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M. Fabrice Demarigny,
CESR,
11-13 Avenue de Friedland,
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France.

14th October, 2004

Dear Monsieur Demarigny,

Re: Irish Stock Exchange's Comments on the CESR June 2004 Consultation Paper "CESR's Advice on Possible Implementing Measures of the Directive 2004/39/EC on Markets in Financial Instruments"

The Irish Stock Exchange welcomes the opportunity to comment on CESR's consultation paper on implementing measures for the MiFID. We regret the delay in responding but the nature of the consultation process with our market participants proved time consuming. We hope that our comments will be of use to CESR in its deliberations. We have included comments on the questions posed by CESR, which we feel are relevant to the Exchange, which are attached as Appendix I. The main issues of concern are set out in this covering letter.

Timetable for Implementation of MiFID

As it will be necessary for market participants to implement considerable systems and procedural changes to comply fully with the requirements of MiFID, we see a difficulty in the industry meeting the deadline of April 2006 for the full implementation of all provisions of MiFID. To mitigate the risks to financial markets systems arising from a rushed implementation such as insufficient time for systems development and testing, it is essential in our view to provide for sufficient lead-in-periods where necessary.

We also support the inclusion of "grandfathering" provisions in the advice rather than requiring institutions to revisit current arrangements such as the possibility for instance, of being required to provide revised client agreement forms to their entire existing client base.

Level of Detail Appropriate for Level 2

We strongly support the objective of MiFID to facilitate the development of a Europe-wide fair and competitive market place in financial securities but we consider that the best way of meeting this objective is, where appropriate, to leave the responsibility for the provision of detailed guidance to the relevant markets, as is the current position, rather than enshrining overly detailed provisions in Level 2. While we appreciate that it is necessary to provide guidance to the market in order to implement MiFID, we would point out that exchanges have developed detailed Rules with which member firms are required to comply as a condition of membership. These Rules are in almost all cases themselves subject to full regulatory oversight and approval by the appropriate competent authority, and hence there is a very much reduced need for the inclusion of additional detailed guidance in legislation for participants in regulated markets. It is normal for exchanges to amend their Rules from time to time to address regulatory concerns or market developments

and this is a more responsive and timely process than requiring future legislative changes to keep up with market innovation at Level 2. It would be useful in many instances to keep this detail for Level 3. In conclusion, we believe that there is too much detail in the draft CESR advice, which is likely to result in over-regulation in some areas, without any real benefit to investors or to the market. Indeed this may lead to the restriction of certain services or departures from the market by some investment firms leading to less investor choice. We have specified some of these instances of excessive detail in the attached appendix.

Section II: Intermediaries

Compliance and Personal Transactions

We welcome CESR's acknowledgement that it is not possible to have a "one size fits all" approach with regard to the requirements on independence for the compliance function in investment firms. Clearly, the Exchange believes that compliance must display full independence in carrying out its functions but in the case of small and less complex business models, it is not always feasible to prohibit individuals employed in the compliance area from carrying out any other duties in the firm.

While the intentions behind the proposal that compliance is remunerated on a separate basis from the rest of the institution is laudable, we want to avoid a situation where the compliance function is not appropriately remunerated by being excluded from a general bonus payment based on the overall performance of the business. This will seriously impact the attractiveness of this function to existing and future staff. It should be sufficient to ensure that the reporting lines for the compliance function are sufficiently independent to prevent the remuneration (i) being decided by a particular business line that is monitored by compliance or (ii) being transaction bonus driven.

Professional vs Retail

While we agree that certain basic requirements on investment firms should be the same for both professional and retail clients, we feel that it is important to distinguish between both classes of clients as the benefits to professional clients of the provision of a significant amount of information will not justify the costs involved.

Record Keeping

We do not support the reversal of the burden of proof, where the CESR proposal is that the institution must prove its compliance. We have concerns that there may be constitutional difficulties in enacting this provision into Irish legislation as it could be argued that it contravenes natural justice, with the presumption being that an entity has to prove that it is not in breach of the Directive.

