

Re: CESR / 06-552 and 06-551

The Division Bank and Insurance of the Austrian Federal Economic Chamber welcomes the opportunity to comment on CERS's consultation papers 552 and 551. Please find the following comments on the

1) list of minimum records in Article 51 (3) MiFID implementing directive:

General remarks

We appreciate a homogenization of record keeping standards as far as it is seen as a guideline for investment firms and supervisors.

The CESR-List of minimum-records thus should be seen as a service for supervisors and investment firms and should not establish minimum requirements. In this respect it should be stated in the introduction, that national authorities may also delete records of the list, which are not required by the directives.

We doubt that the main goal legal certainty cannot be reached this way.

Question 1:

We agree on a common list of minimum records in all CESR members esp. considering competition aspects in the light of the above mentioned aspects ("in general").

Question 2:

We are afraid that the contents of the lists are too far reaching . In our view it is not a list of minimum requirements and therefore hardly gives an interpretation of MiFID requirements. It mainly just refers to MiFID rules and different directives trying to cover mainly all possible relevant articles. In addition to that, we want to stress that it should be reconsidered if i.e. points 6 to 8 "Aggregated transaction concerning client orders etc." as well as "Marketing communications" should be part of the list.

"Periodic statements issued to a client". The obligations on this issue should be limited to the recording of the fact of the issuance itself. The retention period for contents of such statements should be limited to the timelimits caused by possible legal claims by the customers stemming from such statements.

Question 3:

We agree on specific requirements for record keeping of investment advice. In cases in which clients claim deficient investment advice such written documentation of investment advice facilitates the burden of proof.

Nevertheless it should be taken into consideration that according to national law, firms already have an obligation of record keeping in this context.

Additional administrative burden has to be avoided.

Best regards

Dr. Herbert Pichler

[Division Bank & Insurance](#)

Austrian Federal Economic Chamber