

27 November 2006

CESR
11-13 avenue de Friedland
75008 Paris
France

Dear Sirs

**Response to consultation on the list of minimum records in Article 51(3) of
the MiFID implementing Directive (CESR/06-552)**

The Investment Management Association (IMA) is the trade body representing the UK asset management industry¹.

I attach our response to the detailed questions posed in the consultation.

Should you wish to discuss any of the points we have raised in further detail please do not hesitate to contact me.

Yours sincerely



Adrian Hood
Regulatory Adviser

¹ IMA members include independent fund managers, together with the asset management arms of banks, life insurers and investment banks, and occupational pension scheme managers. They are responsible for the management of nearly £3 trillion of funds (based in the UK, Europe and elsewhere), including authorised investment funds, institutional funds (e.g. pension and life funds), private client accounts and a wide range of pooled investment vehicles. In particular our members manage 99% of UK-authorised investment funds (i.e. authorised unit trusts and open-ended investment companies).

Consultation on the list of minimum records in Article 51(3) of the MiFID implementing Directive (CESR/06-552)

IMA's response to the specific questions asked in the Consultation Paper.

Q1: Do you agree that a common list of minimum records in all CESR members will benefit investors and industry?

Yes, as long as the requirements arise directly and necessarily from the MiFID level one and two legislation, we consider that this would increase certainty for cross-border operations.

Q2: Do you agree with the content of the list elaborated by CESR? If not, which records should be added or deleted and for which reasons?

On the whole, yes. However we have a few comments to make:

- Line 11 of the proposed list (entitled 'Orders executed on behalf of clients') refers to Article 47(1) of the implementing directive, which merely states that firms must 'ensure that orders executed on behalf of clients are promptly and accurately recorded and allocated'. The detail of what should be recorded in this case is set out in Article 8 of the Regulation;
- Line 13 (entitled 'Transmission of order received by the investment firm') includes a reference to Article 7 of the Regulation. Article 7 refers to client orders and decisions to deal. It is Article 8(2) that relates to order transmission.

Q3: Do you consider that a specific requirement for keeping records of the provision of investment advice should be introduced?

No.

We have the following comment to make on the proposed rules:

Article 13(6) of the Level 1 Directive does not specify the time for which the records should be maintained. Article 51(1) of the implementing directive states that all records should be retained for at least five years. The CESR advice should indicate the retention periods, particularly were this is more than five years (a possibility referred to in paragraph three of Article 51(1)).