Conflicts of Interest

While the Exchange agrees with much of the draft advice, we consider that it is too detailed for Level 2 and details such as where the information barriers should be placed should be left to Level 3 guidance. Furthermore, in the case of smaller, less complex firms where the focus is on retail clients without any proprietary trading, there is typically very limited opportunity for conflict of interest and investment firms should not be required to issue an overly detailed conflicts policy in such cases. This is a matter that should be left to the judgement of the market participants with agreement as to its appropriateness by the national regulator.

Best Execution

We would urge CESR to avoid a prescriptive approach when drafting the Level 2 advice for best execution and we note the diversity of factors, acknowledged by CESR, which are critical in any analysis of what constitutes best execution. Firms should have procedures in place to ensure that their clients obtain best execution but the best result for a client at a given time can vary depending on the particular circumstances at the time of the order/execution. Therefore, we feel that a general principle to ensure best execution rather than attempting to adopt detailed requirements is more appropriate.

We agree with the general requirement that firms should have an order execution policy which should be disclosed to clients to enable clients to be fully informed when deciding which firm best suits their requirements.

Section III: Markets

Pre-Trade Transparency

We reject the recognition of only three specific types of market model in the draft advice on pre-trade transparency in Box 12 as this ignores various other market models that exist or that may exist in the future. We strongly urge CESR to avoid specific references to market models, which can be interpreted as only allowing the types of market models specifically "approved" in legislation to be adopted by regulated markets, which would be a retrograde step. Regulated markets should not be prevented from making changes to their markets to meet market demand or to meet competitive challenges.

We also strenuously oppose the requirement to provide full market depth for all instruments rather than a suggested market depth of 5 best bids and offers. We currently provide the option of full market depth largely taken by trading participants and a depth of the 5 best bids and offers which meets the market information needs of the wider audience. There will be appreciable costs involved in changing systems to comply with this requirement, as substantiated by us in discussions with vendors, and we are not convinced of the additional benefits to be obtained from the provision of full depth to the public. The best bid/offer, with a good indication of related market depth, is what is of interest to investors not the oldest and/or furtherest-off best bid/offer prices that have the very remotest of opportunities of interacting with other orders. This represents a very wasteful use of costly bandwith and available information vendor and user front-end screen space.

Admission of Financial Instruments to Trading

We agree with the proposal to determine the most relevant market on the basis of "liquidity proxies", being the primary listing of the instrument in the case of equities. We consider this to be a practical and workable solution to the alternative of determining the most relevant market by other more complicated means with very little additional benefit. This method also does not require any discussion between competent authorities, except in the case of dual primary listings, as it is a question of fact.

We note that CESR recommends not publicly identifying markets as being the most liquid but instead recommends making public the competent authority of the most relevant market in terms of liquidity in order to avoid interfering in competition between markets. It appears to the

Exchange that this public recognition of a market as the most relevant in terms of liquidity will have effectively the same result. This could have a competitive impact on the development of liquidity in an instrument and could lead to reduced competition in the EU, which is contrary to the aim of the Directive.

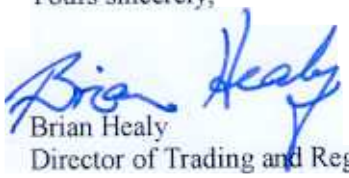
Section IV: Cooperation and Enforcement

Transaction Reporting

We support the intention to harmonise transaction reporting requirements in Europe. However, regulators should ensure that only information for which there is a clear and demonstrable need should be included as a required field. We also think that it would be simpler to require regulated markets to send information only to their home state competent authority, who should then be in a position to provide this information to the other relevant competent authorities.

I hope that these comments will be of assistance to CESR in formulating its views on the final response to the Commission.

