



**OVERVIEW OF NATIONAL OPTIONS AND DISCRETIONS UNDER MiFID LEVEL 1 – DIR. N.
2004/39/EC**

The purpose of these tables is to help firms and their advisers understand, in summary for those articles identified, how Member States have exercised their discretions in implementing the Markets in Financial Instruments Directive (MiFID) and its implementing directive and regulation. They are intended to be accurate as at 15 October 2007.

October 2007

This document lists countries alphabetically by Member State authority, displaying them in the order set out below. This list is representative of the situation on 15 October 2007, except for Latvia, which has undergone a modification on 31 October 2007.

Netherlands (where included) – AFM, France - AMF, Germany - BaFIN, Belgium – CBFA, Greece - CMC, Portugal - CMVM, Spain – CNMV, Romania - CNMVR, Italy - CONSOB, Luxemburg - CSSF, Cyprus - CySEC, Ireland – Financial regulator, Sweden - Finansinspektionen, Denmark Finanstilsynet, Estonia - Finantsinspektion, Austria - FME, UK - FSA, Bulgaria - FSA, Norway - Kredittilsynet, Malta - MFSA, Poland - PFSA, Finland - Rahoitustarkastus

For an index of the articles covered as well as a summary of what each article covers, please refer to the following table.

Articles	Summary	From page
3(1)	Discretion for Member States to exempt receivers/transmitters and advisers from the Directive	4
4(1)	Discretion for Member States to include as investment firms undertakings that are not legal persons	4
5(5)	Discretion for Member States to allow the competent authority to delegate tasks etc for article 3 firms	4
9(4)	Discretion for Member States to grant authorisation to single natural person	4
16(3)	Discretion for Member States to allow the competent authority to delegate review of conditions for authorisation in respect of investment advisers	4
17(2)	Discretion for Member States to allow the competent authority to delegate tasks in respect of on-going supervision of investment advisers	4
22(2)	Discretion for Member States as to whether firms comply with order handling rule by routing order to a regulated market or MTF. Also discretion for Member States to waive the obligation to make public limit orders that are large in scale compared to NMS	4
23(1)	Discretion for Member States to allow investment firms to appoint tied agents	13
23(3)	Discretion for Member States to allow tied agents to handle client money	13
23(2)	Discretion for Member States to decide that investment firms can verify the good repute and knowledge of tied agents.	13
23(4)	Discretion for Member States to delegate tasks in registration and monitoring compliance of tied agents	13
23(6)	Discretion for Member States to impose additional/more stringent requirements on tied agents	13
24(3)	Discretion for Member States to recognise other undertakings as eligible counterparties (see discretions on article 50 of the draft implementing Directive)	13
24(4)	Discretion for Member States to recognise third country counterparties	13
25(3)/Recital 45	Discretion for MS to apply transaction reporting obligations to financial instruments that are not admitted to trading on a regulated market	20
25(5)	Discretion for Member States to waive the obligation on firm to report if made directly by the RM/MTF or ARM	20
25(6)	Discretion for the home competent authority to decide not to receive transaction reports from the host member state regarding branches.	20
28(1)/Recital 46	Discretion for Member States to extend post-trade requirements beyond equities for Ifs	20
29(1)/Recital 46	Discretion for Member States to extend pre-trade requirements beyond equities for MTFs	20

29(2)/Article 18(2) implementing regulation	Discretion for competent authorities to waive obligation in article 29(1) for market model etc and block trades	20
30(2)	Discretion for competent authorities to waive post-trade requirements for MTFs (block trades)	20
31(2)	Discretion for the host competent authority to publish information on the identity of tied agents	20
44(1)/Recital 46	Discretion for Member States to extend pre-trade requirements beyond equities for RMs	27
44(2)/Article 18(2) implementing regulation	Discretion for competent authorities to waive obligation in article 44(1) for market model etc and block trades	27
45(1)/Recital 46	Discretion for Member States to extend post-trade requirements beyond equities for RMs	27
45(2)	Discretion for competent authorities to waive obligation in article 45(1) for market model etc and block trades (link to article 28(2))	27
48	Discretion for Member States to designate more than one competent authority and to delegate tasks	27
51(3)	Discretion for competent authorities to disclose to the public sanctions or other measures [not a real discretion]	27
61(1)	Discretion for Member States to require firms with branches to report them on the activities of the branches	27
61(2)	Discretion for competent authorities to require investment firms to provide the information with the standards set by the host Member State.	27
63(1)	Discretion for Member States to conclude cooperation agreements providing for the exchange of information with the competent authorities of third countries. [not a discretion]	27
13(3)	Discretion for Member States to require reports made in accordance with Article 25(3) and (5) of Level 1 to contain additional information related to the transactions in question	36
13(4)	Discretion for Member States to require a report of a transaction made in accordance with Article 25(3) and (5) of Level 1 to identify the clients on whose behalf the investment firm has executed that transaction.	36
18(1)(a)	Discretion for competent authorities to grant waivers based on the market model	36
18(1)(b)	Negotiated transactions	36
22(1)	Discretion for Member States to apply the two criteria (turnover and number of transactions) to determine the liquid shares	36
22(2)	Discretion for Member States to specify a maximum of five liquid shares	36
28	Large transactions	36
Recital 62	Discretion for competent authorities to approve the content of the basic agreement between an investment firm and its retail clients	40
4	Discretion for Member States to retain or impose requirements additional to those in MiFID	40
31(2) para 2	Discretion for Member States to specify the precise terms, or the contents, of the description of the risks required regarding information about financial instruments	40
50(1) para 1	Discretion for Member States to recognise as eligible counterparties 'pure' professional clients	40
50(1) para 2	Discretion for Member States to, on request, recognise as eligible counterparties clients who may be treated as professionals on request	40
51(4)	Discretion for Member States to impose obligations on tape recording.	40

	<i>Article 3(1)</i>	<i>Article 4(1)</i>	<i>Article 5(5)</i>	<i>Article 9(4)</i>	<i>Article 16(3)</i>	<i>Article 17(2))</i>	<i>Article 22(2)</i>
<i>Description</i>	Discretion for Member States to exempt receivers/transmitters and advisers from the Directive	Discretion for Member States to include as investment firms undertakings that are not legal persons	Discretion for Member States to allow the competent authority to delegate tasks etc for article 3 firms	Discretion for Member States to grant authorisation to single natural person	Discretion for Member States to allow the competent authority to delegate review of conditions for authorisation in respect of investment advisers	Discretion for Member States to allow the competent authority to delegate tasks in respect of on-going supervision of investment advisers	Discretion for Member States as to whether firms comply with order handling rule by routing order to a regulated market or MTF. Also discretion for Member States to waive the obligation to make public limit orders that are large in scale compared to NMS
<i>AMF [FRANCE]</i>	The French text transposing Art. 3 of the MiFID allows such an exemption only for investment advisers and on units in collective investment undertakings (ie not applicable for other financial instruments).	No, only legal persons	The provision of investment advice by firms acting on a local basis would continue to be supervised as it is currently, i.e. by associations registered with the AMF. We understand that this is not, stricto sensu, a delegation of tasks under the Mifid regime but a local regime.	Yes, it will be possible for an investment firm (legal entity) to be managed by a single person.	Discretion not exercised	Discretion not exercised	Yes
<i>AFM [Netherlands]</i>	Partially for a certain group of receivers/transmitters under Dutch law which are regulated nationally (article	Yes	No	Yes	No, but still under discussion	No, but still under discussion	No, with regard to routing of the order to a RM or MTF.

