December 15, 2006

Committee of European Securities Regulators
11-13 avenue de Friedland
75008 PARIS FRANCE

Ladies and Gentlemen:

FISD (Financial Information Services Division of the Software & Information Industry Association) is pleased to submit the following comments in response to CESR's *Consultation on Publication And Consolidation Of MiFID Market Transparency*.

First, thank you for the opportunity to comment on the real-time transparency aspects of MiFID. Given the extensive public dialogue over the course of the past year, FISD greatly appreciates CESR providing the opportunity for comment.

FISD is a unique trade organization that offers a balanced and neutral business forum for exchanges, market data vendors and financial institutions to address and resolve issues related to the market data business and securities processing automation. Participants are responsible for their own strategic and commercial interests within FISD. The role of FISD is to act as a neutral facilitator of the discussion and manager of the consensus agenda that emerges as a result.

As part of its participation in the MiFID Joint Working Group, FISD sponsors and chairs the Real-time Market Data Subject Group (RTMDSG) which focuses on issues related to pre- and post-trade transparency under the Markets in Financial Instruments Directive (MiFID).

The MiFID Joint Working Group is a collaboration founded by FIX Protocol Ltd (FPL), ISITC Europe, the Reference Data User Group (RDUG) and FISD/SIIA. Members of these organizations have worked together voluntarily since April 2005 to address the common MiFID-related issues identified by each of the collaboration's six Subject Groups. Each Subject Group is led by one of the organizations, with participation open to members of the other affiliated organizations. MiFID Joint Working Group participants have been successful in identifying and addressing the operational issues created by MiFID for the financial services industry across the European Union and the European Economic Area.

The following comments reflect the discussions of the Real-time Market Data Subject Group and the content of its recently published *White Paper on MiFID Real-time Market Transparency* ("White Paper"). These comments, and the White Paper, are a consensus recommendation of FISD but do not necessarily reflect the view of any organization that is participating in this Group.

<u>Data Quality (Sections 5.2 – 5.25)</u>:
Inaccurate Publication
Q1 – The RTMDSG believes that the approach of requiring post-trade verification which is independent, but not necessarily external, strikes a good balance between encouraging high data quality and making reasonable demands upon the resources of publishing firms and thinks that the additional guidance provided will be helpful. The RTMDSG envisions that post-trade verification processes would focus on anomalous price and/or size values. It would be helpful if CESR would provide examples of potential criteria that a firm might use for its post-trade verification especially if CESR believes that verification should be occurring in areas other than price and size.

The RTMDSG also notes that it does not believe that it will be practical in most instances to have a person in addition to the trader manually verifying trade reports as is suggested in Section 5.7. If such a manual check was done prior to publication, it would degrade timeliness of the trade report (except in those situations that qualify for trade reporting deferred beyond three minutes). If the manual check was not performed until after publication, it would necessitate cancellations and corrections of trade reporting, an unnecessary burden on downstream vendors and consumers, although exception checking may require some manual input.

Duplicate Post-trade data: Single Published trade counted multiple times
Q2-Q5 – The RTMDSG favors the adoption of Option 1 – investment firms using only one publication arrangement for each trade report. Option 1 should be a workable approach provided that each publication arrangement that disseminates trade report information clearly delineates whether (1) it is the unique original publication arrangement for that information or (2) it is passing on information that it obtained from another publication arrangement. This delineation could be provided on a trade-by-trade basis or through the packaging of the information service of the publication arrangement.

We believe Options 2 and 3 to be problematic for several reasons:

- Increased burden on data vendors and data consumers who will need to expend resources reconciling each trade report received against previously-received trade reports
- Increased data traffic for all parts of the market data distribution chain
- Not all reporting firms will have access to millisecond time stamping capability
- There is no assurance that even millisecond time stamps will be unique. In particular, the RTMDSG envisions situations where a single large order is executed against numerous smaller orders simultaneously. In this event, multiple trades reported by a firm could carry the same time stamp, price, and size, and would therefore appear to be duplicated when in fact they were distinct trades.
- Added complexity in situations where an investment firm chooses to publish through the facilities of a third party include:
    - Investment firms may choose third-party publishing of their data in order to achieve anonymity.
    - The time or identifier appended to a trade report by an investment firm or its third-party publisher must be unique across all reporting investment firms. It is not sufficient for the identifier (either a number or a timestamp) to be unique within the realm of the individual reporting firm alone unless the reporting firm is also identified to downstream recipients, in which case the investment firm would lose its anonymity.

- In order to achieve unique identification of a trade report <u>and</u> maintain the investment firm's anonymity, the reporting firm would probably need to use some sort of random number process to generate unique trade identifiers, which adds complexity for the reporting firm. We also do not see a way for a trading time identifier to provide both unique identification and anonymity of the reporting firm.