Yours sincerely,



Brian Healy
Director of Trading and Regulation

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Compliance and Personal Transactions ***Article 13(2):*** ***CESR Box 1:***	➢ *Response to Question 1.1:* We agree in principle with the idea of requiring an independent compliance function for investment firms but we believe that it would disadvantage smaller or less complex firms to require them to ensure that the individual responsible for compliance has no other responsibilities. Any independence requirements should be imposed where "this is appropriate and proportionate" depending on the complexity, nature and scale of the business. We agree with the requirement that the budget and remuneration for the compliance function be linked to the objectives of Compliance but consider that Compliance should be able to benefit from the overall financial performance of the firm. ➢ *Response to Question 1.2:* We are not clear about the precise meaning of this question but think that calibration should apply for the independence requirement and that national regulators should be responsible for deciding which firms should qualify for the less stringent standard. We think that this should be a permanent requirement and do not agree that the same standard should be applied to all firms after a certain time. ➢ *Response to Question 1.3:* We consider that paragraph 9(b) of Box 1 should be deleted and reliance be placed on the status and responsibilities of the investment firm outsourcing the investment service. **Other Comments** ➢ We are of the opinion that it is essential that there be flexibility for firms in deciding whether persons in an outsourced function should be included in the definition of "relevant person". It would be an unacceptable burden on firms to be required to ensure that all persons involved in completely separate outsourced functions such as settlement for instance, with no access to insider dealing information from any area of the investment firm to have to comply with the firm's personal account dealing procedures. There would be very little benefit from such a requirement but it would reduce the commercial flexibility of entities and increase costs. ➢ The definition of "Personal Transactions" refers to a "domestic relationship or "close links" relationship. We believe that in practice it will be difficult to factually establish these types of relationships. It is simpler to have a definition of a connected person who has a relationship that can be factually established such as spouse, brother etc. ➢ We agree with the CESR statement that there is no need to differentiate between "manager" and "employees" for the purposes of this article and agree that "relevant persons" should cover both. ➢ We agree that it can be appropriate in certain circumstances to outsource the compliance function.

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Obligations relating to Internal systems, resources and procedures ***Article 13(4) and second sub-paragraph of 13(5).*** ***CESR Box 2:***	➢ We consider the requirement in paragraph 4 to submit financial reports which reflect a "verifiable" view of its financial position to exceed the requirements of international accounting standards and accordingly the CESR form of words should be changed to reflect IAS wording. ➢ The requirement on investment firms in paragraph 5(a) to have a risk control policy to manage and control "all risks" is too onerous and lacks focus and should be changed to "all material risks". ➢ We agree with the intention to limit the requirements in paragraph 8 of Box 2, "to where appropriate and proportionate…activities performed by it" as it is not feasible to require smaller/less complex investment firms to have separate and independent Risk Control and Internal Audit functions. In these types of firms, the person responsible for Compliance would usually have other risk control responsibilities. We agree with the requirement in paragraph 7 that in the case of these types of smaller firms, that instead of setting up an independent risk control function, a senior staff member should be appointed to take responsibility for ensuring the consistency and effectiveness of the internal control mechanisms of the firm and reporting on an annual basis to the board/or similar management committee. We think that it should be possible to have Compliance carry out this role. We disagree with the requirement to report to external auditors on grounds of principle and as an unnecessary addition. ➢ Paragraph 8(c) should reflect the fact that many investment firms will be part of a larger group, and would be subject to inspection from a group internal audit function and hence the investment firm would not itself require its own internal audit function.
Obligations to avoid undue operational risk in case of outsourcing ***Article 13(5) first sub-paragraph*** ***CESR Box 3:***	➢ We agree with the principle that outsourcing cannot be undertaken so as to render the firm an "empty box" and that the firm must supervise and remain responsible for the outsourced function. However, there is a lot of detail in this section, which we think would be better suited to Level 3 guidance.
Record Keeping Obligation ***Article 13(6)*** ***CESR Box 4:***	➢ *Response to Question 4.1:* We reject the proposal to include a separate obligation for the investment firm to demonstrate that it has not breached its obligations under the directive. ➢ *Response to Question 4.2:* We do not think that it is appropriate to include this Level of detail in Level 2 and think that the details of record retention should be left for Level 3. We also think that the list of records to be maintained

