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European Savings Banks Group (ESBG)

Response to CESR's first set of Advice on Possible Implementing Measures of the Directive 2004/39/EC on Markets in Financial Instruments (MiFID)

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Profile European Savings Banks Group

The European Savings Banks Group (ESBG) represents 24 members from 24 European countries representing 968 individual savings banks with around 65 000 branches and nearly 757,000 employees. At the start of 2003, total assets reached almost EUR 4355 billion, non-bank deposits were standing at over EUR 2080 billion and non-bank loans at just under EUR 2195 billion. Its members are retail banks that generally have a significant share in their national domestic banking markets and enjoy a common customer oriented savings banks tradition, acting in a socially responsible manner. Their market focus includes amongst others individuals, households, SMEs and local authorities.

Founded in 1963, the ESBG has established a reputation as the advocate of savings banks interests and an active promoter of business cooperation in Europe. Since 1994, the ESBG operates together with the World Savings Banks Institute (WSBI, with 109 member banks from 92 countries) under a common structure in Brussels.

1. GENERAL REMARKS

The European Savings Banks Group (ESBG) welcomes this new consultation by CESR on its proposed advice on measures to implement the Directive on Markets in Financial Instruments. Initial experience with the Lamfalussy process has indeed demonstrated the beneficial aspects of consultations with the industry.

Before commenting on the specific views expressed by CESR in its consultation paper, we would like to put forward some general comments on the submitted paper and on the consultation process in general.

<u>Level of details</u>

ESBG Members share the view that CESR's consultation paper is characterised by an excessive level of details. Such an approach will make it particularly difficult for smaller credit institutions and investment firms across Europe to comply with the proposed measures. Additionally, an excessively prescriptive approach impedes the necessary flexibility that credit institutions need.

<u>Cost-benefit analysis</u>

The ESBG notes that CESR's paper is missing cost-benefit analysis in certain sections. This remark applies to the obligation to keep records (Article 13(6)) and in general to the requirements related to information obligations (Article 19(2), 19(3), 19(7), 19(8)).

<u>Proportionality principle</u>

Finally, we believe that while CESR has managed to follow carefully the principle of proportionality in several areas, this has less been the case in others. We consider the proposed measures on compliance as a case where measures should be taken to ensure that smaller investment firms can effectively comply with the proposed measures.

2. PARTICULAR COMMENTS

<u>2.1 Compliance and personal transactions (Art. 13(2))</u>

<u>Compliance (paragraphs 2 – 4)</u>

The ESBG is concerned by the approach followed by CESR regarding the issue of compliance, which we regard as a typical case which is not suited to the one-size approach proposed. More specifically, some of the proposed measures seem to be based on the assumption that all investment firms have a compliance unit (i.e. paragraph 2(d)), while this is very often not the case in practice; in several Member States, the compliance function in smaller investment firms is performed by Members of the Board of Directors.

The necessity to have a more differentiated approach also pleads for a clarification of the concepts used throughout the section, particularly the terms "procedure", "policy" and "compliance function". This would prove especially useful with regards to the following paragraphs:

- Paragraphs 2(b) and 2(c) remain difficult to assess in the absence of a clear definition of *compliance policies and procedures*. Along the same lines, the distinction with the *code of conduct* also mentioned in these sections is not clear.
- As indicated above, ESBG Members are concerned by the fact that paragraph 2(d) could be interpreted in a way that all investment firms should have an independent compliance unit. Against the background of CESR's explanatory text (and particularly the comments on the need to "ensure appropriate calibration"), we are of the opinion this should not be CESR's objective. As such, CESR should clarify paragraph 2(d), in line with the following proposal:

  > "*An investment firm must establish and maintain an effective compliance function. Persons who exercise the compliance function must not be involved in the performance of services or activities they monitor. The budget and remuneration of the compliance function shall be linked to its own objective and not to the financial performance of the business lines of the investment firm*".

- A precise definition of *compliance* is also needed in the context of paragraph 4(a). Such a definition should make it clear that an allocation of the compliance tasks between the compliance function and other organisational units is possible, without requiring a duplication of work.

Finally, ESBG Members are concerned about the proposal in paragraph 4(c) for mandatory reporting by the compliance function to the internal auditors, as this would undermine the necessary independence of the compliance function.