	11 Vrijstellingsregeling Wft).						
BaFIN [GERMANY]	Yes for investment advisers (only for the transmission of units of investment funds)	Yes	Discretion will not be exercised	Yes	Discretion will not be exercised	Discretion will not be exercised	Yes

	<i>Article 3(1)</i>	<i>Article 4(1)</i>	<i>Article 5(5)</i>	<i>Article 9(4)</i>	<i>Article 16(3)</i>	<i>Article 17(2))</i>	<i>Article 22(2)</i>
<i>CFBA [BELGIUM]</i>	Discretion exercised [See Law of 22 March 2006. The Law recognizes banking and investment services intermediaries (“courtiers”) making use of the optional waiver under Article 3 of the MiFID. They are not allowed to receive cash or financial instruments.	Discretion not exercised	Discretion not exercised	Discretion not exercised	Discretion not exercised	Discretion not exercised	Yes
<i>CMC [GREECE]</i>	Discretion will be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised [they will not allow an investment firm to be managed by a single natural person]	Discretion will not be exercised	Discretion will not be exercised	Discretion to be exercised for order handling rule [although they consider that level 2 (article 31 of the regulation) mandates so]; Discretion to be exercised with regard to waiver [presuming that the waiver refers to competent authority]

	<i>Article 3(1)</i>	<i>Article 4(1)</i>	<i>Article 5(5)</i>	<i>Article 9(4)</i>	<i>Article 16(3)</i>	<i>Article 17(2))</i>	<i>Article 22(2)</i>
CMVM [PORTUGAL]	Discretion will be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised [The draft law does not recognize investment firms that are not legal persons. However, in the case of investment firms who provide only investment advice, the firm may be a wholly owned company and, therefore, may be managed by a single person, its shareholder]	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised for order handling rule; Discretion will be exercised with regard to the waiver.
CNMV [SPAIN]	According to the draft submitted to the Parliament, this discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised.	Discretion will not be exercised	Discretion will not be exercised.	Decision yet to be taken in both cases.

	<i>Article 3(1)</i>	<i>Article 4(1)</i>	<i>Article 5(5)</i>	<i>Article 9(4)</i>	<i>Article 16(3)</i>	<i>Article 17(2))</i>	<i>Article 22(2)</i>
<i>CNVMR [ROMANIA]</i>	Discretion is exercised only for investment advisers	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised for order handling rule; Discretion will not be exercised with regard to the waiver.
<i>CONSOB (ITALY)</i>	Yes. Discretion will be exercised for investment advisers that are not legal persons.	No (except for investment advisers – natural persons exempt from MiFID under Article 3)	Yes, discretion will be exercised .	Article 9 (4) allows to grant authorization to IFs that are legal persons managed by a single natural person in accordance with their constitutive rules and national laws. This possibility is not expressly excluded for IFs but it is very unlikely.	No (except for investment advisers – natural persons exempt from MiFID under Article 3)	No (except for investment advisers – natural persons exempt from MiFID under Article 3)	First discretion will be exercised (compliance with order handling rule by routing order to a RM or MTF)

	<i>Article 3(1)</i>	<i>Article 4(1)</i>	<i>Article 5(5)</i>	<i>Article 9(4)</i>	<i>Article 16(3)</i>	<i>Article 17(2))</i>	<i>Article 22(2)</i>
<i>CSSF [LUXEMBURG]</i>	Discretion will be exercised.	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised.	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised for order handling rule; Discretion will be exercised with regard to the waiver.
<i>CySEC [CYPRUSS]</i>	Discretion will not be exercised.	Discretion will not be exercised [only legal persons will be included in the definition of investment firm undertakings]	Discretion will not be exercised	Discretion will not be exercised [will not allow investment firms to be managed by a single natural person]	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised for handling rule; Discretion will be exercised with regard to the waiver.
<i>FCMC [Latvia]</i>	Discretion will not be exercised.	Discretion will not be exercised. Investment firms are only legal persons.	No delegation	Discretion will not be exercised.	No delegation	No delegation	Discretion will be exercised for the order handling rule; Discretion regarding the waiver will be exercised [The competent authority will be able to waive the obligation mentioned in this article].
<i>Financial regulator [IRELAND]</i>	Yes	Yes	As a consequence of exercising the discretion under Article 3(1) this discretion is redundant	Yes	Yes, however Financial Regulator does not intend to exercise this discretion	Yes, however Financial Regulator does not intend to exercise this discretion	The first discretion has been exercised. The second discretion has been exercised by the State. The Financial Regulator will likely permit the discretion, however no final decision has been made in this regard.

	<i>Article 3(1)</i>	<i>Article 4(1)</i>	<i>Article 5(5)</i>	<i>Article 9(4)</i>	<i>Article 16(3)</i>	<i>Article 17(2))</i>	<i>Article 22(2)</i>
<i>Finansinspektionen [SWEDEN]</i>	Discretion will not be exercised [with the exception of insurance intermediaries]	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised for order handling rule; No decision has been taken with regard to the waiver option, but Finansinspektionen will have that option.
<i>Finanstilsynet [DENMARK]</i>	No	Yes		Yes			Uncertain
<i>Finantsinspektsioon [ESTONIA]</i>	Discretion will not be exercised.	Discretion will not be exercised	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised	Discretion will not be exercised.	Discretion will not be exercised for order handling rule. No decision has been taken with regard to the waiver option, but Finantsinspektsioon will have that option.
<i>FMA [AUSTRIA]</i>	Discretion will be exercised (cp. § 20(4) Austrian Securities Supervision Act)	Discretion will not be exercised	Discretion will not be exercised.	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised.	Discretion will be exercised for handling rule; Discretion will be exercised with regard to the waiver.