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	should be left for Level 3 guidance. **Other Comments** ➢ Irish Stock Exchange member firms are currently required to record all telephone recordings to trading lines and to retain them for a period of at least three months, unless there is a complaint or investigation in which case they are required to retain recordings for as long as the regulatory authorities deem necessary. We have received feedback that there will not be a difficulty in retaining tapes for a year but would advise against a blanket requirement to tape all entities' phone lines regardless of purpose. In addition, it would be useful to distinguish between professional and retail clients as we would consider retention of these recordings to be of far more significance in the case of retail clients.
Safeguarding of client Assets ***Articles 13(7) and (8) CESR Box 5:***	➢ *Response to Question 5.3:* In our opinion, it should be sufficient that the investment firm should maintain records of the amount of each type of asset held with each depository and ensure that the aggregate figures are fully reconciled. ➢ Response to Question 5.4: We believe that investment firms should not be required to be fully responsible for losses to clients resulting from the failure of a depository. There may be cases where clients choose to invest in jurisdictions where custody arrangements may not be as robust as in the home state jurisdiction. The investment firm should be responsible for exercising reasonable care in the selection of the depository but cannot be expected to underwrite all client losses. Therefore, we reject paragraph (b) of the suggested wording and consider paragraph (a) to be appropriate. ➢ We note that paragraph 7 of the draft advice requires investment firms, which are not credit institutions, to deposit client funds in specified accounts. There is no reference to permitting client funds to be held by a Nominee Account, which is a separate company set up to hold client funds and is one of the main methods used by Irish, and indeed by many UK, stockbrokers. We do not see any reason to exclude this method of holding client funds.
Conflicts of Interest ***Article 13(3), 18(1) and 18(2)*** ***CESR Box 6:***	➢ *Response to Question 6.1:* We agree with requirements such as the segregation of different sections of the firm by information barriers, which is currently required by the Exchange to prevent the spread of any unpublished price sensitive information, but we think that these requirements should be left for Level 3 guidance. As stated in our cover letter, we do not think that it is necessary for firms to produce conflicts policies where the size and complexity of the business would not require it.

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	➢ *Response to Question 6.2:* As above, we believe that any guidance should be in Level 3 and that the arrangements in paragraph 8 should be illustrative examples as other arrangements may be effective in certain circumstances. ➢ *Response to Question 6.3:* Any requirement to stipulate which divisions should be required to be separated by information barriers should be left to Level 3 guidance. We agree that it is appropriate to require information barriers between discrete business units such as corporate finance, research and trading desks. ➢ *Response to Question 6.4:* Our preference is for the first option for smaller firms but the second option should also be available for the provision of non-independent research where this is clearly disclosed to recipients. We also consider this Level of detail to be more appropriate for Level 3. **Other Comments** ➢ The requirement to inform all clients on an annual basis of the relevant details of inducements will probably be a costly exercise and should be reconsidered.
Fair, Clear and not misleading information ***Article 19(2)*** ***CESR Box 7:***	➢ We agree that there should be more specific requirements on the information communicated to retail clients than on information communicated to professional clients. ➢ We are concerned at the provision in paragraph 13 prohibiting the use of simulated historic returns as we do not see a problem with this as long as the overall material is fair, clear and not misleading. ➢ The reference to provision of information in local currency in paragraph 14(b)(iv) may not always be appropriate. Investors frequently hold accounts in foreign currency such as US$ accounts for the purpose of dealing in US shares and may wish to settle the transaction in US$ and hence there would not be any necessity to refer to the local currency.
Information to clients ***Article 19(3)*** ***CESR Box 8:***	➢ We note that information in Article 19(3) must be provided in writing, which is defined in section 1 as information on paper or another durable medium. "Durable medium" is defined as not necessarily including company websites. We consider that information on a company's website should be considered to fulfil the "in writing" requirement. ➢ The specific instructions on what may be said in an initial telephone call to a client set out in paragraph 4 are much too detailed and prescriptive for inclusion in legislation. ➢ In general, the Irish market currently permits the provision of investment services to execution-only clients without