Answers to individual questions

Answer to question 1.1: the compliance function needs to be performed independently in all circumstances. However, it should be made clear that this does not mean that the person responsible for compliance may not be part of the organisational structure of the investment firm in other areas of responsibility.

Answer to question 1.2: If the term "compliance function" is to be understood as an independent compliance unit, then the solution of deferred implementation proposed is not sufficient. Rather, in such a case, it should be made clear that the requirements for independence put forward only apply to those investment firms "*where appropriate and proportionate in view of the nature, scale and complexity of their business*".

2.2 Obligations related to internal systems, resources and procedures (article 13(4) and (5) second sub-paragraph

Risk management policy (paragraph 5)

Paragraph 5(a) requires the "management and control of *all the risks* in the investment firm's activities (...)". This wording is too broad, as it is indeed not possible for an investment firm to control and manage all the risks related to its activities, products, processes and systems. Against this background, we would invite CESR to refer to *all material risks,* as this is the concept commonly used in the context of the new Basel II framework on capital standards. As an example, the Second Pillar of the new Basel framework requires banks to address "all material risks they face in their capital assessment process"[1].

2.3 Obligations to avoid undue additional operational risk in case of outsourcing (Article 13(5), first subparagraph)

Introduction

Outsourcing is an issue that is currently being discussed within several organisations. More precisely, CEBS issued a Consultation Paper on this issue in May 2004[2], and the Joint Forum (including the Basel Committee, IOSCO and IAIS) issued an own consultation paper in August 2004. It is in this context of fundamental importance to ensure coordination between these different bodies, to avoid different or contradictory requirements.

Paragraph 1 (definition of outsourcing)

The current definition of outsourcing proposed by CESR is too broad, as it could include activities which should not be viewed as outsourcing activities. The scope of the definition should accordingly be reduced and clarified.

Paragraphs 3 and 5

Paragraph 3 specifies a series of areas considered as material, to which the proposed outsourcing arrangements apply. Paragraph 5 on the other hand presents a series of activities which should not be covered. The ESBG believes that the approach followed, which consists in listing broad areas on which the outsourcing principles would apply, is not appropriate. We would rather recommend applying the arrangements on outsourcing only on those activities which should be regarded as material. The current areas listed in paragraph 3 should in any event be made more precise.

2.4 Record keeping obligations (Article 13(6))

Paragraph 2

Paragraph 2(a) requires investment firms to keep records for a period of at least five years. ESBG Members believe that keeping records for such a long period of time is not appropriate as it would increase costs for investment firms, without actual benefits in terms of auditing or legal compliance. A period of one year would be more adequate.

Furthermore, some ESBG Members are concerned about CESR's proposed advice to require investment firms to "*keep records of telephone orders on a voice recording system for a period of at least one year*" (paragraph 2 (b)). These Members are concerned that this could drastically change their business models, without improving the safety of the systems.

[1] Section 732 of the new Basel framework.
[2] The ESBG response to CEBS is available on the ESBG Website at the address http://www.savings-banks.com/.

Paragraph 4

Paragraph 4 requires an investment firm to "*be able to demonstrate that it has not acted in breach of its obligations (…)*". Such a requirement is contrary to the general principles of criminal law, as it would suggest reversing the onus of the proof. Furthermore, paragraph 4 conflicts with the level 1 provisions contained in Article 13(6), which indicate that the record keeping obligation shall enable the competent authority to "*ascertain that the investment firm has complied with all obligations with respect to clients or potential clients*".

Annex

Furthemore, CESR's draft advice includes an Annex with a list of records to be maintained. ESBG Members feel that this list is too extensive, and should accordingly be revised. As an example, CESR mentions an obligation to maintain records on marketing communication. We believe that it should be made clear that this should not refer to maintaining specific records concerning the clients to whom the communication was sent.

Answers to individual questions

As a general response to the questions raised by CESR (question 4.1 and 4.2), ESBG Members would like to highlight the fact that the level 2 implementing measures proposed should not add additional requirements for credit institutions. In addition, we are of the opinion that question 4.2 lacks clarity, using terms which could be widely misinterpreted, such as the "nature" of the record keeping requirement. In any case, for a majority of the examples provided, including in particular equity IPOs or bond issues, there should be no record-keeping obligation.

