

23 November 2006

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Dear Fabrice,

The list of minimum records in Article 51(3) of the MiFID implementing Directive

Thank you for the opportunity of contributing to your call for evidence relating to the supervisory functioning of the EU Market Abuse Regime. The Association of Private Client Investment Managers and Stockbrokers (APCIMS) is the organisation that represents those firms who act for the private investor and who offer them services that range from no advice or execution only trading through to portfolio management for the high net worth individual. Our 217 member firms operate on more than 500 sites in the UK, Ireland, Isle of Man and Channel Islands, and following the merger of EASD into APCIMS increasingly in other European countries as well. APCIMS members employ 25,000 regulated staff, they have under management €450bn for the private investor and undertook last year 18.6 million trades on their behalf. A list of APCIMS members is attached to this letter.

We welcome the work being undertaken by CESR in trying to reach progressive convergence on the basis of a proposed list of minimum records, but we must also express some disappointment that the work is still at a very early stage. We note that the list of minimum records is confined tightly to Article 51(3) of the implementing Directive, and would hope that further work can be carried out to examine what additional records are being required by national competent authorities. Indeed we understood that the rationale behind CESR being required to undertake this work was to provide a high-level of certainty for firms as to what precisely must be kept.

In this context we attach for your information a list that we compiled last year for our members of the UK's reports and notification requirements which is based on the FSA's handbook as at 1 July 2005. You will see that it is detailed, comprehensive and lengthy. While we would not suggest that CESR needs to embark on a project of similar detail, we do believe that the type of list of records in this first consultation on this subject is at too high a level to be of value to firms. We can appreciate that as a first step for competent authorities it may be useful, but we recommend that further work is quickly done to identify the current differences in different member states.

We now comment upon the three questions in the consultation.

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

Subject to our comments above, we agree that a common list of minimum records will be of benefit. We think that, initially, it will be of most benefit to CESR members to understand better the different requirements of regulators, and indeed to consider how best to manage the differences. Once the initial work has been completed we believe that it will also benefit industry, especially those firms which routinely operate on a cross border basis. It is hard to envisage how a list of minimum requirements will benefit investors, who because of existing and extensive regulatory requirements are already faced with very large amounts of information. We understand from our firms that many private clients have difficulty in understanding much of the information that firms are required to provide. The basic information that is of interest to investors is fair, and clear information on the services and products together with clear and comparable information on the costs involved. And, obviously there needs to be information provided on how to seek redress in the event of something going wrong. It is difficult to see how investors will have an appetite for additional information such as firms' requirements on record keeping.

Q2: Do you agree with the content of the list elaborated by CESR? Which records should be added or deleted and for which reasons?

The content of the list appears to be sensible as an initial project but as noted above we believe it is only an early start, and it would have greater value if it could move into more detail than presently, which is practically very close to a summary of MiFID's prescribed requirements.

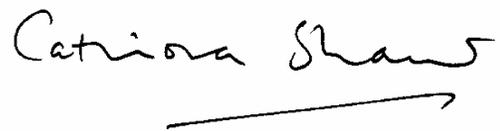
Q3: Do you consider that a specific requirement for keeping records of the provision of investment advice should be introduced?

No, we do not believe that a specific requirement for keeping records on the provision of investment advice should be introduced. MiFID does not prevent firms properly documenting anything they chose to, and it is in the interests of both firms and clients to ensure that there is good understanding of the various elements of the process and what each element means, but across the width of activities and clients that the suggestion might encompass there is no evidence in our view of any market failure that needs addressing. Firms will manage their risks in a variety of ways, particularly where as in the UK we have an active and mature complaints handling regime, but prescription would likely obscure the efforts of the better firms and does not sit well with a principles-based approach.

Our final comment relates to the timing at which a record must be created (Column 3 of the Annex). The phrases "upon", "on", "at the time", "immediately after", and "as soon as" are used without any clarification from CESR. One of our firms has pointed out that they find it impossible to understand what is meant by these terms precisely enough to translate them into operational procedures.

I hope that our comments are helpful and please do not hesitate to contact us for any further information or clarification.

Yours sincerely,

A handwritten signature in black ink that reads "Catriona Shaw". The signature is written in a cursive style. Below the signature is a horizontal line that ends in an arrowhead pointing to the right.