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	requiring such clients to sign the terms of business or client agreement form. Paragraph 2(c) refers to the "terms of business agreed with the client". We think that it should be sufficient to provide terms of business of execution-only clients prior to dealing on their behalf and there should not be any separate requirement to obtain their consent. ➢ Regarding the question in paragraph 15 concerning whether in the case of orders received for public offers of securities, a "firm may transmit such orders provided that they offer the relevant prospectus to the (retail?) client"?, we believe that the provision of a prospectus should not be a requirement. Disclosure of where it is available should be sufficient.
Client Agreement ***Article 19(7)*** ***CESR Box 9:***	➢ As stated in our response to the advice on Article 19(3), we disagree with the requirement, here expressed in paragraph 1(b) to obtain signatures from execution-only clients and we believe that there should be a carve-out for these types of clients who deal on their own initiative without recourse to advice from firms. There is a higher duty of care on firms regarding dealing for clients such as advisory and discretionary clients, where firms may manage portfolios on their behalf, and consequently it is appropriate that their signed consent is obtained prior to dealing. ➢ As discussed in our cover letter, we are of the opinion that it will be necessary to introduce grandfathering procedures to avoid firms being required to provide all existing clients with the information required by Article 19(7). We know from experience that it can be a very time-consuming exercise for firms to request all existing clients to sign and return documentation and the return rate is usually not very high. We suggest that firms be required to inform relevant clients of changes to Terms of Business but do not support the requirement to obtain consent for all clients. ➢ Re paragraph 7: a retention period of 5 years after the last transaction on the account rather than 5 years after the end of the relationship is our preference as this does not require firms to follow up with clients to formally terminate the relationship unless of course they are holding securities on their behalf. ➢ Re paragraph 10 (c) of Box 9: we believe that it may be difficult in many cases to establish an appropriate third party benchmark to be used to compare the performance of portfolios. ➢ We reject the requirement in paragraph 11 to define a specific reporting requirement in the event of losses for each client with a time period to warn the client. Firstly, there is no distinction in this provision between the different requirements for agreement for execution-only and portfolio management type business, with the same requirement to be imposed for all clients, with which we disagree. Secondly, this would require significant systems changes by firms to be in a position to monitor all accounts for this requirement. In our view, the requirement to provide clients with contract notes, statements and valuations, where appropriate, is adequate and this proposal would place an

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	unacceptable burden on firms. We do not think that it is appropriate to remove all responsibility from clients to monitor their transactions. ➢ In general, we believe that these detailed prescriptive requirements regarding the contents of client agreements are better dealt with in Level 3, where they can be more easily amended if required and we believe that they should not be included in legislation. ➢ The requirement in paragraph 12 to include details of the method of calculation of variable management fees is too prescriptive and will be difficult to implement in practice.
Reporting to clients ***Article 19 (8)*** ***CESR Box 10:***	➢ *Response to Question 10.1:* We disagree with the proposal to require investment firms to provide reports to clients on investment advice received. In our view, requirements such as the classification of clients as execution only or as portfolio management clients, the retention of adequate records of dealings with clients, including telephone conversations, and the provision of contract notes and statements to clients are sufficient to enable regulators to determine whether advice was provided and if it was provided, whether it was suitable and appropriate. **Other Comments** ➢ In general, we think that the detail of the contents of correspondence to clients should be included in Level 3 guidance rather than in legislation. ➢ We would like to clarify whether the provision of contract notes in writing as required by paragraph 2 would permit the sending of electronic contract notes, which would particularly apply to clients of internet dealing firms. ➢ We think that it should be possible to allow firms to have a general statement on the contract note to indicate that the transaction was carried out with a "connected party" in order to comply for 2(j) rather than having to implement system changes to indicate whether the counterparty was the firm or the group. ➢ Regarding 2(k) it is normal practice to include the intended settlement date on the contract note but not other settlement details. It should be clarified that this can be separately advised to the client and it should not be necessary to provide this information in writing. ➢ Re paragraph 3 of Box 10: we disagree with this requirement for investment firms to send a written confirmation of the order to the retail client if the order is not executed within one business day of receipt. There may be legitimate