2.5 Safeguarding of clients' assets (Article 13 (7) and (8))

Answers to individual questions

Answer to question 5.1: the EBG is of the opinion that the choice of the depository should not be limited by level 2 implementing measures. In this context, an investment firm should have the freedom to choose an unregulated depository. Furthermore, CESR should also consider the situation of a client who explicitly delivers the mandate to an unregulated sub-depository (for example, in the case of emerging markets). In such a case, the investment firm has to follow the clients' instructions.

Answer to question 5.2: we do not see a need for setting up additional systems and controls beyond what currently exists.

Answer to question 5.3: ESBG Members have a preference for the second option. The current market practices do not foresee that investment firms indicate for each client the depository with which the relevant client assets are held, and we do not see any need to do so in the future. The arrangements proposed in the second option guarantee an appropriate safeguard of the clients' assets, without being excessively burdensome for investment firms.

Answer to question 5.4: we support option (a) as a less ambiguous solution in terms of content.

2.6 Conflicts of interests (Articles 13(3) and 18))

The ESBG believes that the advices for implementing measures contained in Box 6 are overly detailed. The current draft could in particular entail serious compliance problems for smaller investment firms and credit institutions. This is most clearly illustrated by the first alternative proposed in paragraph 8, which would unjustifiably limit the freedom of investment firms and raise costs. Against this background, we strongly reject the first alternative of paragraph 8.

Apart from this general remark, our major concern in this section on conflicts of interest relates to the section on inducements. More precisely, ESBG Members believe that the MiFID does not contain a basis for the draft advice of the sections 9 to 11. The articles 13(3), 18(1) and 18(2) relate to conflicts of interest, which means that level 2 implementing measures should cover inducements only insofar as this practice presents a danger in terms of conflicts of interest. The MiFID sets the following framework to deal with conflicts of interest:

- Article 18(1) states that investment firms must take steps to identify conflicts of interest;
- Article 13(3) indicates that investment firms shall take reasonable steps designed to prevent conflicts of interest;
- Finally, article 18(2) foresees that if the measures taken according to Article 13(3) are not sufficient, "*the investment firm shall clearly disclose the general nature and/or sources of conflicts of interest to the client before undertaking business on its behalf*".

On the basis of this general framework, the implementing measures put forward in paragraphs 9 to 11 are not appropriate. First, the very restrictive cases in which inducements are allowed in paragraph 9 are not justified. Most importantly, there is a clear conflict between the provision of Article 18(2) and paragraph 11 proposed by CESR: where Article 18(2) requires investment firms to disclose the "general nature" of the conflicts of interest, when these cannot be managed according to Article 13(3), CESR requires the investment firms to provide "*at least once a year, the relevant details of such inducements*". This requirement cannot be considered as being of a general nature, as foreseen in Article 18(2).

Against this background, we suggest deleting the current paragraphs 9 and 10, and amending paragraph 11 in a way that requires investment firms to disclose that they receive inducements, in line with the spirit of Article 18(2).

<u>Answers to individual questions</u>

<u>Answer to question 6.1</u>: no, we do not think that additional examples of methods should be referred to in the advice.

<u>Answer to question 6.2</u>: alternative (a) is the right approach: there should be no requirement for an investment firm to include any of the proposed measures in its conflicts policy. Investment firms must be able to maintain a sufficient degree of flexibility regarding the establishment of their conflicts policy, taking account of their individual situation.

<u>Answer to question 6.3</u>: we consider the establishment of information barriers as an appropriate way to address conflicts of interest in the case of investment research. It should be added though that appropriate methods for addressing particular instances of conflicts of interest should be left to the investment firm, provided such methods allow the investment firm to fulfil its general obligations in terms of conflicts of interest.

Answer to question 6.4: ESBG Members are strongly opposed to the approach proposed in the second option. Furthermore, the first option also raises serious concerns. As an illustration, there should be no need to have additional organisational requirements in cases where an investment firm decides to disclose its conflicts of interest in the field of investment research.

2.7 Fair, clear and not misleading information (Article 19(2))

As an introductory remark, we believe that CESR requires investment firms to provide an excessive amount of information to their clients. We would therefore strongly invite CESR to carefully balance the benefits for the clients of the information to be provided with the costs entailed for the investment firms. As it currently stands, CESR's advice would investment firms to incur significant costs without proportionate benefits for the investors.

In addition, several provisions of CESR's advice exceed the scope of Article 19(2) and of the Commission's mandate. In this context, ESBG Members share the view that CESR has not respected the distinction provided for in the Directive between *marketing communication* and *information obligations*.

