



CESR
11-13 avenue de Friedland
75008 Paris, FRANCE

Submitted online at www.cesr.eu

31 May 2010

Dear Sir/Madam,

**RESPONSE TO CESR CONSULTATION PAPER CESR TECHNICAL
ADVICE TO THE EUROPEAN COMMISSION IN THE CONTEXT OF THE
MIFID REVIEW – TRANSACTION REPORTING (CESR/10-292)**

This letter and annex is Chi-X Europe Ltd's (Chi-X) response to CESR's consultation paper. Chi-X is delighted to be able to support the work done by CESR, national Competent Authorities and the European Commission in this important area. Chi-X is committed to improving the quality and efficiency of the European equity markets.

Chi-X is a UK FSA authorised securities firm operating a multilateral trading facility (MTF) for the trading of more than 1,200 of the most liquid securities across 23 indices and 15 major European markets as well as ETFs and ETCs in both a visible order book and the Chi-Delta™ non-displayed reference price order book. Chi-X's low-cost, streamlined operating model is designed to help trading participants achieve ultra-low execution, clearing and settlement costs, and it also provides a low-latency, high capacity trading system. Real-time market data is disseminated at no cost to trading participants.

Since launch in March 2007, Chi-X has handled more than 300 million trades, equating to a total turnover of over €2.0 trillion. In 2009 alone, trading participants saved over €150 million in price improvement. In April 2010, Chi-X ranked as the second largest equity exchange in Europe by value traded according to the Federation of European Stock Exchanges (FESE). Over the same period it represented 28% of all electronic order book trading in UK FTSE 100 stocks and up to 23% of trading in other major European markets.

The Markets in Financial Instruments Directive (MiFID) was a central plank in the creation of a single European securities markets, identified by the Lamfalussy Wise Men's report & European governments as critical for growth in Europe. This remains the case today to improving the allocation of capital, with more efficient, deeper and broader securities markets, stemming from reduced transaction costs and increased liquidity. Also the need to achieve in Europe more efficient intermediation of savings, including from intensified competition between markets and intermediaries.

MiFID sought to promote an efficient single market by allowing competition and user choice, combined with investor protection through comprehensive minimum standards across Europe. Chi-X considers that MiFID is achieving its objectives in delivering:

- More competition, innovation and choice;
- Substantial reductions in trading and clearing costs;
- More investment and dealing on a pan-European basis;
- Common standards for investor protection, including Best Execution; &
- A comprehensive transparency regime.

We recognise that there are areas where MiFID has yet to fully deliver, in particular:

- Post-trade transparency – improving the quality of OTC market data and achieving an effective Consolidated Tape available on reasonable terms;
- Ensuring effective Best Execution - to facilitate competition while assisting investor protection; and
- Post-trade clearing and settlement – costs remain substantially higher than the US, limiting liquidity. Lack of Central Counterparty interoperability prevents further competition and also consolidation of this sector (we appreciate that this is the subject of a forthcoming directive from the European Commission).

In respect of CESR's Consultation paper MiFID review – Transaction Reporting, Chi-X makes the following broad points:

1. Transaction Reporting is an obligation of investment firms undertaking trades in securities. As an MTF, Chi-X is limiting its response to Section 6 of the Consultation;
2. It is important that investors have confidence that equity (and other) markets are clean. Chi-X is committed to playing its part in undertaking surveillance of trading on its platform. Own Account Dealing Firms account for a small proportion of business, do not act for clients and are subject to surveillance by trading venues. However, in order to ensure the completeness of regulators view of all trading and assist in combating market abuse, Chi-X supports CESR's proposal to extend the Transaction Reporting requirements to Own Account Dealing Firms. It is important that this is done in a cost effective manner; and
3. Chi-X supports the option of extending the transaction reporting obligation directly to Own Account Dealing Firms that are members of trading venues. This is in keeping with the existing Transaction Reporting model and recognises that a trading firm is in the best position to make transaction reports for its own transactions.

Equity markets and infrastructure are already subject to the highest standards and regulation among financial markets. They were not the cause of the financial crisis and have largely functioned well during the volatility of the last few years. It is important therefore that any further regulatory intervention is

measured and supported by clear evidence of market failure and cost benefit analysis. Failure to do this will result in excessive costs for the industry, including investors and issuers, hindering the future growth Europe needs. It is also important that any regulation is not too prescriptive, stifling innovation and choice needed for progress. In many cases, as set out in our responses, more effective enforcement of existing regulations may suffice to address policy makers concerns.

