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CONSOLIDATION OF MARKET TRANSPARENCY DATA

CALL FOR EVIDENCE

Background:

Market transparency is a key feature of the MiFID (2004/39/EC). An adequate level of pre- and post-trade information contributes to the effective operation of the market and for investor protection.

There is a clear risk of data fragmentation following the implementation of MiFID, which could potentially undermine the transparency objective in MiFID. In order to achieve efficient price discovery and facilitate achievement and monitoring of best execution, information about prices and transactions should ideally be available in a consolidated format. The Directive establishes a framework for the publication of both pre- and post-trade information, but the consolidation of the information from separate sources is left to market forces.

CESR recognises that there are some industry initiatives under way, for example, the work of the MiFID Joint Working Group, which engages different areas of interests in the UK but is also willing to involve other markets.

As already indicated in the process of preparing CESR's level 2 advice, CESR is currently considering what further work (if any) it might conduct on equity transparency data consolidation.

CESR organised in December 2005 a round table where the issues were discussed with some market participants for the first time. In its meeting in January 2006 CESR decided to proceed by issuing a call for evidence and organising an open hearing in order to have a more complete view from different market participants. Based on the feedback, the more precise content of further (if any) action will be decided in the next CESR meeting in May 2006.

Another issue this call for evidence is touching upon is the publication of trade data itself. Participants in the round table noted that it is necessary to achieve the necessary supervisory convergence in order to avoid a potential set of 27 different practices of handling publication requirements in the EU. When dealing with publication the requirements listed in the Draft Commission Regulation should be taken as a preliminary basis for working towards future supervisory convergence.

CESR would like to emphasise that nothing in this call for evidence is meant to anticipate or prejudge the outcome of reviewing the Draft Commission Regulation in the European Parliament or the European Securities Committee. CESR is at this stage simply conducting a stock-taking exercise of potential areas for future work based on the Level 1 text and the Level 2 text in its current format. This is intended to speed up the process of making the MiFID regime work, once Level 2 is finalised as time is of the essence, a point made repeatedly by participants of the round table in December.



Call for evidence:

CESR is inviting all interested parties to submit their views regarding the (potential) future work on transparency data publication and consolidation. In particular, views on the following areas would be especially welcome:

Publication:

In the interest of an efficient price formation process, the transparency data published must be accurate and capable of being readily understood. Articles 26(4) and 31(a) of the draft Regulation require that parties take all reasonable steps to ensure that a transaction is made public as a single transaction and that the information published is reliable. CESR is asking for comments on how this can be achieved.

CESR would like to look, for example, at questions such as what common criteria could be developed for trade publication systems to fulfil the publication requirements. Specific issues that could be discussed in this respect include:

- What are the costs and benefits of firms publishing their transparency information in a uniform format? For example:
 - standards for date and time recording (precise format the trading day is displayed in; precise format the trading time is displayed in, eg use of 24h/12h clock);
 - type of instrument identifier to be used;
 - standards for displaying price and quantity (how should figures be displayed?).
- What is the minimum length of time transparency information needs to remain published (and accessible)?
- What steps could firms take in order to ensure the information they publish is accurate/reliable?

Consolidation:

- *what are the market needs for consolidation?*

While the MiFID does not mandate data consolidation, it recognises the importance of market users being able to readily access trading data from all the trading venues where an instrument is traded.

CESR is keen to identify the needs of different market participants for consolidated information, especially those market participants who are the likely users of the information (for example institutional investors, firms with best execution obligations etc.) For example: What is the scope of information you wish to see?, How should the information be presented? How important it is to see a complete consolidated view of all trading (what proportion of total trading do you need to see)? Are there different needs for pre and post-trade information?

Consultees are invited to provide a short overview (no more than half an A4 page) of current or planned industry initiatives relating to data consolidation.

- *what are the obstacles for consolidation?*

As noted above, the MiFID does not provide or favour any specific structure for consolidating the information. It is therefore possible that information may be collected by individual investors (one extreme case) or it will be fully consolidated into a single place (the other extreme). In practice, there may be several competing “consolidating centres”, which may cover shares generally or concentrate on certain shares or certain areas, sectors or indices, for example. Each approach to consolidation may face different types of obstacles.

CESR invites interested parties to point out which factors they have identified or consider potential obstacles. What is the nature of these obstacles – for example: technical, the use of proprietary arrangements (and in particular, the use of websites), proprietary ownership of data etc?

- *what is needed to remove the obstacles and by whom?*

As indicated above, the obstacles may be different from each other. Different action may be needed to remove them. MiFID provides the possibility for addressing some issues (for example the quality of the data) but not necessarily all of them. How much can the industry solve (technical standards for example)? What issues require action by others (for example competition authorities in relation to the pricing)? Are there structural issues in the MiFID regime that create problems, like the fact that the information is available on a reasonable commercial basis, which may mean that the consolidating body is required to enter into a contract relationship with all providers of the information (especially relevant to Article 28)?

CESR invites market participants to present their views.

- *Timing and prioritisation of the necessary actions*

If you have identified issues which need action, please prioritise and sequence the steps that you consider need to be taken.

CESR invites comments on the priorities and indications on the timescale in which they need to be considered.

To the extent that obstacles to consolidation may exist, it is likely that some may be bigger/more urgent than others, and that some can be addressed more easily and quickly than others.

- *What costs would arise by moves to facilitate consolidation and who would bear them?*

Any action necessary to facilitate the consolidation will include some costs to different participants.

CESR invites comments on what these costs are likely to be, and on whom they would/should fall.

- *CESR's role in the process*

As the consolidation process is meant to be market driven, and the obstacles may to some extent relate to issues which fall outside the scope of CESR or its members, respondents are invited to express views on the role CESR could have in the process. In some areas, for example, prospective level 2 requirements for firms to ensure the correctness of the data, CESR has a direct interest in encouraging supervisory convergence. In other areas, linked to the use of particular technologies (like data protocols), CESR envisages its role to be very limited, but would none-the-less like to hear respondent views on the issue. CESR would be willing to do a stock-taking exercise, for example, of technical standards currently in use that would potentially meet the MiFID requirements and CESR encourages interested parties to provide an overview of these standards.

CESR invites consultees to provide concrete recommendations on what role CESR should play in relation to the different areas of the discussion.



All contributions can be submitted online via CESR's website under the heading Consultations at www.cesr-eu.org by 24 April 2006.

An open hearing will be organised 6 April 2006 in CESR premises.