	<i>Article 3(1)</i>	<i>Article 4(1)</i>	<i>Article 5(5)</i>	<i>Article 9(4)</i>	<i>Article 16(3)</i>	<i>Article 17(2)</i>	<i>Article 22(2)</i>
<i>FSA [UK]</i>	HM Treasury have indicated in their consultation document published in December 2005 that they intend to exercise this discretion.	They intend to exercise this discretion in relation to partnerships, which are not legal persons but are currently authorisable by the FSA including as investment firms.	They do not intend to exercise this discretion.	They intend to exercise this discretion and have outlined its implementation in PS 06/13	They do not intend to exercise this discretion.	They do not intend to exercise this discretion.	They intend to make use of both these discretions [the will be consulting on these areas in the forthcoming Reforming COB Regulation CP in October]
<i>FSC [BULGARIA]</i>	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Both these discretions will be exercised.

	<i>Article 3(1)</i>	<i>Article 4(1)</i>	<i>Article 5(5)</i>	<i>Article 9(4)</i>	<i>Article 16(3)</i>	<i>Article 17(2))</i>	<i>Article 22(2)</i>
<i>Kredittilsynet [NORWAY]</i>	No exemption	No, only legal persons	No delegation	No but exemptions can be made	No	No	Yes to a regulated market or MTH; Yes exemptions can be made
<i>MFSA [MALTA]</i>	Discretion will not be exercised [The full licensing regime will continue to apply to the entities which fall within the category of persons which fall within MiFiD Article 3(1)]	Discretion will be exercised [the possibility already exists and will be retained]	Discretion will not be exercised [The full licensing regime will continue to apply to the entities which fall within the category of persons which fall within MiFiD Article 3(1)]	Discretion will be exercised [the possibility already exists and will be retained]	Discretion will not be exercised [MFSA is the single regulator for financial services. Legislation will not be providing it with the possibility of delegating administrative, preparatory or ancillary tasks related to the review of the conditions for initial authorisation]	Discretion will not be exercised [MFSA is the single regulator for financial services. Legislation will not be providing it with the possibility of delegating administrative, preparatory or ancillary tasks related to the review of the conditions for initial authorisation]	Discretion will be exercised
<i>PFSA [POLAND]</i>	Discretion will not be exercised	Discretion will be exercised (with limitations as to the services that may be provided)	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Acc. to a draft to MIFID implementing act discretion will probably be exercised.
<i>Rahoitustarkastus [FINLAND]</i>	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Both discretions will be exercised

	<i>Article 23(1)</i>	<i>Article 23(2)</i>	<i>Article 23(3)</i>	<i>Article 23(4)</i>	<i>Article 23(6)</i>	<i>Article 24(3)</i>	<i>Article 24(4)</i>
Description	<i>Discretion for Member States to allow investment firms to appoint tied agents</i>	<i>Discretion for Member States to allow tied agents to handle client money</i>	Discretion for Member States to decide that investment firms can verify the good repute and knowledge of tied agents.	Discretion for Member States to delegate tasks in registration and monitoring compliance of tied agents	Discretion for Member States to impose additional/ more stringent requirements on tied agents	Discretion for Member States to recognise other undertakings as eligible counterparties (see discretions on article 50 of the draft implementing Directive)	Discretion for Member States to recognise third country counterparties
AFM (NETHERLANDS)	Yes	No	No	No	likely to be yes	Yes	Yes
AMF [FRANCE]	Discretion exercised	Tied agent are not authorised to hold client money.	Discretion exercised	Discretion not exercised	Discretion not exercised	Discretion exercised	Discretion exercised

	<i>Article 23(1)</i>	<i>Article 23(2)</i>	<i>Article 23(3)</i>	<i>Article 23(4)</i>	<i>Article 23(6)</i>	<i>Article 24(3)</i>	<i>Article 24(4)</i>
BaFIN [GERMANY]	Yes	No	Yes	Yes	No	Yes	Yes
CFBA [BELGIUM]	Discretion exercised	Discretion exercised	Discretion not exercised	Discretion not exercised	Discretion exercised [more detailed registration conditions]	Yes	Yes
CMC [GREECE]	Discretion will be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Under consideration.	Discretion probably won't be exercised	Discretion probably won't be exercised
CMVM [PORTUGAL]	Discretion will be exercised	Discretion will be exercised: the law does not prohibit but the investment firm may decide not to allow.	Discretion will be exercised	Discretion partially used. [Investment firms are in charge of registering their tied agents with CMVM and monitoring their compliance with the applicable rules. CMVM's role is limited to make public the registry of tied agents.]	Discretion will not be exercised.	Discretion will be exercised with regard to: - undertakings meeting the thresholds set in Annex 2, Section I. paragraph 2 [through 24(3)]; - entities authorised or regulated by a non-Member State (Annex 2, Section I. paragraph 1, sub-paragraph (1), in fine). [through 50(1) draft implementing Directive].	Discretion will be exercised [Used both for entities equivalent to categories mentioned in Article 24(2) and to undertakings mentioned in Article 24(3)]

	<i>Article 23(1)</i>	<i>Article 23(2)</i>	<i>Article 23(3)</i>	<i>Article 23(4)</i>	<i>Article 23(6)</i>	<i>Article 24(3)</i>	<i>Article 24(4)</i>
CNMV [SPAIN]	Tied agents can be appointed	Tied agent will not be authorised to hold client money.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised. Tied agents can work only for an investment firm or many belonging to the same group; tied agents will not be able to perform other activities which may potentially prejudice the performance of this service.	Discretion will be exercised.	Discretion will be exercised.
CNVMR [ROMANIA]	Discretion will be exercised in respect with natural persons only (Tied agents as legal persons are not allowed)	Discretion will not be exercised	Discretion will be exercised	Discretion will not be exercised	There are some other requirements regarding the authorization of tied agents.	Discretion will be exercised	Discretion will be exercised
CONSOB (ITALY)	Discretion exercised	Discretion not exercised	Discretion not exercised	Discretion exercised	Discretion exercised	Discretion exercised (only for undertakings recognized as professional clients <i>per se</i>)	Discretion exercised

	<i>Article 23(1)</i>	<i>Article 23(2)</i>	<i>Article 23(3)</i>	<i>Article 23(4)</i>	<i>Article 23(6)</i>	<i>Article 24(3)</i>	<i>Article 24(4)</i>
CSSF [LUXEMBURG]	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion to be exercised.	Discretion to be exercised.
CySEC [CYPRUS]	Discretion will be exercised [Investment firms will be allowed to appoint tied agents]	Discretion will not be exercised [Tied agents will not be allowed to handle client money or / and financial instruments]	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised. [Other undertakings meeting pre-determined proportionate requirements, including quantitative thresholds will be recognised].	Discretion will be exercised. [3rd country entities will be recognised as eligible counterparties if they are equivalent to those categories of entities mentioned in 24(2). Third country undertakings will also be recognised as eligible counterparties as those mentioned in 24(3), on the same conditions and subject to the same requirements as those in 24(3).
FCMC [Latvia]	Discretion will be exercised.	Discretion will not be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will not be exercised.
Financial regulator [IRELAND]	Yes	Tied agent would not be authorised to hold client money.	Yes	Yes	Yes	Yes	Yes
Finansinspektionen [SWEDEN]	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised	Swedish Companies Registration Office will be handling the registration of tied agents. The investment firm will have an obligation to monitor compliance with article 23(3)	Finansinspektionen will be able to regulate what the agreement between the investment firm and the tied agent must contain, no decision has been taken whether Finansinspektionen will exercise the option.	Discretion will be exercised.	Discretion will be exercised.

