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Association of Foreign Banks in Germany

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To
the Committee of European
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CESR Technical Advice to the European Commission in the Context of the MiFID Review –Investor Protection and Intermediaries (Ref.: CESR/10-417)

Dear Madam or Sir,

This is a response to the referenced CP on CESR's advice on investor protection and intermediaries. We appreciate the opportunity to provide suggestions to the envisaged MiFID review.

Our major concern relates to the proposed wording of Article 61 that "host Member States shall provide that the competent authority may, for statistical purposes, require all investment firms with branches within their territories to report to them periodically on the activities of those branches." In our opinion, the Directive should not necessarily require the "competent authority" pursuant to Articles 4 (22) and 48 to collect data from branches. We would rather suggest a wording that enables Member States to maintain established particularities of national supervisory structures. Thus, Member States should have discretion to appoint not only the "competent authority" – which would be BaFin in Germany – but also Bundesbank (which is currently in charge of collecting statistical data in Germany) or the tax authorities.

Thank you for your consideration.

Yours sincerely

Dr Oliver Wagner

Dr Martin Schulte