Paragraphs 2 and 3

In line with the general remark made above, we believe that a distinction should be made between marketing communication and information requirements, and that the requirements put forward under paragraphs 2 and 3 should not apply in the case of marketing communications, for which appropriate provisions already exist in European legislation.

Paragraph 5

The ESBG believes that the Commission's mandate does not invite CESR to advise on the content of an investment firm's retail marketing communication, as proposed in paragraph 5.

Paragraph 8

Paragraph 8 contains requirements in terms of information that investment firms need to provide in the case of retail marketing information referring to a financial instrument and/or investment advice. ESBG Members are of the opinion that the information required is not appropriate in the case of a retail marketing communication, as it is related more to the information obligations of investment firms. Against this background, the requirements under paragraph 8 should only apply to retail marketing communications when such communications constitute a direct offer for the client.

Paragraph 9

Paragraph 9 introduces for the first time the concept of *advertisements*. The ESBG believes that it would be more appropriate to refer in this context also to *retail marketing communications*, as in previous sections.

Paragraph 13

The ESBG does not believe that prohibiting completely investment firms from using "simulated historic returns" is appropriate, as such information can be of use to the client. Instead, the investment firm should be required to include a statement explaining precisely the context of the information provided.

2.8 Information to clients (Article 19(3))

An important feature of the level 1 framework is that it allows information to be provided to clients in a standardised format. This provision is meant to ensure that appropriate information is delivered to clients without entailing excessive costs for the investment firms. Against this background, our main request regarding the measures to implement Article 19(3) is that they should not prevent or hinder this mechanism.

Paragraph 1

For the sake of coherence with the European legislative framework (and more precisely the *Directive on the distance marketing of consumer financial services*), we believe that it should be possible for the investment firm to provide the information also on 'another durable medium', as opposed to only in writing. This also applies to other sections of CESR's advice which require information to be provided in writing (such as paragraph 4).

Paragraph 4

ESBG Members fear that the requirements under paragraph 4 would entail serious costs, without proportionate benefits for the clients. This would result in making the use of the telephone communications substantially less attractive for investment firms. This statement applies in particular to CESR's requirement to provide detailed information to clients at the occasion of each individual call. We believe that it would be more appropriate to require information on the characteristics of the product to be provided just once, otherwise the administrative burden would be excessive. Subsequently, the information should only be provided on request by the client.

Paragraph 5

We believe that the scope of paragraph 5 is too limited, as it only applies to requests made by the client. ESBG Members are of the opinion that it should rather apply to all cases of distance communication.

Paragraph 7

In line with our introductory statement, we are of the opinion that the requirements under paragraph 7 conflict with the provision of Article 19(7), which explicitly states that "*this information may be provided in a standardised format*". We believe that in particular providing the information under section 7 (a) (ii) for each individual financial instrument would make it impossible to deliver standardised information to clients. Against this background, it would be more appropriate to require investment firms to provide information about i.e. the risks linked to investing in illiquid instruments, or the implications of investing in an instrument traded on an MTF.

2.9 Client agreement (Article 19(7))

ESBG Members are particularly concerned by the costs that will result from the level 2 implementing measures proposed for the issue of 'client agreement'. In this context, we would urge CESR to reconsider the proposed advice, in light of an in-depth cost-benefit analysis.

Furthermore, CESR does not seem to distinguish in its measures between existing and new clients. A clarification indicating that the proposed measures on client agreements only relate to new clients should hence be added. This is absolutely necessary, as a revision of all the existing contracts on the basis of the advice put forward would demand unacceptable costs.

Paragraph 1

In line with the remark we made on the section "information to clients", we believe that CESR should not require the terms of the agreement to be provided in writing, but rather should also allow such terms to be provided in "another durable medium".

Paragraph 4

In our opinion, CESR should take particular care in making sure that its requirements in terms of information do not prevent investment firms from providing information in a standardised format. This remark applies principally to the requirement under section 4 (f) to include "*a description of any withdrawal right or cooling-off period*".

Paragraph 8

Paragraph 8 indicates that investment firms must keep a copy of the retail client agreement for at least five years after the end of the relationship. ESBG Members are of the opinion that this period of time is excessive; a period of two years would be more appropriate.

In addition, paragraph 8 should make it clear that the documents which are incorporated by reference should not be kept for each customer individually, but should rather be documented for all the customers, in line with the provision put forward in Article 19(7).