	<i>Article 23(1)</i>	<i>Article 23(2)</i>	<i>Article 23(3)</i>	<i>Article 23(4)</i>	<i>Article 23(6)</i>	<i>Article 24(3)</i>	<i>Article 24(4)</i>
<i>Finanstilsynet [DENMARK]</i>	No	No		No	No	Uncertain	Uncertain
<i>Finantsinspektion [ESTONIA]</i>	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised.	Discretion will be exercised	Discretion will be exercised, only for third country counterparties under financial supervision
<i>FMA [AUSTRIA]</i>	Discretion to be exercised [going to allow investment firms to appoint tied agents]	Discretion will not be exercised	Discretion to be exercised [FMA has established a register for tied agents and specified the criteria for registration. It wants to stick to the approved practice, that the investment firms register their tied agents on the basis of the mentioned criteria under the supervision of the FMA.]	Discretion will be exercised	Discretion will not be exercised	Commodity and commodity dealers, locals and other institutional investors will be recognised as eligible counterparties only if the net turnover exceeds € 40 M.	Third country counterparties will be recognised under the same conditions as European counterparties.

	<i>Article 23(1)</i>	<i>Article 23(2)</i>	<i>Article 23(3)</i>	<i>Article 23(4)</i>	<i>Article 23(6)</i>	<i>Article 24(3)</i>	<i>Article 24(4)</i>
<i>FSA [UK]</i>	They intend to exercise this discretion and have outlined its implementation in PS 07/06.	They do not intend to exercise this discretion [their current rules prohibit a firm from allowing its appointed representative to hold client money. They are not proposing any change to this restriction]	They intend to exercise this discretion and have outlined its implementation in PS07/06.	They do not intend to exercise this discretion.	They intend to exercise this discretion.	They intend to take full advantage of this discretion to give clients the maximum flexibility to be treated as eligible counterparties (ECPs) and facilitate firms' undertaking business on an ECP basis.	They intend to exercise this discretion.
<i>FSC [BULGARIA]</i>	Discretion will not be exercised.	Discretion will not be exercised (Bulgaria will not allow investment firms to appoint tied agents)	Discretion will not be exercised (Bulgaria will not allow investment firms to appoint tied agents)	Discretion will not be exercised (Bulgaria will not allow investment firms to appoint tied agents)	Discretion will not be exercised (Bulgaria will not allow investment firms to appoint tied agents)	Discretion will not be exercised.	Discretion will be exercised.

	<i>Article 23(1)</i>	<i>Article 23(2)</i>	<i>Article 23(3)</i>	<i>Article 23(4)</i>	<i>Article 23(6)</i>	<i>Article 24(3)</i>	<i>Article 24(4)</i>
<i>Kredittilsynet [NORWAY]</i>	Yes tied agents can be appointed	No, no client money	Yes, investment firms can verify	No, the competent authority will register	Under consideration.	Under consideration	Yes, third country counterparties may be recognised
<i>MFSA [MALTA]</i>	Discretion will be exercised	Discretion will not be exercised. Tied Agents registered in Malta will not be allowed to handle client money.	Discretion will be exercised. However, MFSA reserves the right to carry out certain further due diligence checks.	Discretion will not be exercised with respect to registration - all tied agents established in Malta would need to be registered by MFSA. However, the investment firm appointing the tied agents will be responsible for the monitoring of the tied agents' activities.	Discretion exercised – with respect to the times when tied agents can contact clients or potential clients.	Discretion will not be exercised.	Discretion retained [The Rules issued by MFSA and which are binding on investment firms specify that MFSA retains the right to recognise as eligible counterparties, third country entities equivalent to those categories of entities mentioned in 24 (2).
<i>PFSA [POLAND]</i>	Discretion will be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised (examination for natural persons, organisational requirements for other)	Acc. to the draft to MIFID implementing act discretion will probably be exercised.	Acc. to the draft to MIFID implementing act discretion will probably be exercised.
<i>Rahoitustarkastus [FINLAND]</i>	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised

	<i>Article 25(3)/Recital 45</i>	<i>Article 25(5)</i>	<i>Article 25(6)</i>	<i>Article 28(1)/Recital 46</i>	<i>Article 29(1)/Recital 46</i>	<i>Article 29(2)/Article 18(2) implementing regulation</i>	<i>Article 30(2)</i>	<i>Article 31(2)</i>
Description	Discretion for MS to apply transaction reporting obligations to financial instruments that are not admitted to trading on a regulated market	Discretion for Member States to waive the obligation on firm to report if made directly by the RM/MTF or ARM	Discretion for the home competent authority to decide not to receive transaction reports from the host member state regarding branches.	Discretion for Member States to extend post-trade requirements beyond equities for Ifs	Discretion for Member States to extend pre-trade requirements beyond equities for MTFs	Discretion for competent authorities to waive obligation in article 29(1) for market model etc and block trades	Discretion for competent authorities to waive post-trade requirements for MTFs (block trades)	Discretion for the host competent authority to publish information on the identity of tied agents
<i>AFM (NETHERLANDS)</i>	Still under consideration.	Yes	Yes	No	No	Yes	Yes	Yes, the tied agent has to be registered in a public register
<i>AMF [FRANCE]</i>	Yes: discretion exercised for financial instruments admitted to trading on Alternext (which is a MTF)	Yes	Discretion not exercised	No	No	Yes	Yes	Discretion not exercised

