



Paris, 23 July 2010

M. Carlo COMPORTI
Secretary General
Committee of European Securities Regulators
11 – 13 avenue de Friedland
75008 Paris

Our ref: EACT's comments on CESR's consultation paper "*MiFID review – client categorisation*"

Reference: CESR/10-831

Dear M. Comporti,

Please find enclosed EACT's comments on the abovementioned CESR's consultation paper.

Should you have any further questions, don't hesitate to contact Charles-Henri TAUFFLIEB (+ 33 6 14 38 62 24 and charles-henri@taufflieb.net).

Best regards.

Richard RAEBURN
Chairman

Enclosure: EACT's comments

EACT's comments on CESR's consultation paper “MiFID review – client categorisation”

Parts 1 and 2: as EACT is an association of corporate treasurers, EACT is not qualified answering to the questions 1 to 5.

Part 3: “Other client categorisation issues”

I - General comments

In accordance with our previous written answer to the European Commission¹, EACT confirms the present categorisation rules for non-financial undertakings in 3 categories and the 2 assessment tests (suitability and appropriateness) are both adequate. Furthermore, EACT considers the introduction of more differentiated and more demanding criteria would make too complicated the good application and the understanding of the categorisation regime under MiFID by the investment firms (especially their account managers in relation with the clients and their sales in the dealing rooms).

The initial difficulties met in 2007-2008 in implementing these two abovementioned rules are now solved and these processes are now well working. To illustrate this opinion, the most recent survey issued by one of our national treasury association mentions that near 90% of the investment firms have notified to their clients their classification under MiFID². Client's awareness about this rule is also very good: more than 80% of the clients have responded to the investment firms about the notification, either to accept the proposed status, or to request a modification or to refuse the eligible counterparty regime proposed by the investment firms. Furthermore, the investment firms apply the same regime to a same customer because it is too complicated to manage different categorisations for a same customer depending on the financial instruments. The clients have the same approach *vis-à-vis* the investment firms.

However, improvements could be done in a more generalised application of assessment tests. The abovementioned survey shows that 62% of investment firms have sent to their clients assessment questionnaires. This rate could be increased by applying the current regulation, being understood that these assessments provide an excellent opportunity to improve the application of the KYC principles for the investment firms and notably avoid misselling of inappropriate instruments to their customers.

Consequently, these two existing rules (categorisation and assessment tests) have to be applied and don't need to be reviewed. As the MiFID regulation is complex enough on these topics, we are not in favour to

¹ Points of discussion with stakeholders on conduct of business issues in MiFID on January, 22, 2010. European Commission: informal discussion to the application of MiFID.

² November, 2009



add useless burdens, like a new classification (super ECP status). In particular, the possibility for an investment firm to propose to a professional client the eligible counterparty regime must continue to have the prior and written consent of the client.

II - Questions 6 to 11

Question 6: yes, by applying the current MiFID regulation concerning the suitability and appropriateness tests. According to the best practices, investment firms can implement these tests by sending questionnaires to their customers.

Question 7: yes by applying the suitability and appropriateness tests.

Question 8: no (see above our general comments).

Question 9: non applicable due to our answer to the question 8.

Question 10: yes.

Question 11: we agree totally with the suggestions made in our paper in your § 40. We consider indeed the investment firms when they deal with ECPs must comply with basis rules of conduct, *i.e.* act honestly, fairly, professionally and communicate with ECPs in a way that is fair, clear and not misleading.