Catriona Shaw
Head of European Affairs

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MEMBERSHIP 2006/2007**

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S P Angel & Co Ltd	HSBC Stockbroker Services	Standard Bank Jersey Ltd
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Arbuthnot Latham & Co	iimia Plc	T D Waterhouse
Arnold Stansby	IM Asset Management Ltd	Teather & Greenwood Limited
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Ashcourt Asset Management	Insinger de Beaufort	Thornhill Investment Mgt Ltd
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Barclays Plc	James Sharp & Co	Tilman Asset Management Limited
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Brook Partners Limited	KAS Bank N.V.	UBS AG
Brown Brothers Harriman	Killik & Co	UBS Wealth Management (UK) Ltd
Brown Shipley & Co Limited	Kleinwort Benson Private Bank Ltd	Vartan & Son Stockbrokers
BSI Generali Bank	Lewis Charles Securities Limited	Veritas Asset Management (UK) Ltd
Butterfield Private Bank	Lloyds TSB Stockbrokers Limited	Walker Crips Stockbrokers
Cambridge Investments Ltd	M D Barnard & Co Limited	W H Ireland Limited
Campbell O'Connor & Co	Morgan Stanley Quilter	Whiteford Limited
Cardale Stockbrokers Limited	Murray Beith Murray W.S.	Williams de Broë Plc
Cave & Sons Ltd	NatWest Stockbrokers	Williams Investment Mgt LLP
Cazenove Capital Management	Norwich & Peterborough Building Society	YIG Asset Management Ltd
Charles Schwab UK Limited	N W Brown and Company Ltd	Total: 137
Charles Stanley & Co Ltd	ODL Securities	
Cheviot Asset Management Ltd	OMX Securities Ltd	<u>Associate Members</u>
C. Hoare & Co	Pacific Continental Securities (UK) Ltd	ABC Clearing Ltd
City Asset Management Plc	Pershing Limited	ADP Brokerage Services Group
Close Fund Management	Philip J Milton & Co Plc	Aurora Business Consultancy Ltd
Close Private Asset Management Ltd	Pilling & Co	Bank of Ireland
Collins Stewart Europe Ltd	Premier Fund Managers	Bank of Scotland Corporate
Cornelian Asset Managers Limited	Principal Investment Management Ltd	Barlow Lyde & Gilbert
Cunningham Coates Stockbrokers	Pritchard Stockbrokers Limited	Berwin Leighton Paisner
Davy	Ramsey Crookall & Co Limited	Boot Computers Ltd
Douglas Deakin Young Ltd	Rathbone Investment Management Limited	BT Radianz
Eden Financial Ltd	Raymond James Investment Services	Business Architects
Edward Jones	R.C. Brown Investment Management Plc	International
EFG Harris Allday	Redmayne Bentley	Canaccord Adams Limited
E*Trade Securities Ltd	Rensburg Sheppards Investment Mgmt	Cantor Index
Evans Hart Ltd	Reyker Securities Plc	CitiSoft Plc
Everys Solicitors	Rossie House Investment Management	CMC Markets
Farley & Thompson	Rothschild Private Management Limited	CoFunds Ltd
Fiske Plc	Rowan Dartington & Co Limited	ComPeer Ltd
Fortis Private Investment Management	Ruffer LLP	COR-FS
Fyshe Horton Finney Limited	Russell Wood Limited	CRA International
GASIM	SAGA Investment Direct Limited	CSTIM Limited
Goy Harris Cartwright & Company Ltd	Saint Pauls Capital	Dawnay Day International Limited
Halifax Share Dealing Ltd	Sarasin Chiswell	D & C Financial Consultants Ltd
Hargreave Hale Limited	Savoy Investment Management Ltd	Dechert LLP
Hargreaves Lansdown	Seymour Pierce Limited	Deloitte & Touche
Heartwood Wealth Mgt Ltd		
Hedley & Co		

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EMXCo
ERI Banking Software Ltd
Euroclear
Exact Technical Services
Euronext London Ltd
Exchange Systems Technology Ltd
Fidessa
Gordian Enterprises Ltd
Grainger Consulting
IG Markets
Investmaster Group Limited
KBC Peel Hunt Ltd
Knight Equity Markets International Ltd
KPMG LLP
KSB Law LLP
London Stock Exchange
MBA Systems
Merrill Lynch International
Morgan Lewis
Odyssey Asset Management Systems
Optimal Investment Services
Penson Financial Services Ltd
peterevans
Plus Markets Group Plc
R A McLean & Co Limited
Reuters
Rhyme Systems Ltd
RBS – Financial Institutions Group
Securities & Investment Institute
S J Berwin LLP
Societe Generale Securities Services
Speechly Bircham
Standard Life Assurance
Summerson Goodacre
SunGard Investment Systems UK Ltd
SWIFT
Telekurs (UK) Limited
Thomson Financial
Travers Smith
Virt-x
Winterflood Securities Limited

Total: 64