Technical committee activities

The two main activities of the technical committee this month are responding to regulatory developments and reviewing, up-dating and, in some cases, re-writing the technical guidance section of *The Treasurer's Handbook*. Several new topics are planned for the 2001 edition, including electronic banking and the internet, corporate pension funds and share incentive schemes. The sections on debt funding have been re-organised and expanded to include a checklist on bond issuance. The aim is to give an overview of, and provide guidance on, the key issues of interest to treasurers and especially those which are occasional in nature. Suggestions are always welcome for topics to cover in future editions. ■

FSA – codes of conduct

It is just as well that the introduction of the new Financial Services and Markets Act has been delayed until next summer, as there still seems a long way to go on the various codes of conduct. We commented some weeks ago on the draft Inter-Professionals Code (IPC) that will apply to market counterparties operating in the investment products markets, but there have been some fairly fundamental concerns put forward by the banks. It looks like it could be some time before we see another draft. The Bank of England has now put the Non-Investment Products Code (NIPs) out for consultation and the technical committee will be reviewing it in time to respond before the end of November.

The NIPs working groups have managed to produce something that looks very similar to the London Code but is consistent with IPC. Of course, any changes to IPC may result in consequent changes to NIPs. ■

Regulation of securities markets

FESCO, the Forum of European Securities Commissions, has published a consultation paper on price stabilisation in debt and equity markets and on allotment.

Stabilisation

The proposed rules on stabilisation are consistent with those recently proposed by the FSA. FESCO is trying to produce a common regulatory approach across Europe in order to facilitate cross-border business. Since these rules determine the 'safe harbour' without which such price manipulation would be illegal, it is in issuers' interests that the rules are as clear and consistent as possible.

The main points are:

- price stabilisation is only allowed for price support not price depression (some countries currently allow both);
- it is allowed for a limited period and is subject to appropriate disclosure and record keeping arrangements;
- responsibility for stabilisation must be borne by one entity within the offering consortium (this is not entirely consistent with FSA proposals at present); and
- the overallotment option ('greenshoe') must only be exercised in connection with an overallotment of the relevant securities and both the overallotment facility and option must be disclosed in the prospectus. This only relates to equity issues, not debt.

The latter point is probably the one of most interest. Although the rule is not particularly controversial, there has been some concern among issuers and at the FSA about the increased use of greenshoe options. These occur when the issuer agrees to issue additional shares to cover the stabilising manager's short position arising from stabilisation activity ie, an overallotment of shares. Essentially this provides an element of flexibility which helps to ensure a successful issue and is particularly useful in cases where pricing the issue correctly is difficult. Considering the type of issues coming to market recently and the volatility of share prices, it is not surprising that lead managers are recommending to issuers that they grant a greenshoe option.

As far as issuers are concerned, the important point must be that adequate information is available to them (in terms of how stabilisation works, and what benefits and risks are associated with overallotment) in order to make an educated decision.

We are hoping that the proposed FSA Factsheet will provide this. In the meantime, the FESCO paper, available at www.europefesco.org, contains an excellent description of stabilisation and overallotment options for those interested.

Allotment of equities

The second part of the FESCO paper deals with the allotment of equities and reflects concerns in some quarters that certain investors get more than their fair share of 'hot' issues particularly at the expense of retail investors. In recommending that details of the chosen allotment process be disclosed in the Prospectus and that the result of allotment by class of investor be subsequently published, the FESCO proposals go further than the relevant FSA (UK Listing Authority) rules. It will be interesting to see the response of the investment banking community to this paper.

We have some concern that issuers may lose their discretion over which investors they allow to participate in an offer. We will monitor developments on this matter carefully. ■

The Hotline is prepared by Caroline Bradley, Technical Officer of the Association. For any comments or new items, please contact her at cbradley@treasurers.co.uk. Additional technical updates are available on the website: www.treasurers.org.