We note that the RTMDSG did contemplate the use of Option 3 for *pre-trade* data where the concerns noted above are, for the most part, mitigated..

<u>Publication Arrangements (Sections 5.26 – 5. 33)</u>:
Q9 – We agree with the proposed approach for dealing with websites.

Q10 – It is desirable for the published data to be streamed out to the market by the investment firm – that is, "pushed". We believe that pushed data is more consistent with the spirit of the directive whereas the use of "pull" mechanisms could be a barrier to transparency. In order to pull data from a publishing investment firm, a data vendor or consumer would need to poll (make a request for data from) the publishing firm's web site on a very frequent basis – in some cases many times per second. Multiple organizations continually polling the publishing firm's web site will probably put severe strains on its systems while adversely affecting the quality, reliability, and timeliness of the data to be published. Virtually all current mass dissemination of real-time transparency data is handled through streaming "pushed" media, such as data feeds. 'Push' is a more timely method of delivering the data to the market as close to real-time as possible.

<u>Availability of Transparency Information (Sections 5.34 – 5.50)</u>:
Impact of Diverse Contractual and Policy Approaches
The RTMDSG notes a concern that its members have regarding the availability of real-time transparency information. Under MiFID there will probably be numerous new sources of real-time transparency information. Each new data source will want (understandably) to protect its interests through contracts and policies for the use and distribution of the data that it publishes.

The concern of the RTMDSG is that the contracts, policies and commercial models that are adopted by data sources will be unnecessarily diverse and in some cases unworkable. This could represent a significant burden on market data vendors and data consumers as they strive to prepare for MiFID. In an attempt to address this concern, the RTMDSG has established a sub-group on contract and commercial issues. This sub-group is creating a framework to identify potential issues and best practices in these areas. Each data source will then be able to consider independently the framework as it makes decisions regarding its contracts, policies, and commercial model.

Identifying new sources of transparency data
Q11-Q13 – In its White Paper, the RTMDSG suggests the establishment of an "Independent Party" that would serve as the central collection and publication point for notices regarding, among others, new sources of real-time transparency data, both organizations that are publishing their own information and third-party re-publishers. The RTMDSG also notes that this type of function could be carried out by multiple competing organizations.

<u>Publication Standards (Sections 5.51 – 5.64)</u>:
Structure of pre- and post-trade transparency information
Q17 – The RTMDSG agrees that consistent and structured formats are needed for the publishing of real-time transparency information. We note, however, that certain data interchange standards and technologies (like XML) utilize self-describing message formats in which the *order* of the

data elements within a message is not required to be consistent. We request CESR to ensure that its guidance will not be interpreted as precluding the use of these types of standards and technologies.

Amendment to post-trade published data
Q18 – The RTMDSG has no objection to the proposed scheme for amending post-trade data but notes that the scheme should be expanded to provide also for the cancellation of a trade report.

Q20 – There does need to be some way of uniquely identifying the original trade report in order to cancel or amend it, but the identifier does not need to be unique across all publishers and distributors. As such, the specifics of the mechanism used to identify trade reports should probably be left to the commercial agreements between and among the data sources, third-party re-publishers, data vendors, and data consumers.

For example, while Vendor X and Vendor Y may both send the same trade report to their respective customers, and identify it using a unique identifier, they need not use the same unique identifier to refer to that trade report. In contrast, if an identifier is used to identify duplicate trade report data, the identifier must be universally unique across channels and through each link in the delivery chain.

Atomic clock for transparency information
The RTMDSG respectfully disagrees with CESR's statement in section 5.64 that connecting to an atomic clock is necessarily cost-prohibitive. While it would not ensure that there would never be any discrepancies in the sequencing of transparency information, we do believe that it would contribute substantially to the quality of that information. Many of the firms that will have publishing obligations under MiFID are already connected to a national time service driven by an atomic clock, e.g., via the internet, and the costs of doing so are well within the means of most other firms.

The RTMDSG's assessment is that it would be a fairly simple matter to maintain clocks with 1 millisecond accuracy through the use of NTP (Network Time Protocol) software and some network configuration. The costs to each firm would include IT staff time to do the necessary configuration - setting up an NTP server and then performing the configuration on all servers/PC that have to synchronize with that NTP server. The NTP server function is not resource-intensive and would not necessarily require dedicated equipment.

Thank you again for this opportunity to comment on the Consultation. Please do not hesitate to contact me or members of the RTMDSG if you would like to discuss any of the issues raised in this letter or in the White Paper.

Sincerely,

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