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	reasons for the non-execution of an order, such as a limit order being placed, which is not reached. In our view, it is preferable to require prior disclosure to retail clients of the duration of the order, such as a specified time limit of one week. This means that the retail client is made aware that his order may not be executed for a week and will expire at a specified time. He will also be sent a contract note typically required no later than the business day following a transaction and in our view the provision of further interim information stating that the order was not executed may lead to confusion on the part of some clients. As retail clients frequently change their limit order depending on movements in the market, this requirement could result in firms being required to send several confirmations of unexecuted orders for the same initial order, which adds to investment firms' costs without significant benefits to clients. ➢ Re paragraph 5 of Box 10: we do not agree that it should be permitted in the case of retail clients particularly, except in unusual circumstances permitted by national regulators, for an investment firm simply to pass on the contract note received by the investment firm from another broker to the client, without providing a separate contract note. In our view, the client is the client of the investment firm, not of the other broker, and the investment firm is the client of the other broker and receives the contract note in that capacity. The investment firm should issue a contract note to the client under its own name. ➢ We find the language unclear in paragraphs 8 and 9 of the draft advice. It appears as if paragraph 9 is permitting firms to avoid having to provide duplicate information but it would be useful to clarify these paragraphs. ➢ We have received feedback from investment firms that they consider the requirement in paragraph 16 (b) to provide portfolio clients with a management report on the strategy implemented, to be provided on at least an annual basis, to be onerous as investment strategies can change regularly, particularly in volatile markets. We think that the focus should be on ensuring that firms maintain adequate records so that national regulators are satisfied that there is adequate evidence of communication to and of agreement of investment strategies with clients and other periodic statements means that de facto, the investor has a view on the investments his investment firm is making on his behalf and the investor can query his investments whenever he/she wishes. ➢ The requirement in paragraph 18 to disclose all relevant information on any remuneration received by the investment firm or the manager from a third party attributable to services performed for that retail client would be very difficult to manage in the case of investment firms which provide a range of services to their clients. The Exchange has received comments from firms that this may be unworkable as investment firms would need to maintain different databases of clients, which would be constantly changing.

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Best Execution ***Article 21***	*Criteria for determining the relative importance of the different factors to be taken into account for best execution Article 21(1) Questions on page 73* ➢ *Response to Question 1:* We agree that the criteria are relevant and welcome the fact that the criteria are not restricted to price and costs only, as depending on market circumstances it may be more appropriate to look for speed of execution. It should be recognised that different factors out of the same set of criteria can take precedence in different markets at different times. ➢ *Response to Question 2:* The factors are clearly explained in the explanatory text. We think that market transparency is an additional factor that should be added to the list provided by CESR. ➢ *Response to Question 3:* The set of criteria to be used by firms in establishing best execution generally should not change as the investment firms will need to consider the types of client, their objectives, and the type of order and venue characteristics. The venues considered would be different depending on the types of instruments to be dealt. ➢ *Monitoring Requirements Article 21(4) Questions 1 to 6 on page 76* The Irish Stock Exchange disseminates prices to vendors who consolidate this data and provide it to firms at a commercial rate. Firms can use this post trade data to analyse trades reported to the Exchange. The Exchange itself provides some analytical tools/products to facilitate this process and the open architecture of the Exchange's trading systems has facilitated the development of numerous third party front end applications. ➢ *Timing of Venue Assessments Article 21(4) Questions 1 to 5 on page 77* We support the proposal to require at least an annual review of the firm's execution policy and that it should be reviewed if there are significant changes to the venue's liquidity, trading or settlement systems or costs. In order to change execution venues, firms would have to carry out system changes to connect or disconnect from various venues, which would have cost implications and would require system development time. The Exchange makes firms and vendors aware of system changes prior to implementation. Firms are also notified of any other regulatory or other business changes by the Exchange. ➢ *Information to the clients on the execution policy of the firm Article 21(2) Questions 1 to 10 on page 78* The numbers of venues accessed by firms depends on the nature of the firm, its business model and the pricing of the service offering to clients and consequently, the number of venues varies from few to very many. We consider a