	<i>Article 25(3)/Recital 45</i>	<i>Article 25(5)</i>	<i>Article 25(6)</i>	<i>Article 28(1)/Recital 46</i>	<i>Article 29(1)/Recital 46</i>	<i>Article 29(2)/Article 18(2) implementing regulation</i>	<i>Article 30(2)</i>	<i>Article 31(2)</i>
BaFIN [GERMANY]	Yes.	Yes	Not	Only to certificates that represent shares	Only to certificates that represent shares	Yes	Yes	Yes
CFBA [BELGIUM]	Discretion exercised [only for markets for which the CBFA is in charge of market abuse supervision]	Yes	Discretion will as a rule not be exercised	No	No	Yes	Yes	Yes
CMC [GREECE]	Under consideration	Discretion probably will be exercised	Discretion will not be exercised.	Under consideration	Under consideration	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.
CMVM [PORTUGAL]	Discretion will not be exercised	In our proposal (public consultation on secondary regulation is now available) the discretion will not be exercised.	Discretion will not be exercised. [The draft law does not regulate this discretion of the competent authority.]	The draft law applies merely to shares admitted to trading on regulated markets. However, CMVM is entitled to extend these requirements to other financial instruments through secondary legislation. The precise terms of such extension are still under consideration	Draft law applies to shares admitted to trading. But reserves right to extend these requirements to other financial instruments through secondary legislation. The precise terms of such extension are still under consideration	Discretion will be exercised	Discretion will be exercised	Draft law requires CMVM to request the identity of tied agents that investment firms intend to use in Portugal. It does not refer clearly to the publication of their identity, but the Securities Code requires CMVM to arrange a system of disclosure of information in general

	<i>Article 25(3)/Recital 45</i>	<i>Article 25(5)</i>	<i>Article 25(6)</i>	<i>Article 28(1)/Recital 46</i>	<i>Article 29(1)/Recital 46</i>	<i>Article 29(2)/Article 18(2) implementing regulation</i>	<i>Article 30(2)</i>	<i>Article 31(2)</i>
<i>CNMV [SPAIN]</i>	Discretion will be exercised.	Discretion will be exercised		Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised
<i>CNVMR [ROMANIA]</i>	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised
<i>CONSOB</i>	Give power to regulate and exercise the option. Will not exercise for the moment.	Yes	Undecided	Probably	Probably	Yes		Yes. Consob will have this discretion
<i>CSSF [LUXEMBURG]</i>	Discretion will not be exercised	Discretion will be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised	Discretion will be exercised.	Discretion will not be exercised.

	<i>Article 25(3)/Recital 45</i>	<i>Article 25(5)</i>	<i>Article 25(6)</i>	<i>Article 28(1)/Recital 46</i>	<i>Article 29(1)/Recital 46</i>	<i>Article 29(2)/Article 18(2) implementing regulation</i>	<i>Article 30(2)</i>	<i>Article 31(2)</i>
<i>CySEC [CYPRUS]</i>	Discretion will not be exercised	Discretion will be exercised [The competent authority will be able to waive the above obligation]	Discretion will be exercised [The competent authority will be able to decide not to receive transaction reports]	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article]	Discretion will be exercised [The competent authority will be able to waive post trade requirements for MTFs]	Discretion will be exercised [The competent authority will publish the relevant information]
<i>FCMC (Latvia)</i>	Discretion will not be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article].	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article].	Discretion will be exercised.
<i>Financial regulator (IRELAND)</i>	Yes.	Yes	Undecided	No	No	Yes	Yes	Yes
<i>Finansinspektionen [SWEDEN]</i>	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Discretion will be exercised.	Still under discussion	Discretion will not be exercised	Discretion will be exercised.	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	No decision taken [under discussion]
<i>Finanstilsynet [DENMARK]</i>	Extend to bonds and investment funds traded on a regulated market.	Yes	Undecided	Unsure	Unsure (probably yes)	Yes		Unsure

	<i>Article 25(3)/Recital 45</i>	<i>Article 25(5)</i>	<i>Article 25(6)</i>	<i>Article 28(1)/Recital 46</i>	<i>Article 29(1)/Recital 46</i>	<i>Article 29(2)/Article 18(2) implementing regulation</i>	<i>Article 30(2)</i>	<i>Article 31(2)</i>
<i>Finantsinspektion [ESTONIA]</i>	Discretion will not be exercised	To be decided	To be decided	Discretion will not be exercised	Discretion will be exercised.	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article]	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article]	Discretion will be exercised.
<i>FMA [AUSTRIA]</i>	Discretion will be exercised (cp. § 10 Austrian Securities Supervision Act)	Discretion will be exercised [and will waive the obligation on firm to report if made directly by RM/MTF or ARM, which is current state of the art process in Austria. (cp. § 10(4) Austrian Securities Supervision Act).]	Unable to comment	Discretion will not be exercised.	Discretion will not be exercised [not planning to extend pre-trade requirements beyond equities for MTFs]	Discretion to be exercised	Discretion will be exercised.	The implementing law foresees the possibility for the FMA to publish the names of the tied agents.

	<i>Article 25(3)/Recital 45</i>	<i>Article 25(5)</i>	<i>Article 25(6)</i>	<i>Article 28(1)/Recital 46</i>	<i>Article 29(1)/Recital 46</i>	<i>Article 29(2)/Article 18(2) implementing regulation</i>	<i>Article 30(2)</i>	<i>Article 31(2)</i>
<i>FSA [UK]</i>	They intend to use this discretion and proposed it in CPO6/14. If a firm makes a transaction report through a trade matching or reporting system approved by the FSA; or via a regulated market or MTF through whose systems the transaction was completed; then it is the operator of the system used which must satisfy the MiFID requirements for reporting systems.	They intend to exercise this discretion by requiring other member states to forward transaction reports submitted by the local branches of UK firms via the CESR Transaction Exchange Mechanism (TREM).	The UK does not intend to extend the MiFID transparency requirements to financial instruments other than shares.	They do not intend to extend MiFID pre-trade transparency requirements to non-equity products to MTFs. However they will retain the current Alternative Trading Systems requirements that apply to certain non-equity instruments. This is outlined in our CPO6/14.	They intend to exercise this discretion. This is explained in CPO6/14.	They intend to exercise this discretion. This is explained in CPO6/14.	They intend to exercise this discretion. This is explained in CPO6/14.	They intend to use this discretion and proposed it in CPO6/14. If a firm makes a transaction report through a trade matching or reporting system approved by the FSA; or via a regulated market or MTF through whose systems the transaction was completed; then it is the operator of the system used which must satisfy the MiFID requirements for reporting systems.
<i>FSC [BULGARIA]</i>	Discretion will be exercised.	Discretion will be exercised.	The draft law does not regulate this discretion of the competent authority	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will not be exercised (Bulgaria will not allow investment firms to appoint tied agents)

