

**EALIC'S REPLY
TO
CESR'S PUBLIC CONSULTATION OF OCTOBER 2006 ON
"PUBLICATION AND CONSOLIDATION OF MiFID MARKET
TRANSPARENCY"**

15 December 2006

EALIC replies to CESR's consultation on the "Publication and consolidation of MiFID market transparency" of October 2006 (CESR/06-551) proposing guidance on the understanding and interpretation of certain MiFID transparency publication requirements.

EALIC has consistently been advocating an adequate level of transparency to guarantee investors protection and confidence. It has a vested interest in ensuring that price formation may not be adversely affected by an environment where trading information is more fragmented, notably as a result of increased competition in trade publication services. To achieve price transparency, trade information originating from various sources needs to be reliable and allow for comparison between different venues. As the Level 1 Directive leaves room for competition in the area of data consolidation, EALIC would welcome CESR's guidance in view of clearing the way to data consolidation, to promote high quality market data and achieve a proper level of data aggregation.

Hereinafter follow our answers to the various questions raised by CESR.

Question 1 Data quality

In your opinion, will this additional guidance (i.e. setting up of an independent verification process) help to ensure high-quality data monitoring practices?

EALIC agrees with the emphasis laid by CESR on data integrity. Transmitting reliable information is central to a transparent price formation process as well as to the implementation of other requirements, including best execution.

Article 32 of Commission Regulation 1287/2006 implementing Directive 2004/39 requires investment firms to ensure that published information is reliable, monitored continuously for errors, and corrected as soon as errors are detected. It is therefore crucial to set up an appropriate monitoring mechanism to prevent the transmission of erroneous or inaccurate information to the trade publication arrangement.

EALIC considers that monitoring mechanisms for pre- and post-trade transparency should continue to rest with the trading process, which is in the position to set up the appropriate mechanism and to provide for data aggregation. The suggestion by CESR to adopt minimum quality standards might be worth considering, with a view to achieving a level playing field throughout the EU. Moving, however, beyond that objective, by suggesting the adoption of an independent verification process, does not appear, under current circumstances, necessary.

Question 2. Duplication of post-trade transparency information. Option 1

- a) *Would publishing each trade to only one publication arrangement help to address our concerns about duplication?*
- b) *Would this option be sufficient on its own to address the issue, or should it be coupled with another solution?*
- c) *Rather than being an option, should this option be seen a prerequisite (supported by other requirements),*
- d) *Would this option limit unnecessarily the choice of publication channels for firms?*

Question 3. Duplication of post-trade transparency information. Option 2

- a) *Would a unique trade identifier address our concerns about duplication?*
- b) *Do you think this is an appropriate solution?*
- c) *How would the industry achieve this?*
- d) *In your view, should this only apply to MTFs and investment firms trading OTC or should it also apply to RMs?*
- e) *What costs would be involved and who would bare them?*
- f) *Would this solution request a recommendation on a common and single format for the trade identifier?*

Question 4. Duplication of post-trade transparency information. Option 3.

- a) *With the use of time to milliseconds contribute to the identification of duplicate trades?*
- b) *Do you think this is an appropriate solution?*
- c) *How would the industry achieve this?*
- d) *Are there circumstances where legitimate multiple identical trades (to the detail of milliseconds) could exist?*
- e) *In your view, should this option only apply to MTFs and investment firms trading OTC or should it also apply to RMs?*
- f) *What costs would be involved and who would bare them?*

Question 5. Duplication of post trade transparency information.

What is your preferred solution? Do you believe that a combination of these different options is viable?

A number of possible solutions have been suggested by CESR to prevent duplication. Under option 1, investment firms would use only one publication arrangement for each trade. Under option 2, a unique trade identifier would be allocated to each trade by investment firms. Identical trade publication with the same unique identifier would be disregarded. Option 3 would be based on trading time identifier. Recording of trading time to milliseconds would enable data aggregators to detect duplication trades and remove them from the consolidated tape.

Generally speaking, it is EALIC's view that control mechanisms to prevent duplication should be market driven rather than imposed by the regulator.

As a matter of fact, neither option is, in EALIC's view, fully satisfactory. Publication arrangement on a per trade basis as described under option 1, does not fully remove the risk of duplication resulting from the fact that consolidated information may be acquired from different sources in the processing chain. The same holds true for the unique trade

identifier which raises questions as to the possibility of maintaining a uniform system across the various EU jurisdictions. Using a trading time identifier raises comparable concerns.