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	sensible level of disclosure to clients of where a firm's orders have been directed to be helpful but we will defer to the opinion of investment firms as to the level of disclosure that they consider to be reasonable.
Client Order Handling ***Article 22*** ***CESR Box 11:***	➢ *Response to Question 1:* We agree with most of the contents of Box 11 with the exception of comments noted below. As stated previously, we consider that most of this detail should be left for Level 3 guidance. ➢ *Response to Question 2:* Yes, we consider that the requirements of paragraph 2 should also apply to professional clients. Regarding 2(e), we assume that a client is not required to state the venue of preference as it may act against the client's own interests to require the client to specify the venue of choice as the firm may discover when executing the order that the client could obtain a better result using an alternative venue. Clearly, if the client does indeed insist on execution being carried out in a particular venue, the firm must follow that instruction. ➢ *Response to Question 3:* all orders should be captured either electronically or manually once received and firms should have procedures to ensure sequential execution where possible. ➢ *Response to Question 4:* orders may not be executed sequentially if, for instance, a condition of an order, such as a limit, is not met. We agree that if the prevailing market conditions changed dramatically after the order was received it could be against the interests of the client to execute the order. The correct course of action in that particular case could be to contact clients for further instructions. ➢ *Response to Question 5:* we consider that the requirements of paragraph 8 are acceptable as the investment firm should only aggregate orders where it is likely that the aggregation will not work to the disadvantage of the clients involved. ➢ *Response to Question 6:* we consider that this decision should be left to the firms. ➢ *Response to Question 7:* Our Rules currently permit the aggregation of client and own account orders as long as firms ensure that clients are not disadvantaged. ➢ *Response to Question 8:* We think that paragraph 15 can apply to professional clients. However, the overly prescriptive requirement to disclose the individual tranche prices for large institutional orders is unnecessary and contrary to existing market practices whereby professional clients routinely request average prices. Furthermore, we suggest that the wording be changed to "relevant risks or impediments *of which the investment firm is aware*".

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	Other Comments ➢ There is a reference in paragraph 3 to a requirement to inform a client in advance if the firm may act as principal. We assume that disclosure that the firm may act as principal in the firm's Terms of Business provided to clients prior to dealing would suffice. ➢ We are of the opinion that it would be preferable to allocate a partially executed order to clients whose orders have been aggregated, on a time of order receipt basis rather than on a pooled basis as specified in paragraph 14. Therefore, orders which are received earlier would be completed or partially completed prior to orders received later. ➢ We note that the requirement in paragraph 16 to inform clients of the prices of each individual tranche would require systems changes for firms, the requirements should be flexible enough to accommodate an average execution price on contract notes for these transactions as is an acceptable market practice in Ireland and one often requested by investors.

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Pre-Trade Transparency requirements for Regulated Markets ***Article 29*** ***CESR Box 12:***	➢ *Response to Question 12.1:* As stated in our cover letter we reject the implied limitation of permitted market models in Europe to three types, which we believe is anti-competitive and detrimental to the interests of investors. Markets should be allowed to develop different market models to provide a variety of choice to investors. If a market model is not successful, the market will decide to move their business elsewhere, and this should be a market decision rather than a requirement imposed by legislation. The draft Level 2 advice should not seek to specify particular types of permitted market models as it is too inflexible and prescriptive an approach. ➢ *Response to Question 12.2:* We do not have an issue with displaying bids and offers and quotes but we believe that the issues raised in our response to question 1 need to be addressed. We note that "public" is not defined. ➢ *Response to Question 12.3:* We do not agree with the proposal to make the entire orderbook depth available to the public. We think that the ability to obtain the entire orderbook should be available to market participants but strongly disagree with the proposal to require that entire orderbook depth is made available to the public as the norm. This requirement will require extensive and costly system changes for regulated markets and MTFs to be carried out with no evident benefit to investors, it is flawed to believe, in this instance, that more detail necessarily improves the quality of decision making. ➢ *Response to Question 12.4:* We agree with the exemption for iceberg orders. ➢ *Response to Question 12.5:* As part of the overall goal of establishing a level playing field among different market operators and different market models, pre-trade transparency represents a core principle for all such entities and should be equally applied. Given the price taking nature of crossing mechanisms the case for their exclusion from pre-trade transparency is not convincing. ➢ *Response to Question 12.6:* The sizes of exemption for pre-trade transparency and delayed publication post-trade should be considered separately. ➢ *Response to Question 12.7:* The method that is agreed for determining block size should not be overly complicated and consequently the first of the three choices in paragraph 15, the "average daily volume method" is our preference rather than the more complicated market impact method. We are opposed to the proposal to group shares on an EU wide basis as we believe that the differences in market size would be very wide and would probably be disadvantageous for smaller markets such as the Irish market. We are concerned that this proposal would lead to bias towards the markets of the larger countries to the detriment of smaller markets, which runs counter to the expressed