	<i>Article 25(3)/Recital 45</i>	<i>Article 25(5)</i>	<i>Article 25(6)</i>	<i>Article 28(1)/Recital 46</i>	<i>Article 29(1)/Recital 46</i>	<i>Article 29(2)/Article 18(2) implementing regulation</i>	<i>Article 30(2)</i>	<i>Article 31(2)</i>
<i>Kredittilsyn et [NORWAY]</i>	No, only regulated market	Under consideration	No	Under consideration	Under consideration	Exemptions can be made by competent authority	Exemptions can be made by competent authority	Yes
<i>MFSA [MALTA]</i>	Discretion will not be exercised.	Discretion will be exercised [already provided for in Maltese transaction reporting requirements and will be retained]	Discretion will not be exercised.	For the time being this discretion will not be exercised.	For the time being this discretion will not be exercised.	For the time being this discretion will not be exercised.	For the time being this discretion will not be exercised.	Not yet decided.
<i>PFSA [POLAND]</i>	Acc. to the draft to MIFID implementing act discretion will be exercised.	Acc. to the draft to MIFID implementing act discretion will probably be exercised.	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Acc. to the draft to MIFID implementing act discretion will probably be exercised
<i>Rahoitustarkastus [FINLAND]</i>	Discretion will not be exercised. [However, Rahoitustarkastus may extend reporting obligations to other financial instruments, if it finds it necessary in order to supervise the market efficiently.]	Discretion will be exercised	To be decided	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
Description	Discretion for Member States to extend pre-trade requirements beyond equities for RMs	Discretion for competent authorities to waive obligation in article 44(1) for market model etc and block trades	Discretion for Member States to extend post-trade requirements beyond equities for RMs	Discretion for competent authorities to waive obligation in article 45(1) for market model etc and block trades (link to article 28(2))	Discretion for Member States to designate more than one competent authority and to delegate tasks	Discretion for competent authorities to disclose to the public sanctions or other measures [not a real discretion]	Discretion for Member States to require firms with branches to report them on the activities of the branches	Discretion for competent authorities to require investment firms to provide the information with the standards set by the host Member State.	Discretion for Member States to conclude cooperation agreements providing for the exchange of information with the competent authorities of third countries. [not a discretion]
<i>AFM (NETHERLANDS)</i>	No	Yes	No	Yes	No, but still under discussion	yes	Undecided	Undecided	yes
<i>AMF (FRANCE)</i>	No, but regulated markets must publish appropriate information on buying and selling interests so as to ensure a fair and orderly market	Yes	Regulated markets must publish price and quantity within an appropriate timeframe and no later than the third day after the trade	Yes	There are more than one competent authority in France: the CECEI (Comité des Etablissements de crédit et Entreprises d'investissement), Banking Commission, CCLR (Comité Consultatif de la Législation et de la Réglementation Financière) and the AMF. Under the current regime, the French Minister of Finance is also competent to grant the authorization to Regulated markets.	The AMF has currently this power. No change with Mifid	This requirement existed under the previous legislation and has been maintained.	This requirement has been maintained and clarified.	The AMF has currently this power. No change with Mifid

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
<i>BaFIN [GERMANY]</i>	Only to certificates that represent shares	Yes	Only to certificates that represent shares	Yes	No	Yes, but discretion case by case	No	Yes	Yes
<i>CBFA [BELGIUM]</i>	No	Yes	No	Yes	The CBFA will be the main competent body. On behalf of the CBFA, the Securities Regulation Fund ("Fonds des rentes") will remain in charge of the market supervision in relation to the trading of Belgian public debt instruments	Yes	Yes	Yes	Yes
<i>CMC [GREECE]</i>	Under consideration	Discretion will be exercised	Under consideration	Discretion will be exercised	Under consideration	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
<i>CMVM [PORTUGAL]</i>	Draft law applies to shares admitted to trading. But reserves right to extend these requirements to other financial instruments through secondary legislation. The precise terms of such extension are still under consideration	Discretion will be exercised.	Draft law applies to shares admitted to trading. But reserves right to extend these requirements to other financial instruments through secondary legislation. The precise terms of such extension are still under consideration	Discretion will be exercised.	– Discretion will be exercised with regard to the existence of more than one competent authorities, as the authorisation of investment firms is committed both to Banco de Portugal (mainly, prudential supervision) and CMVM (mainly, conduct of business rules); – Discretion will not be exercised with regard to delegation of tasks, without prejudice to monitoring compliance of tied agents, as mentioned above.	Discretion will be exercised [already in place since transposition of MAD]	Discretion will be exercised	Discretion will be exercised	CMVM has already powers to conclude cooperation agreements.
<i>CNMV [SPAIN]</i>	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will not be exercised.	There is already in place a public register of sanctions imposed to undertakings subject to the supervision of the CNMV.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
<i>CNVMR [ROMANIA]</i>	Discretion will be exercised	Discretion will be exercised	Discretion is exercised; post trade requirements are mandatory for the financial instruments traded on regulated markets or MTF	Discretion will be exercised	Discretion is exercised; the supervision of credit institutions providing the investment services and/or performing investment activities under MiFID is committed both by National Bank of Romania (prudential supervision) and CNVM (conduct of business rules)	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised
<i>CONSOB (ITALY)</i>					Discretion exercised	Discretion exercised	Discretion exercised	Discretion exercised	Discretion exercised
<i>CSSF [LUXEMBURG]</i>	Discretion will not be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
<i>CySEC [CYPRUS]</i>	Discretion will not be exercised	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised [The competent authority will be able to waive such obligation]	Discretion will be exercised [Beyond the Cyprus Securities and Exchange Commission, the competent authorities for the implementation of the Directive is the Central Bank of Cyprus and the Commissioner of Cooperative Societies' Supervision and Development Authority]	Discretion will be exercised [The competent authority will be able to disclose to the public sanctions or other measures]	Discretion will be exercised [It will be requested that all investment firms with branches within our territory will report to us periodically on the activities of those branches for statistical purposes]	Discretion will be exercised [It will also be requested that they provide the information necessary for the monitoring of their compliance with the standards set by us for the cases provided in 32(7)]	Discretion will be exercised [The competent authority will conclude cooperation agreements]
<i>FCMC [Latvia]</i>	Discretion will not be exercised.	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article]	Discretion will not be exercised.	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article]	Discretion will not be exercised.	Yes, but discretion case by case	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised
<i>Financial regulator [IRELAND]</i>	No	Yes		Yes	No	Yes	Yes	Undecided.	Yes

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
<i>Finansinspektionen [SWEDEN]</i>	Discretion will be exercised.	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Discretion will be exercised.	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Discretion will not be exercised	Discretion will be exercised.	Still under discussion	Still under discussion	Discretion will be exercised [subject to final approval by government]
<i>Finanstilsynet [DENMARK]</i>		No			Unsure		Undecided	Undecided	Undecided
<i>Finantsinspektion [ESTONIA]</i>	Discretion will be exercised.	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article]	Discretion will be exercised	Discretion will be exercised [The competent authority will be able to waive the obligation mentioned in this article]	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	YES