Finally, the provision that the client shall receive a copy of the retail client agreement "at any time subsequently on request" should be removed.

Paragraph 9

ESBG Members share the view that the requirement under section 9(a) to indicate whether the instruments are admitted to trading on a regulated market or not is redundant with Article 19(3) of the MiFID, which contains a similar provision.

Paragraph 9(b) requests the agreement to include the obligations of the investment firm with respect to the "envisaged transactions". We are of the opinion that it is not appropriate to include information on such transactions in an agreement. Furthermore, there are many overlaps between paragraph 9(b) and Article 19(8), which should be removed.

Paragraph 9(c) indicates that the contract must require immediate notification to the client of "any change" in margin requirements. ESBG Members believe that a more precise and restrictive wording would be appropriate.

Finally, the "appropriate warning" envisaged in section 9(d) can only be provided to a client on an individual basis. It should accordingly not be part of the client agreement.

Paragraph 10

Pursuant to section 10(c), an investment firm shall provide the client with an "appropriate benchmark", except where this is not feasible, in which case "*this must be stated (…) and an alternative measure of performance must be indicated*". ESBG Members believe that in general, finding an appropriate benchmark in portfolio management is a particularly difficult task, which in most cases is just not feasible. A more realistic approach should consequently be put forward by CESR.

2.10 Reporting to clients (Article 19(8))

In the context of reporting to clients, it is particularly important to take appropriate measures to avoid the risk that duplicated information is reported to clients under different obligations. This would entail substantial and unnecessary costs for the investment firms.

Paragraph 2

Paragraph 2(i) requires the investment firm to inform the client whether its counterparty was the investment firm itself or any person in the investment firm's group. This information is important, as it ensures that the client is properly informed of the cases where its orders are executed within the investment firm, as opposed to transmitted to a third party. This being said, we believe that there are situations in which such information is not relevant, such as when a price for the transaction is agreed beforehand, or when the client orders were aggregated, with a price generated on the basis of market rules. In such cases, where it is not relevant to know whether the counterparty was the investment firm itself or a third party, it should not be mandatory to provide the information to the client.

Paragraph 3

Paragraph 3 details the information which has to be provided to a client in the case of non-executed orders. ESBG Members believe that it should only be mandatory to provide the client with "client order details" and "date of reception". The other information items mentioned in CESR's Paper (time of reception, date and time of transmission) should not be mandatory, but only sent to the client on request. This would allow investment firms throughout Europe to keep their current infrastructures unchanged.

Paragraph 8

Paragraph 8(c) requires investment firms to provide the client with a statement that must "*show any movement of clients' assets based on either date or settlement date clearly and consistently*". Such requirement is outside the scope of Article 19(8), which requires investment firms to provide clients with the relevant information on their executed orders. This is adequately addressed by paragraph 2 of CESR's draft advice. On the contrary, it is not appropriate to require from investment firms that they deliver for free to their clients the information items mentioned in paragraph 8(c); investment firms should be allowed to sell such additional services to their clients.

2.11 Client order handling (Article 22(1))

Paragraph 3

The scope of this section should be reduced: the requirement to inform the client that the investment firm may act as a principal should be limited to the case of retail clients, as opposed to professional clients.

Paragraph 12

This section deals with the priority of allocation in the case where orders for own and client accounts have been aggregated. More specifically, CESR indicates that when such aggregated orders can only be partially executed "*allocation to clients must take priority over allocation to the investment firm*". This requirement is not appropriate, at least not in cases where a worse execution would have been reached without aggregating client orders with orders of the investment firm. In such a case at least, a proportionate allocation of the executed orders should be allowed.

Paragraph 20

Paragraph 20 (b) requires an investment firm that receives and transmits an order to record "*the person to whom the order was transmitted*". ESBG Members believe that there are cases where such a requirement is not possible, especially in the case of network banking structures, where the individual, local banks send their orders to a central institution for execution on a regulated market. In such a structure, the name of "the person to whom the order was transmitted" is not recorded. Against this background, paragraph 20(b) should mention that in cases where an order is forwarded to a specific person on a regular basis, a one-off information shall be sufficient.

Answers to the individual questions

Answer to question 1: We agree with the proposed definition.