In the annex to this letter I have included our detailed response to the consultation. We hope that you find these responses useful in your deliberations and look forward to working with you on these issues.

Yours sincerely,



Denzil Jenkins

Director of Regulation Chi-X Europe

Transaction reporting is an obligation of investment firms undertaking trades in securities. As an MTF, Chi-X is not required to make Transaction Reports. Accordingly Chi-X is limiting its response to Section 6 of the Consultation.

6 Transaction reporting by market members not authorised as investment firms

Question 15: Do you agree with CESR's proposal on the extension of reporting obligations? If so, which of the two alternatives would you prefer?

It is important that investors have confidence that equity (and other) markets are clean. Chi-X, as the largest pan-European MTF, is committed to playing its part in undertaking surveillance of trading on its markets. In order to ensure the completeness of regulators view of all trading and assist in combating market abuse, Chi-X supports CESR's proposal to extend the Transaction Reporting requirements to Own Account Dealing Firms. It is important that this is done in a cost effective manner.

To ensure investors have confidence that markets are clean there needs to be effective means of deterring market abuse, including monitoring and enforcement arrangements. Chi-X, as the largest pan-European MTF, is committed to playing its part in undertaking surveillance of trading on its markets. The Market Abuse Directive covers all securities that are admitted to a Regulated Market (RM), including if these are traded on an MTF, such as Chi-X, or OTC.

The Transaction reports received by national Competent Authorities play a critical role in allowing regulators to see all the trades that are occurring, including OTC, across asset classes, venues and jurisdictions. They should provide the regulator with a holistic view of activity. These are major enhancements that have been brought about by MiFID.

In this respect it is important that the Transaction Reporting regime is as comprehensive as possible. As stated in section 6 of the Consultation, Article 2(1)(d) of MiFID provides that the Directive does not apply to persons who do not provide any investment services or activities other than dealing on own account ("Own Account Dealing Firms") unless they are market makers or deal on own account outside a regulated market or an MTF on an organised, frequent and systematic basis by providing a system accessible to third parties in order to engage in dealings with them. This may mean they are not subject to the requirement to Transaction Report.

It should be noted that:

- Own Account Dealing Firms are likely to represent a small minority of members of RMs and MTFs and of overall trading volume, in particular as they do not conduct client business;

Chi-X response to CESR consultation paper CESR Technical Advice to the European Commission in the context of the MiFID Review – Transaction Reporting (CESR/10-292)

- These firms remain subject to supervision and surveillance by the RMs and MTFs on which they are trading; and
- Trading undertaken by these firms in securities admitted to a RM are subject to the Market Abuse Directive.

However, in order to ensure the completeness of regulators view of all trading and assist in combating market abuse, Chi-X supports CESR's proposal to extend the Transaction Reporting requirements to Own Account Dealing Firms.

It is important that this is done in a cost effective manner. One of the reasons for the exemption from authorisation in MiFID is to prevent overly onerous costs for these small firms which do not undertake any investment services or activities other than dealing on own account. Too high a cost burden is likely to result in these businesses being unable to continue to trade which will also reduce the provision of liquidity to equity and other markets.

In reducing costs of compliance Chi-X supports further work by national Competent Authorities, CESR and the industry to ensure there is clarity on reporting obligations.

We also consider that there should be more competition between firms which operate approved reporting mechanisms, such as the UK's Approved Reporting Mechanism (ARM) regime, to offer services to intermediaries and others to file Transaction Reports with national Competent Authorities. In addition, costs levied on ARMs or similar services should be reduced in order to bring down overall Transaction Reporting costs.

Option 1: Extending the obligation to all members of trading venues

Chi-X supports this option providing it can be done in a cost effective manner as discussed above. The trading firm is in the best position to make transaction reports for its own transactions.

This will minimise the risk of errors. This proposal is also in keeping with the existing division of Transaction Reporting obligations. Own Account Dealing Firms can use the services of an ARM or similar services to transmit this information.

Option 2: Trading venues produce transaction reports on behalf of unregulated members

Chi-X does not support this option.

Chi-X considers that this option:

- Is a significant change to the existing model where Transaction Reporting is undertaken by the firms which conduct the trades;

- Presents significant costs to trading venues from establish such services and the potential need to connect to many different national Competent Authorities if members who are Own Account Dealing Firms are from several Member States;
- Presents significant liability for trading venues which is not in keeping with their role as low risk providers of central market infrastructure; and
- May introduce more errors as there is a separation between the firms undertaking the trades and a venue responsible for the obligation to report them.