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
FMA [AUSTRIA]	Discretion will not be exercised.	Discretion will be exercised.	Discretion will not be exercised	Discretion will be exercised.	Discretion will not be exercised [the only competent authority is the FMA]	N/A [argue that no discretion actually exists]	Discretion will not be exercised.	Discretion will be exercised.	Discretion will not be exercised.
FSA [UK]	44(1) is not a discretion. The discretion to extend pre-trade transparency requirements beyond equities for RMs is given in Recital 46. They do not intend to extend MiFID pre-trade transparency requirements to non-equity products to RMs. However, the existing requirements and related guidance that deal with pre-trade transparency will continue to apply to non-equity regulated markets operated by exchanges. This is outlined in CP06/14.	They intend to exercise this discretion. This is explained in CP06/14.	They do not intend to extend MiFID post-trade transparency requirements to non-equity products to RMs. However, the existing requirements and related guidance that deal with post-trade transparency will continue to apply to non-equity regulated markets operated by exchanges. This is outlined in CP06/14.	They intend to exercise this discretion. This is explained in our CP06/14	The UK will not exercise this discretion.	This discretion already exists within the UK's current regime. They therefore intend to continue exercising it.	They already exercise this discretion for supervisory purposes and intend to continue to do so. However, it is not clear what the terms 'for statistical purposes' mean in MiFID context.	They already exercise this discretion for the purposes of domestic supervision and intend to continue to do so.	They intend to exercise this discretion and HM Treasury will transpose it in its legislation as outlined in their December 2005 consultation document.

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
FSC [BULGARIA]	Discretion will not be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will be exercised.	FSC will have powers to exercise this discretion.	Discretion will be exercised.	FSC has already powers to conclude cooperation agreements.
Kredittilsynet [NORWAY]	No	Exemptions can be made by competent authority	No	Exemptions can be made by competent authority	No	Yes, regulated by national law (Open Files Act and Public Administration Act)	Yes	Yes	Yes
MFSA [MALTA]	For the time being this discretion will not be exercised.	For the time being this discretion will not be exercised.	For the time being this discretion will not be exercised.	For the time being this discretion will not be exercised.	Discretion will not be exercised [MFSA is the single regulator for financial services. Legislation will not be providing it with the possibility of delegating administrative, preparatory or ancillary tasks related to the review of the conditions for initial authorisation.]	Discretion exercised [option already exists and will be retained]	Discretion exercised	Discretion exercised [option already exists and will be retained]	Discretion exercised [option already exists and will be retained]

	<i>Article 44(1)/Recital 46</i>	<i>Article 44(2)/Article 18(2) implementing regulation</i>	<i>Article 45(1)/Recital 46</i>	<i>Article 45(2)</i>	<i>Article 48</i>	<i>Article 51(3)</i>	<i>Article 61(1)</i>	<i>Article 61(2)</i>	<i>Article 63(1)</i>
<i>PFSA [POLAND]</i>	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Acc. to the draft to MIFID implementing act discretion will probably be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised
<i>Rahoitustar kastus [FINLAND]</i>	Discretion will not be exercised.	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised [paragraph does appear to include any discretion]	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised [this paragraph does not appear to include any discretion]

**OVERVIEW OF NATIONAL OPTIONS AND DISCRETIONS UNDER MiFID
LEVEL 2 – REG. N. 1287/2006**

	<i>Article 13(3)</i>	<i>Article 13(4)</i>	<i>Article 18(1)(a)</i>	<i>Article 18(1)(b)</i>	<i>Article 22(1)</i>	<i>Article 22(2)</i>	<i>Article 28</i>
<i>Description</i>	Discretion for Member States to require reports made in accordance with Article 25(3) and (5) of Level 1 to contain additional information related to the transactions in question	Discretion for Member States to require a report of a transaction made in accordance with Article 25(3) and (5) of Level 1 to identify the clients on whose behalf the investment firm has executed that transaction.	Discretion for competent authorities to grant waivers based on the market model	Negotiated transactions	Discretion for Member States to apply the two criteria (turnover and number of transactions) to determine the liquid shares	Discretion for Member States to specify a maximum of five liquid shares	Large transactions
<i>AFM [Netherlands]</i>	Discretion will not be exercised.	Discretion will not be exercised as from November 1st, pending a cost benefit analysis expected to be completed in early 2008.	Discretion will be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised.
<i>AMF [FRANCE]</i>	Yes: two additional information (theoretical settlement date and total amount)	No	Discretion exercised. See previous answers under articles 39(2) and 44(2).	Discretion exercised	Both alternative are retained. The discretion to apply only one criteria is therefore not exercised	Discretion not exercised.	Yes
<i>BaFIN [GERMANY]</i>	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>CFBA [BELGIUM]</i>	No	No	Yes	Yes	No	No (the number of liquid shares is higher than 5)	Yes
<i>CMC [GREECE]</i>	Discretion will be exercised	Discretion will be exercised	Discretion probably will be exercised	Discretion probably will be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion probably will be exercised

	<i>Article 13(3)</i>	<i>Article 13(4)</i>	<i>Article 18(1)(a)</i>	<i>Article 18(1)(b)</i>	<i>Article 22(1)</i>	<i>Article 22(2)</i>	<i>Article 28</i>
CMVM [PORTUGAL]	The draft law entitles CMVM to regulate such matter, but no additional information will be required through secondary legislation.	<i>Discretion will be exercised.</i>	Discretion will be exercised (see answer to articles 29(2) e 44(2) of level 1 directive)	Discretion will be exercised (see answer to articles 29(2) e 44(2) of level 1 directive)	Discretion not used.	Discretion not used.	Discretion will be exercised (see answer to articles 28(2), 30(2), 44(2) e 45(2) of level 1 Directive)
CNMV [SPAIN]	Spain will retain that option, for future developments of secondary legislation.	This discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	This discretion will not be exercised. Any of the two criteria will apply individually	Discretion will not be exercised.	Discretion will be exercised.
CNVMR [ROMANIA]	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised
CONSOB (ITALY)							
CSSF [LUXEMBURG]	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised
CySEC [CYPRUS]	Discretion will be exercised [The competent authority will be able to contain additional information related to the transactions in question]	Discretion will be exercised [The competent authority will be able to require the identity of these clients to be included in the report in question]	Discretion will be exercised [The competent authority will be able to grant such waivers]	Discretion will be exercised [The competent authority will be able to grant such waivers]	Discretion will not be exercised	Discretion will be exercised [The competent authority will be able to exercise this discretion]	Discretion will be exercised [The competent authority will be able to exercise this discretion]