Answer to question 2: no, we are of the opinion that the details of orders listed under section 2 should not apply to professional clients, as most of the requirements under this section would be irrelevant for this type of investors. As an illustration, we could mention the name of the agent, which is not recorded in the case of professional clients.

Answer to question 3: the sequential execution of client orders does not require additional arrangements, as the information recorded under the current arrangements is sufficient for the purpose of ensuring the sequential execution of client orders.

Answer to question 4: yes, the cases provided for in paragraph 7 are appropriate. An illiquid market for example might make the requirement to carry out orders promptly and sequentially inappropriate.

Answer to question 5: there is not necessarily a contradiction between both proposals, as an arrangement taken in the best interest of a client (such as the aggregation of client orders) may ex-post turn out to have worked to the disadvantage of the client. The most important thing is to make sure that an investment firm respects its arrangements designed to manage conflicts of interest when it aggregates client orders.

Answer to question 6: we believe that this should be left to the decision of each investment firm.

Answer to question 7: the aggregation of client and own account orders must be allowed, for the benefits which the client may get from such arrangement. Moreover, we do not see a need for including other elements. In this context, we would like to refer to the comment we made to paragraph 12.

Answer to question 8: yes, paragraphs 15 and 16 should only apply to retail clients, as professional clients are in a position to estimate risks and impediments by themselves.

2.12 Transactions Reporting (Article 25)

The ESBG very much supports CESR's expressed intention to pay special attention to existing arrangements for transactions reporting. As we indicated in our response to CESR's Consultative Concept Paper on Transaction Reporting (April 2004), modifying existing schemes to report transactions is a particularly costly operation, implying that any proposed solution should be proportionate, and be the result of an in-depth cost-benefit analysis. Any move towards a more harmonised framework should therefore be gradual. In this context, we believe that the minimum content of a transaction report presented in Annex A is too extensive, as it contains fields which would imply important changes to existing national reporting schemes. As such, reducing the scope of Annex A is necessary to achieve CESR's objective of maintaining the existing national arrangements unchanged.

Answer to question 15.1: The ESBG supports the possibility granted to Member States to waive the requirement to report transactions in electronic format, such as in the case of small banks that only report transactions on a very incidental basis. Furthermore, we believe that it should be left to the Member States to decide in which cases such model of reporting should be allowed. We accordingly invite CESR to refrain from specifying these cases in more detail.

Answer to question 15.2: transaction reporting requires important and costly investment in IT systems. In this context, any change to an existing reporting mechanism can be undertaken only once there is absolute certainty about the precise content of such a reporting tool. This explains why the necessary changes can only be undertaken at the last moment, and subsequently why a transitional period is needed. We believe that this remark is not only valid for the specific case of reporting in respect of bond markets and commodity derivative markets, but rather is of a general nature, as changes will also be required in the case of common reporting. Furthermore, it should be taken into consideration that reporting systems are closely linked to other systems (like clearing and settlement). This also adds to the difficulties when such systems have to be modified.

Answer to question 15.3: ESBG Members do not believe that it is appropriate at this stage for CESR to investigate the possibility to converge between national reporting systems. Rather, the first priority should be to implement and enforce the current Directive and its implementing measures, and afterwards to perform an in-depth assessment of its effects. Here again, we would like to refer to our response sent in April 2004, in which we discussed in more detail the consequences in terms of costs of updating existing reporting mechanisms.

Answer to question 15.4: we agree with the set of general minimum conditions proposed. Furthermore, we do not think that CESR should include the requirement of a specific service-level agreement, neither at level 2 nor at level 3.

Answer to question 15.5: we do not think that other issues should be taken into account.

Comments on the list of level 3 recommendations: The ESBG supports the 3 level 3 recommendations suggested, particularly the third one relating to double reporting.

Answer to question 16.1 to 16.5: we support CESR’s approach to determine the most relevant market. We do not have particular comments to the questions made.

Answer to question 17.1: we support CESR’s declared approach to maintain the existing national arrangements as much unchanged as possible. Nevertheless, as mentioned in our introductory statement, we believe that the minimum content proposed in Annex A would not allow this, as some of the proposed fields would actually require changes. As an example, the fields *time identifier*, *trade value* and *value notation* could be mentioned. We consider these fields as inappropriate in a context of minimum harmonisation.

Answer to question 17.5: we do not think that introducing the field “client identification code” is necessary in a context of minimum harmonisation, having in mind the diverging treatments that currently exist on this issue across Europe.