



A l'attention de: CESR – Committee of European Securities Regulations

Subject : Technical Advice to the EC in the Context of MiFID Review – Client Categorisation (July 12th 2010)

Date : August 6th, 2010

Part 1: Technical criteria to further distinguish within the current broad categories of clients ["other authorised or regulated financial institutions", "locals", "other institutional investors" (Annex II.I (1) (c), (h), and (i) of MiFID)]

Q1 –Do you agree that the opening sentence of Annex II.I(1) sets the scope of this provision and that points (a) to (i) are just examples of “Entities which are required to be authorised or regulated to operate in financial markets.”?

Français : Les professionnels que nous représentons sont peu concernés par cette problématique dans la mesure où ces derniers traitent majoritairement avec des catégories de client « non professionnels ».

S'agissant de nos membres ayant pour activité de conseiller des clients considérés comme professionnels au sens de l'annexe II.I de la Directive MIF (clients institutionnels par exemple), nous convenons comme le CESR que la 1^{ère} phrase du chapeau de cette annexe nous apparaît clairement définir le champ de la catégorie de clients « considérés comme professionnels », la liste suivant cette phrase étant une simple liste d'exemples « d'entités qui sont tenues d'être agréées ou réglementées pour opérer sur les marchés financiers ».

English: Professionals we represent are not much concerned by this problematic as they are mainly in relation with “non professional” clients.

For members in relation with “professional clients” as defined by the annex II.I of the MIF directive (i.e. institution for example), we agree with the CESR that the opening sentence defines clearly a “professional” category of clients. The following list of the text appears as example of entity that needs to be agreed or regulated to operate on financials markets.

Q 2. Do you think there is a case for narrowing the range of entities covered by points (c), (h) and (i) of Annex II.I(1)? Please give reasons for your response.

Français : Non

English : No

Q 3. If you believe there is a case for narrowing the range of entities covered by points (c), (h) and (i) of Annex II.I(1) what criteria do you think should be used to distinguish between those entities that are covered and those that are not?

Q 4. Do you believe there is a need to clarify the language in points (c), (h) and (i) of Annex II.I(1) and, if you do, how do you think the language should be clarified?

Français : Non

English : No

Part 2: Public debt bodies

Q 5. Do you think that Annex II.I(3) should be clarified to make clear that public bodies that manage public debt do not include local authorities?

Français : Une telle clarification peut être pertinente pour certains Etats Membres. S’agissant de la France, à notre connaissance tous les organismes gestionnaires de dette publique relèvent de la sphère publique ou Etatique (par exemple les municipalités). Ils seront donc systématiquement classifiés comme clients considérés comme professionnel au sens de l’Annexe II.I (3) ou contreparties éligibles au sens de l’article 24 de la MIFID.

English : this clarification could be useful for some states members. Regarding France, all institution related to the public deficit/debt is necessary linked to public institutions. Indeed they will be systematically classified as professionals’ clients or “eligible counterpart” as defined by the MIFID article 24.

Part 3: Other client categorisation issues

Q 6. Do you believe it is appropriate that investment firms should be required to assess the knowledge and experience of at least some entities who currently are considered to be per se professionals under MiFID?

Français : Nous estimons que la quantité de test exigée actuellement est suffisante.

English : We consider that test needed is actually satisfactory

Q 7. Should a knowledge and experience test be applied to large undertakings before they can be considered to be per se professionals or to other categories of clients who are currently considered to be professionals?

Français :non

English : no

Q 8. Do you believe that the client categorisation rules need to be changed in relation to OTC derivatives and other complex products?

Français :oui

English :yes

Q 9. If you believe the rules should be changed:

- **for what products should they be changed; and**
- **which of the approaches to change set out in the paper would you favour?**

Français :-les produits structurés particulièrement complexes.

-La quatrième approche nous apparait la plus pragmatique et la plus adaptée car connaissant le produit et le client , la société d'investissement est la mieux à même d'estimer au cas par cas si elle doit éventuellement considérer et classer l'investisseur catégorisé en contrepartie éligible comme un client professionnel pour la transaction considérée.

English : - structured complex products

- The fourth approach appears more pragmatic and more suitable because knowing client's product, investing company is more aware of client s typology regarding the considered transaction.

Q 10. Do you believe it is necessary to clarify the standards that apply when an investment firm undertakes a transaction with an ECP?

Français : Oui



English : Yes

Q 11. If you believe a clarification of these standards is necessary, do you agree with the suggestions made in the paper?

Français : les règles posées nous apparaissent être des exigences minimales pour le traitement des contreparties éligibles.

English : Suggested rule appears to us as minimum requirement for treatment of « eligible counterparts ».

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