



DANISH BANKERS ASSOCIATION

CESR Secretariat
11-13 avenue de Friedland
75008 Paris
France

Danish Banker Association comments on CESR's Consultative Concept Paper on transaction reporting and co-operation and exchange of information between competent authorities

The Danish Banker Association (DBA) welcomes CESR's decision to collect comments from market participants with respect to issues covered by the Expert Group on Co-operation and Enforcement at an early stage, before CESR publishes its consultation paper in June 2004. We would like to give the following general comments on the Consultative Concept Paper

B. Transaction reporting

2.1 Objectives

CESR outlines the objectives of transaction reporting, and states that it is an essential tool in the detection, investigation and enforcement of anti market abuse provisions. We do not believe that this is always the case. Huge data-bases of transaction reports can make the detection of market abuse more difficult. CESR should review the effectiveness of the previous years of transaction reporting in order to give a clearer view of how it envisages transaction reports being used.

2.2 Methods and arrangements for reporting financial transactions

In the Consultative Concept Paper CESR considers the possibility of drawing up an inventory of minimum conditions with which systems would have to comply if they are to be considered valid to report transactions to the competent authorities. However, the danger with an inventory is that it is too specific and as a result can be inflexible and unable to adapt to future market developments. A more effective method of providing technical advice, which can be forward looking and take account of future market developments, would be to produce a business description of an adequate system with a number of functional requirements which ensure a) that firms can deliver the required transaction reports, and b) that regulators can read the output provided to them by the firms. Such a business description would not prescribe the precise technologies to be used.

It is important that affected firms are given the necessary time to implement the requirements. CESR should note that transaction reporting sub-systems in firms are intimately connected to major production systems, responsible among other things for position keeping and clearing and settlement. Firms typically exercise great care in modifying such systems and a careful approach takes time.

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Finansrådets Hus
Amaliegade 7
DK-1256 Copenhagen K

Telefon +45 3370 1000
Fax +45 3393 0260

mail@finansraadet.dk
www.finansraadet.dk

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We welcome the fact that CESR is considering the existing arrangements for transaction reporting as a working basis and will seek to refrain from imposing unwarranted new requirements, which would involve radical changes to the existing arrangements and bring about excessive additional costs. However, we disagree with the implication that these considerations might be overridden by the fact that "CESR is required to respond to the Mandates appropriately so that the arrangements are effective". There should be an overriding requirement for CESR to be able to justify any additional costs that would be imposed on industry participants.

2.3. The criteria for assessing liquidity in order to define a relevant market in terms of liquidity for financial instruments

There are a number of different possible criteria for determining which competent authority is most appropriate to receive and collate transaction reports. There is no simple means of reconciling the different possibilities with firms' needs for a straightforward means of discharging their reporting obligations. We recommend that CESR should liaise very closely with market participants in order to develop the most appropriate solutions. However, we do not believe that there should be a single repository for transaction data at this stage.

CESR should consider seeking a solution whereby firms are only required to report their transactions once, so that firms continue to have a choice as to where they report. Difficulties of multiple reporting should be avoided.

2.4 The minimum content and the common standard or format of the reports to facilitate their exchange between competent authorities

The 'common format' requirement relates both to the structure of the report and to the content of particular sections 'fields' within the structure. While there are a number of well-defined standards in the securities field, for derivatives and other financial instruments there is less standardisation. We recommend CESR to engage relevant trade bodies in detailed dialogue to identify appropriate structures and content.

C. Cooperation

No comments

Kind regards

Berit Dysseholm Fredberg

Direct 3370 1070
bef@finansraadet.dk