

DRAFT

CESR' s Advice on Possible Implementing Measures
of the Directive 2004/39/EC on Markets in Financial
Instruments June 2004: ABI Comments

- 1 The Association of British Insurers (ABI) is the trade association for Britain's authorised insurance companies.
- 2 In the course of their business ABI members manage assets of the order of €1,600bn, either through internal departments, fund management subsidiaries or third parties.
- 3 The implementation of the Directive and its impact on markets is therefore of key interest to our members.
- 4 Many members of the ABI are also members of the UK Investment Management Association (IMA). The ABI supports the IMA's response to CESR's consultation and in particular would highlight the following as matters that will impact on market practice and therefore the interest of ABI members.

Compliance and Independence

- 5 ABI members believe the senior management of a firm should decide on and keep under review the processes and structure of the compliance function appropriate to their business, based on the principles that the compliance function must be independent.

Outsourcing

- 6 ABI members fully endorse the point made in the IMA submission that, certainly from the fund management viewpoint, restricting delegation to a non-EEA firm only when there is an appropriate arrangement between regulators is unduly restrictive.

Record Keeping

- 7 ABI members concur with the view that the maintenance of records of instructions to brokers, beyond that required for operational reasons would add significant costs and duplication for little, if any, benefit to investor protection.

Order handling

- 8 All clients, whether retail or professional, should be treated equally. The duty of best execution should override, where necessary, the requirement to carry out orders promptly and sequentially.

Transaction reporting

- 9 Clarification would be welcome as to whether the advice is intended purely for retail clients and to what extent, if any, for professional and counterparty clients.
- 10 ABI members fully endorse CESRs aim of avoiding unnecessary and costly new requirements. Confirmation from CESR would be welcomed that the obligation of a firm to report directly will be waived where third parties (with suitable reporting arrangements) acting for first party report details of relevant transactions to the competent authority.