMSA's Chairman or Vice Chairman, who shall in appropriate cases seek legal advice, when questions arise as to the application of this policy.

#### **2. TRADE ASSOCIATIONS & COMPETITION LAW ISSUES**

Trade associations, such as the ICMSA, are legitimate, important bodies, which advance issues of common interest to the industry. As the ICMSA includes members who are competitors, we must be vigilant to ensure that participation in the Association complies with competition laws at all times.

Competition law violations can lead to significant fines and damages actions for the Association and/or members concerned, and fines, imprisonment and/or director disqualification for individuals. Competition proceedings and litigation are expensive and burdensome even when ultimately successfully defended. Moreover, mere allegations of wrong-doing can harm both the Association and concerned members' reputations.

#### **3. UK AND EU COMPETITION LAWS**

UK and EU competition laws prohibit arrangements (including information exchange) between undertakings and decisions by associations of undertakings, which have as their object or effect the prevention, restriction or distortion of competition. In particular, they prohibit practices which include:

- Directly or indirectly fix purchase or selling prices;
- Limiting or controlling the provision of services, markets, technical development or investment; and
- Sharing markets and/or customers.

UK and EU competition laws also prohibit any abuse by one or more undertakings of a dominant position.

#### **4. POLICY**

The following policy is provided to ICMSA members to help ensure that meetings and activities of ICMSA members do not lead to breaches of UK and European competition laws and in particular no competitively sensitive information is exchanged. This policy applies before, during and after formal meetings, informal meetings, events and presentations ("**ICMSA Interactions**"). Please keep in mind that UK and European competition laws are complex and that this policy does not cover all contingencies. Please consult the Chairman or the Vice Chairman if you have any questions about the application of this policy.

## **DO NOT**

Discuss let alone agree with any other competitor or potential competitor (whether before, during or after ICMSA Interactions) on any of the following:

- Price or price elements (including discounts, rebates, surcharges, allowances, concessions, price mark-ups, and the like).
- Terms and conditions on which you supply services to your customers.
- Information relating to individual customers, suppliers, or competitors.
- Allocation of services, customers, markets, territories, or sales.
- Bids, bidding terms, tactics, strategies or practices.
- Refusals to purchase from, or modification of purchase arrangements with, suppliers.
- Profits, margins and costs.
- Strategic plans, business plans, intentions, promotional activities and marketing strategies or investment plans.
- Items which do not feature on the agenda. This should also be helpful to avoid potential situations that could give rise to anti-trust concerns.
- Any other confidential or competitively sensitive information.

## **DO**

- Always review agendas for meetings prior to attendance to ensure that no items on the agenda raise competition law concerns. If ever in doubt you should seek legal advice.
- Be cautious in the presence of competitors even in informal or social situations. Even informal discussions or throw-away comments can lead to problems if, for example, there is subsequent significant uniformity in action by competitors afterwards.
- Allow open and equal participation of members in Association or committee meetings and do not exclude a specific member or group of members from particular meetings.
- Ensure that you receive and carefully review the minutes and presentations of all meetings. If the minutes are inaccurate or incomplete or raise any questions, insist on rectification.
- Consider taking summary written notes of all discussions and presentations relating to the ICMSA. Assume that any notes you take will be discoverable in the event of any investigation or other litigation.
- Keep in mind that activities relating to standard setting, lobbying activities, benchmarking and statistics dissemination can bring along competition law risks, especially when presented as a collective decision of ICMSA to which members should not deviate.
- Seek legal advice immediately if you are concerned that the activities of the ICMSA raise competition law concerns.
- Seek legal advice before discussing potentially sensitive competition issues.
- Record any steps you take to ensure compliance with competition rules.

Remember that codes of conduct do not justify any anticompetitive conduct or agreement. Furthermore, remember that just being present when illegal discussions are taking place may be sufficient to implicate you and your company in a competition law infringement, even if you do not actively participate in the discussions.