Question 6 Responsibility to publish trades.

In your opinion, is the list set out by article 27 (4) of the regulation sufficient to alleviate confusion over whose responsibility it is to publish a trade (where there has been no agreement over who should publish)? Is there a need for CESR guidance? If so, in your opinion, what should that guidance cover?

Article 2 of implementing Regulation 1287/2006 provides that both parties to a transaction should agree on who should publish the trade. By default, a list determines where responsibility for publication should lie, e.g. with the investment firm that sells the share concerned, acts on behalf of the seller, acts on behalf of the buyer, buys the share concerned. EALIC concurs with this.

Question 7

Is there a need for CESR to put in place guidance to define more precisely what should be considered as a “single transaction” and a “matched transaction”? Additionally, is there a need to define the “reasonable steps” that firms should take in order to comply with their publication obligations?

EALIC agrees that it might be worth to consider procedural requirements that investment firms should comply with in connection with their publication obligations.

Question 9 Publication arrangements.

Do you agree with the proposed approach for dealing with static website?

Question 10 Publication arrangements.

In your view is this necessary and reasonable (to suggest that publication arrangements should go one step further and push the information out)? What additional costs would be involved? Who would bear the costs?

It is suggested that publication arrangements should not involve non-automated process, i.e. static non machine readable websites, which may pose a barrier to trade consolidation. Rather pre- and post trade publications should be accessible by automated electronic means and utilise technology that facilitates consolidation of data.

Publication arrangements, according to article 32 of implementing Directive 1287/2006, should ensure that transparency information be made available in a way that is easily accessible and that facilitates the consolidation of the data with similar data from other sources.

It suffices that information is pulled, retrieved from the website and it does not appear desirable, for obvious costs reasons, to go one step further and push it out to the market.

Question 11

Do you foresee any difficulties in aggregators identifying key sources of data?

Question 12

Do you have a preferred means by which to identify sources of data/ Collection points?

Question 13

Do you agree with our approach to facilitate the identification of new sources of transparency data?

With the adoption of MiFID, investments firms will have considerable choice in where they publish their information. It is suggested that investments firms using proprietary publication arrangements that are unknown to the market should have a mechanism in place to inform the market.

EALIC agrees with this approach which is line with the general obligation to adopt publication arrangements that facilitate data consolidation and make information easily accessible.

Question 14

Do you agree with our recommendation to use ISO formats (and reference data where applicable) to ensure consistent publication of transparency information?

It is suggested to adopt ISO formats, which would promote interoperability between systems of information. However, rather than requesting existing sources of information to adapt their formats and protocols, it is proposed to restrict the scope of harmonisation to new systems.

EALIC is already familiar with the use of ISO standards regarding for instance corporate actions. It would encourage considering similar formats for example in the frame of trades reporting requirements to competent authorities.

EALIC concurs with the recommendation to restrict for all practical purposes the use of ISO formats to new systems.

Question 15

Do you agree with our suggested flagging (i.e. C, N, and A)?

It is suggested to adopt common flagging for specific additional information in relation to certain trades (e.g. negotiated trades, amendments to published information) where there are no common standards (C for condition, N for negotiated and A for amendment).

EALIC concurs.

Question 16

Is there a need and appetite for additional guidance on what other trades should be regarded as being determined by factors other than the current market valuation of the share (e.g. cum dividend etc) ?

There is no need for additional guidance

Question 17

Do you agree with our assessment that there is a need for sources of data to have continuity in the structure of the transparency information they publish?

It is proposed that information that is published conform to a consistent format and that sources of information do not continually change the order and format of their information.

EALIC concurs.

Question 18

Is a re-publication the best approach for dealing with amendments?

Question 19

Is 'A' an appropriate flag for amendments?

Question 20

This approach implies that publication arrangements would need a mechanism for uniquely identifying trades to allow data aggregators and data users to effectively discard the inaccurate trades. Is this necessary? In your view, would the unique identifier and millisecond options discussed under the 'data quality' section above be effective identifiers?

EALIC maintains that control via double accounting systems kept by data aggregators would provide the best means to prevent duplication and allow for tracing inaccurate trades.
