**Preamble**

Let us remind you of the structure of market surveillance in Germany:

Market surveillance is executed by various institutions which are the Handelsueberwachungsstelle (Trading Surveillance Office; hereafter ‘HUeST”), the Boersenaufsicht (Exchange Supervisory Authority; hereafter “CA”) and the Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Financial Supervisory Authority; hereafter: “BaFin”)

**• HUeSt**

The proper conduct of exchange trading as well as the correct pricing process is monitored by the HueSt. According to § 7 Abs.1 Boersengesetz (hereafter BoersG, the German Exchange Act) the HUeSt is an independent supervisory institution monitoring the markets in the public interest. The HueSt analyses irregularities and notifies the supervisory bodies and the management boards of the exchanges. The HUeSt also informs BaFin on cases which involve the jurisdiction of this supervisory authority.

**• The Exchange Supervisory Authority (CA)**

The CA is responsible at the state level. The CA of North Rhine-Westphalia is incorporated in the Minis-try of Finance. Under the jurisdiction of this authority are the pricing processes, the supervision of the proper conduct of trading as well as the investigation of violations of the Boersengesetz (hereafter: “Exchange Act”). The authority assesses the supervision by the HueSt and may also directly supervise the markets. Besides the Disciplinary Committee and the management board of the exchange, the CA can impose sanctions on market participants. Over and above this, the authority approves the rules and regulations of the Boerse Duesseldorf.

**• BaFin**

The Federal Financial Supervisory Authority is responsible for the investigation in cases of suspected insider trading and market manipulation at the federal level. Moreover BaFin investigates potential violations of publication requirements.

Bearing the mentioned above in mind is has to be added that the exchange in one part is a public-law institution itself.

**Introduction**

The HUeSt monitors orders and trading at the trading venue and investigates if it identifies violations against the regulations it keeps under surveillance. In the interaction of the institutions mentioned above BaFin is the authority which is responsible for the investigation in cases of suspected insider trading and market manipulation. Therefore the HUeSt already reports cases where suspicious behavior in context of market abuse or insider dealing is identified.

Because HUeST is involved in the obligations which are imposed on the trading venues relating to report STRs we feel responsible to answer this DC and focus our answers to subject V. (Suspicious Transaction and Order Reports) where these obligations are described.

**Answers**

**Q60**

We agree with the analysis stated in the clauses 191 to 193.

According to the German regulation not executed orders are already included into the scope of market abuse.

On a technical view it is more difficult to analyze all orders in comparison to the transactions (order executions) based due to the higher number of order events and the wider range of possible strategies.

Currently we don’t have additional views on reporting suspicious orders without execution. Basically we would appreciate if the Indicators/Signals of market manipulation (Annex 4 of the DC) will be kept up-to-date to have the chance to amend the installed filters.

**Q61**

We agree that the submission of STRs should take place without delay (as soon as practicable).

We also agree with the view to cover trading venues and intermediaries differently relating the ways and times to submit STRs.

We don’t agree with the period of two weeks. To cope with the requirements stated in the DC (adequately detailed STR) a period of 4 weeks would be more appropriate. This results from the investigation the HUeSt has to do. To receive the relevant details the HUeSt has to set a reasonable period to the banks/financial service providers involved which normally is two weeks.

**Q62**

We agree that institutions should generally base their decision on what they see without making unreasonable presumptions. To detect complex strategies of suspicious trading it is important that the Supervisory Authority is supported with the necessary details. Of cause the reported information should be well-founded.

**Q63**

We don’t have any views on what those reasons could be besides behavior which is an accepted market practice.

**Q64**

Surveillance systems of entities aren’t in the scope of the HUeSt.

Generally we agree that they have to be appropriate to the size and role the entity takes and it has to be ensured that at least an effective report-keeping should be installed.

**Q65**

We agree that trading venues should be required to have an IT system allowing ex post reading and analysis of the order book.

**Q66**

Training should take place permanently and to all people who deal with trading in a professional way in particular in banks and financial service providers.

**Q67**

We generally agree with the proposed information to be included in the STRs. The suggestion contents the details which are already in use now. Due to the fact that in some cases not all pieces of information are available, as many fields as possible should be filled in on an optional basis. We would appreciate if the content/fields of the STR form become adjusted to the actual needs from time to time.

**Q68**

The HUeSt reports suspicious transactions to the Federal Financial Supervisory Authority BaFin. If ESMA should revise used STR templates or should develop common electronic templates should be agreed with the BaFin.

**Q69**

The period of record-keeping in the case of market abuse / attempted market abuse should be in the scope of the German competent authority BaFin.