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Your ref., Your message of Our ref., person in charge Extension Date

BSBV 64/Horvath 3141 6th Sept 2017

**ESMA - Consultation on Guidelines on Internalised Settlement Reporting under Article 9 of CSDR**

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as legal representative of the entire Austrian banking industry, appreciates the possibility to comment on the above cited consultation document and would like to submit the following position:

***Q1: Do you have any comments or suggestions regarding the scope of the data to be reported by settlement internalisers? Please provide arguments supporting your comments and suggestions.***

Does a nostro transaction (bank buys on own account) that arises directly out of a client transaction have to be reported?

Regarding Free of Payment Securities transfers: If a bank (BANK A) acts as depository bank (for an asset management company) and fulfills also the role of a sub-custodian for two custody clients (BANK B + C), would a transfer between two custody clients (banks) have to be reported?

If yes, by whom? BANK B or BANK C or both as custodian banks for the direct client or the sub-custodian (BANK A) acting on the instruction of the custody clients?

The transaction will not be sent to the CSD by BANK A.

In general have only transactions with the change of the end client to be reported or also if the end client stays the same?

Is there an obligation to report an account switch from e.g. BANK A to BANK B (as Settlement internalisers and depository of both banks) even if the end customer stays the same?

***Q2: Do you have any comments or suggestions regarding the entities responsible for reporting to competent authorities? Please provide arguments supporting your comments and suggestions.***

Who is obliged to report custody transactions in a cross-border context? In Austria, securities of clients can be held at one omnibus account at the local CSD.

Example: A custody client keeps several accounts at the sub-custodian in Austria and initiates a transfer between two of his accounts.

For the Austrian Sub-custodian, this transaction will settle only in its books and qualifies therefore as reportable internal settlement.

Looking at the example in 4.2. item 15, it can be assumed that the custody client is managing the transfers and therefore would be obliged to report.

Please explain who has to report to the local authority? The Sub-custodian in Austria to the Austrian NCA and the cross-border custody client to his local authority?

***Q3: Do you have any comments or suggestions regarding the proposed data reporting parameters? Please provide arguments supporting your comments and suggestions.***

Regarding the table under item 25 (page 13) of the consultation paper:

• How do we have understand this table?

• The aggregation of the volumes does not seem to be useful from our point of view. We propose to only use the number of days.

In our experience, the settlement fail rate for internal settlement is very low and the number of contractual settlement for banks with retail client business is very high.

***Q5: Do you have any comments or suggestions regarding the proposed process for submission of internalised settlement reports? Please provide arguments supporting your comments and suggestions.***

Would the reporting also be possible via Trade Repository (like EMIR or MiFIR) or would a direct reporting to the local authority be mandatory?

Many banks have already established reporting interfaces to trade repositories and need to keep an additional reporting line.

***Q6: Do you have any additional comments or suggestions regarding the proposed guidelines? Please provide arguments supporting your comments and suggestions.***

We propose to introduce a transaction matrix that shows which specific transactions settlement internaliser has to be reported. This would substantially support the banks and minimise uncertainties.

We ask you to give our remarks due consideration.

Yours sincerely,

Dr. Franz Rudorfer

Managing Director

Division Bank and Insurance