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	aim of MiFID to develop competition in European markets. We would prefer to use criteria suitable for the individual national markets.
Post-Trade Transparency requirements for Regulated Markets and MTFs and for Investment Firms ***Article 28, 30, 45 CESR Box 13:***	➢ *Response to Question 13.1:* we agree with requiring trade by trade post trade transparency in that trades should be reported individually to the regulated market. However, the current system used by the Exchange aggregates trades executed at the same price and at the exact same time for the same instrument, such as in the case of auction trades which have the exact same timestamp, and reports the aggregated volume. We consider this to be transparent and we believe that this approach should be permitted. ➢ *Response to Question 13.2:* aggregated information should be provided at the end of each trading day but we do not consider it appropriate to include data such as weighted average price in the Level 2 advice due to the diversity of interpretations and for example time horizons applied to VWAP calculations as this should be left to the discretion of market forces. ➢ *Response to Question 13.3:* we agree with the 14 day period for availability of the post trade information. ➢ *Response to Question 13.4:* No. All trades should be reported. ➢ *Response to Question 13.5:* We disagree with the one minute requirement as we believe that while it may be achievable for firms which have more developed systems, it will not always be feasible for other firms. We feel that a 3 minute period would be more realistic and appropriate. We understand that in markets with a developed post trade reporting infrastructure the standard regulatory requirement for reporting of OTC trades is from 3-5 minutes. It would be ill advised to ignore the accumulated practical experience of such markets. The quality and integrity of information could be prejudiced by too tight a trade reporting window. ➢ *Response to Question 13.6:* only trades where a risk position has been taken on behalf of a third party should be allowed the exemption for block trades. ➢ *Response to Question 13.7:* We support the use of a harmonised unique identifier and consider the ISIN to be the most acceptable identifier to be used for this purpose. ➢ *Response to Question 13.8:* we do not consider it necessary to publish details of individual stock loans but it would be useful to require the publication of aggregate daily data on an instrument basis.

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	➢ *Response to Question 13.9:* Yes we agree with CESR initiating work in collaboration with industry on post-trade data transmission. **Other Comments** ➢ Re paragraph 21: in order to ensure that prices reported are as transparent as possible, any post trade reporting system should consider the use of separate indicators for different types of prices, such as : ➢ late trade reports, i.e. for cases where due to system problems etc, prices may be reported late, ➢ to indicate that the price is based on a weighted average price, ➢ to indicate that the trade is between two market counterparties, ➢ to indicate that the trade is a block trade, ➢ to indicate that the trade was reported by a market maker in the instrument in question, ➢ to indicate that the trade was executed as a result of exercising an option. ➢ Re paragraph 25: the current requirement in many exchanges is that trades carried out by investment firms after the market close should be reported on the following business day. The CESR proposal appears to require investment firms to ensure that they can report trades after the RM is closed as they are required to have appropriate publication arrangements in place for the entire time that the firm is trading. We consider that the current requirement to trade report by the start of the following business day is a reasonable and cost-effective approach and should be permitted.
Article 40 ***CESR Box 14:***	➢ *Response to Question 14.1:* The requirements for instruments to be admitted to trading appear reasonable. ➢ *Response to Question 14.2:* Overall, we are of the opinion that an analysis needs to be conducted by CESR/the Commission of the areas of overlap and interaction between MIFID, the Prospectus and Market Abuse Directives to eliminate the current risk of different provisions in related directives. There appears to be an overlapping role in this section between the role of the RM and of the competent authority.

Section IV – Cooperation and Enforcement	
Article 25 ***CESR Box 15:***	➢ *Response to Question 15.1:* we consider that while the preferred format for transaction reporting is clearly electronic, there may be situations where competent authorities may feel that it is appropriate to waive the requirement for investment firms to report transactions in electronic format. The decision should be left to the competent authority and there is no need for the reasons to be prescribed.