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CESR Guidebook on MiFID market transparency calculations

1. Introduction

This internal guidebook is intended for CESR members in order to facilitate the MiFID market transparency calculations. Articles 33 and 34 of the MiFID implementing Regulation require CESR members to calculate and publish a set of information regarding all shares which are admitted to trading on a regulated market. The exact content of information is different for all shares and liquid shares as described below.

The information is targeted for market participants who need the information for recognising liquid shares (which trigger the obligations for systematic internalisers according to Article 27) and for determining the block sizes for waivers from pre-trade transparency requirements and delayed post-trade publication.

CESR members are responsible that calculations are done, but may delegate the practical calculations to a third party (for example an exchange).

2. Calculating authority

The responsible authority for a share is the authority of the most relevant market in terms of liquidity. That authority will be determined according to Article 9 of the Regulation. For shares the most relevant market in terms of liquidity is the Member State where the share was first admitted to trading on a regulated market. If the share was admitted for the first time simultaneously on more than one regulated market the most relevant market in terms of liquidity is the market where the turnover of that share is highest.

Each CESR member shall check for all shares which are admitted to trading in their jurisdiction whether it has been admitted to trading on other markets and on which market the share was admitted first.

3. All shares admitted to trading on regulated market

In respect of each share that is admitted to trading on a regulated market, the relevant competent authority for that share shall ensure that the following calculations are made in respect of that share promptly after the end of each calendar year:

The average daily turnover

The average daily turnover will be calculated by dividing the total yearly turnover by the number of trading days. The total yearly turnover includes all trading within the EU, i.e. both on-market and off-market trading. The information will be available for the calculating authority on the basis of the



transaction reporting according to Article 25. (This applies after a transitional period. For calculations before 2009 please refer to section interim period below.)

The average daily number of transactions

The average number of transactions will be calculated by dividing the total number of trades by the number of trading days (as explained below). The total yearly number of trades includes all trading within the EU, i.e. both on-market and off-market trading. The information will be available for the calculating authority on the basis of the transaction reporting according to Article 25. (This applies after a transitional period. For calculations before 2009, please refer to section interim period below)

The calculations are based on trading between 1 January and 31 December of the preceding year. As defined in Article 5 of the Regulation, a transaction should include a purchase and a sale of a share (i.e. the figures should be "single counted"). In case the share has not been subject to trading the whole year, the calculations should take into account the period the share has been subject to trading.

Those days when the trading in a share has been suspended the whole day should not be taken into account.

Additionally, all non-trading days of the relevant competent authority shall be excluded.

Results of the calculations shall be published by 1st trading day of March. The calculations shall be valid for a 12 month period starting 1 April and ending 31 March.

Interim period

Calculations which are to be published on or before the first trading day in March 2009 will be based on the trading on regulated market or markets in the member state which is the most relevant market in terms of liquidity. From all trades on regulated market negotiated trades (as defined in Article 19 of the Regulation) shall be excluded before the calculations.

4. Additional calculations regarding liquid shares

For liquid shares, in addition to the average daily turnover and number of trades, free float and average daily value of orders executed shall be calculated.

Free float

Free float, which is one factor for defining a share as liquid, will be calculated only in cases where a share meets the other liquidity criteria (i.e. 500 transactions or 2 million euro turnover and being traded daily). According to Article 22 of the implementing Regulation, Member States have flexibility in deciding how these criteria will interact. Basic assumption in the Regulation is that a share which meets either of these criteria is liquid. However, Members States may decide that both criteria need to be met simultaneously. The need to calculate free float should be decided accordingly.

The free float is calculated by multiplying the number of shares by the price of the share. However, when calculating the free float all holdings exceeding 5 % of total voting rights shall be excluded unless they are held by a collective investment scheme or a pension fund.

If the free float exceeds 500 million euro, the share will be liquid for the purposes of Article 27.

Average value of orders executed

The next step is calculating the average value of orders executed which is an arithmetic average value of transactions in that share. From all transactions in a share those which are large in scale



compared to normal market size shall be excluded from the calculations. When a transaction is large in scale will be determined according to table 2 of Annex II of the Regulation. Based on the average daily turnover shares will be divided into five classes which all have a threshold for large in scale.

The results of the calculations shall be published by first trading day of March. The calculations shall be valid for a 12 month period starting 1 April and ending 31 March.

5. "Ad hoc" calculations

During the calendar year the calculations shall be reviewed and when necessary recalculated if there is a change in relation to the share or the issuer which significantly affects the previous calculations on an on-going basis.

The re-calculations shall be published as soon as practicable after the recalculation is completed.

The published figures are valid until the following 31 March.

6. Calculations/estimates before a share is admitted to trading

For shares which are admitted to trading on regulated market for the first time there is no data for the calculations. In order to facilitate the operation of MiFID transparency regime a competent authority shall ensure that the following estimates are provided which determine whether the share is considered as liquid and the block size for waivers from pre-trade transparency requirements and delayed post-trade publication.

A competent authority shall arrange for the following estimates:

- Average daily turnover
- Market capitalisation (at start of the first trading day)
- If market CAP is estimated EUR 500 M or more additionally:
- Average daily number of transactions
- If meets the liquid criteria, free float
- If "liquid", average value of orders executed

The estimates shall relate to the six week period following the admission (after the admission a set of calculations will be arranged which determine the parameters from that period on). The estimates shall take into account the previous trading history the share may have (in practise on MTF). It shall also take into account shares that are considered to have similar characteristics.

The estimates shall be replaced by calculations based on four weeks trading. The calculations shall be done as soon as the data is available and in any case no later than in six weeks.

The first estimates shall be valid from the first day of admission until six weeks. The calculations based on four weeks trading shall be valid from the six week period until the following 31 March or in case the end of this period would be between 15 January and 31 March they will be valid until 31 March of the following year.

7. Publication of the results

The national authorities shall publish the above mentioned information. Additionally consolidated information shall be published by CESR. The Regulation also includes a "safe harbour" rule which waives the obligation for national publication when information is already published by CESR. However, CESR members may consider whether simultaneous publication also nationally would be useful for their markets (for example in national language(s)).



Sending the information to CESR and publication by CESR

In order to be able to publish the consolidated information CESR needs to receive the information in a harmonised format and well before the publication deadlines. National competent authorities have to send the information to CESR for publication.

Concerning the regular yearly calculation the information shall be sent to CESR two weeks before the publication deadline. Concerning the estimates for new admission and "ad hoc" calculations the information needs to be sent to CESR as soon as possible.

Detailed instructions on how to upload the data to CESR database will be given separately.

8. First calculations in 2007

Before MiFID enters into force competent authorities shall organise the first calculations which cover the period from entry into force 1 November 2007 until the first yearly calculations enter into force 1 April 2008.

The calculations shall be based on the data between 1 April 2006 and 31 March 2007. For calculating the free float the reference period is 31 December 2006.

Before 1 November the relevant competent authority should conduct the necessary ad hoc calculations or estimates relating to admission to trading which are necessary to ensure the list is up to date 1 November 2007.

9. List of systematic internalisers

According to Article 21 (4) competent authorities shall ensure that there is a list of all systematic internalisers, in respect of shares admitted to trading on a regulated market, which it has authorised as investment firms. The list needs to be published and reviewed at least annually. The list includes the identity of the systematic internaliser and the name of the authorising competent authority.

Similarly to transparency calculations, the list shall be sent to CESR who shall publish a consolidated list.

When the list is updated, the changes shall be sent to CESR 2 weeks before anticipated publication.