	<i>Article 13(3)</i>	<i>Article 13(4)</i>	<i>Article 18(1)(a)</i>	<i>Article 18(1)(b)</i>	<i>Article 22(1)</i>	<i>Article 22(2)</i>	<i>Article 28</i>
<i>FCMC [Latvia]</i>	Discretion will not be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will not be exercised.	Discretion will be exercised. The competent authority will exercise the right to designate additional liquid shares according to Article 22 (3)	Discretion will be exercised.
<i>Financial regulator [IRELAND]</i>	Yes	Yes	Yes	Yes	It is proposed to exercise this discretion.	It is proposed to exercise this discretion.	Yes
<i>Finansinspektionen [SWEDEN]</i>	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.	Discretion will not be exercised	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it.
<i>Finanstilsynet [DENMARK]</i>							
<i>Finantsinspektion [ESTONIA]</i>	Not yet decided	Discretion will be exercised	Finantsinspektion will have that option, but no decision has been taken on whether to exercise it.	Finantsinspektion will have that option, but no decision has been taken on whether to exercise it.	Discretion will not be exercised	Discretion will not be exercised	Finantsinspektion will have that option, but no decision has been taken on whether to exercise it.
<i>FMA [AUSTRIA]</i>	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion to be exercised

	<i>Article 13(3)</i>	<i>Article 13(4)</i>	<i>Article 18(1)(a)</i>	<i>Article 18(1)(b)</i>	<i>Article 22(1)</i>	<i>Article 22(2)</i>	<i>Article 28</i>
<i>FSA [UK]</i>	They intend to exercise this discretion. Since it has not been possible to harmonise identification codes through the EEA, they are developing (with CESR) alternative means for instrument identification. This proposal is outlined in CP07/16.	They intend to exercise this discretion. This is outlined in CP06/14.	They intend to exercise this discretion, as for Level 1 discretion Article 29(2). This is outlined in CP06/14	They intend to exercise this discretion. This is outlined in CP06/14.	They intend to exercise this discretion. This is outlined in CP06/14.	They will specify the number of liquid shares that the UK has and make this information public. This is outlined in CP06/14.	They will approve arrangements for the deferred publication of information relating to large transactions. This is outlined in CP06/14
<i>FSC [BULGARIA]</i>	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will be exercised.
<i>Kredittilsynet [NORWAY]</i>							
<i>MFSA [MALTA]</i>	Discretion will be exercised	Discretion will be exercised	For the time being this discretion will not be exercised.	For the time being this discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	For the time being this discretion will not be exercised.
<i>PFSa [POLAND]</i>	Not yet decided	Not yet decided	Not yet decided	Not yet decided	Not yet decided	Not yet decided	Not yet decided
<i>Rahoitustarkastus [FINLAND]</i>	Discretion will not be exercised	Discretion will be exercised [firm's internal client code, not client name]	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised

**OVERVIEW OF NATIONAL OPTIONS AND DISCRETIONS UNDER MiFID
LEVEL 2 – DIR. 2006/73/EC**

	<i>Recital 62</i>	<i>Article 4</i>	<i>Article 31(2) para 2</i>	<i>Article 50(1) para 1</i>	<i>Article 50(1) para 2</i>	<i>Article 51(4)</i>
<i>Description</i>	Discretion for competent authorities to approve the content of the basic agreement between an investment firm and its retail clients	Discretion for Member States to retain or impose requirements additional to those in MiFID	Discretion for Member States to specify the precise terms, or the contents, of the description of the risks required regarding information about financial instruments	Discretion for Member States to recognise as eligible counterparties 'pure' professional clients	Discretion for Member States to, on request, recognise as eligible counterparties clients who may be treated as professionals on request	Discretion for Member States to impose obligations on tape recording.
<i>AFM [Netherlands]</i>	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised.	Discretion will be exercised.	Discretion will not be exercised.
<i>AMF [FRANCE]</i>	Regulations define the minimum content	Rules on unbundling of dealing commissions and whistleblowing have been maintained	Discretion non exercised	Yes	Yes	Yes
<i>BaFIN [GERMANY]</i>	No	No	No	Yes, but only subpara 1	Yes	No
<i>CFBA [BELGIUM]</i>	No	No	The regulations enable the CBFA to enact rules in this area. No rules are enacted at this stage	Yes	Yes	No (except for dealing rooms)
<i>CMC [GREECE]</i>	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised

	<i>Recital 62</i>	<i>Article 4</i>	<i>Article 31(2) para 2</i>	<i>Article 50(1) para 1</i>	<i>Article 50(1) para 2</i>	<i>Article 51(4)</i>
<i>CMVM [PORTUGAL]</i>	The draft law regulates the minimum content of all intermediation agreements	In principle, discretion will not be exercised.	Discretion will not be exercised	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised [used and already in place; the current law requires orders given orally to be reduced to writing or tape recorded by the receiver]
<i>CNMV [SPAIN]</i>	To be decided. There is already in place in Spanish regulation a basic agreement between the investment firms and their clients for asset management and holding of securities in book-entry form.	Discretion will not be exercised	To be decided.	Discretion will not be exercised.	Discretion will be exercised.	To be decided. There is already in place in Spanish regulation the obligation to record conversations involving clients orders.
<i>CNVMR [ROMANIA]</i>	The draft CNVM regulation on financial investment services stipulates the minimum content of all intermediation agreements	Discretion will be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised, only with the specific agreement of the client for the registration and storage by the investment firm of his instructions/confirmations given by telephone. Where the client does not agree to registration and storage, orders shall not be taken by telephone.
<i>CONSOB (ITALY)</i>	Discretion not exercised. However it has been established a general requirement concerning the specification in the	Discretion not exercised	Discretion not exercised	Discretion exercised	Discretion not exercised	Discretion exercised

	agreement of the rights and obligations of IFs and their clients, and the other terms on which firms will provide services to their clients					
<i>CSSF [LUXEMBURG]</i>	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised

	<i>Recital 62</i>	<i>Article 4</i>	<i>Article 31(2) para 2</i>	<i>Article 50(1) para 1</i>	<i>Article 50(1) para 2</i>	<i>Article 51(4)</i>
<i>CySEC [CYPRUS]</i>	Discretion will not be exercised	Discretion will be exercised [no requirements, additional to those in MiFID, will be imposed]	Discretion will not be exercised	Discretion will be exercised [The competent authority will be able to recognise as eligible counterparties 'pure' professional clients]	Discretion will be exercised [The competent authority will be able to recognise as eligible counterparties clients who may be treated as professionals on request]	Discretion will be exercised [The competent authority will impose obligations on tape recording]
<i>FCMC [Latvia]</i>	The law regulates the minimum content of all intermediation agreements.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will be exercised. Existing regulation provides, that orders received by the phone should be recorded.
<i>Financial regulator [IRELAND]</i>	No	Yes	Undecided	Yes	Yes	Undecided
<i>Finansinspektionen [SWEDEN]</i>	Still under discussion	Still under discussion	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it	Still under discussion	Still under discussion	Finansinspektionen will have that option, but no decision has been taken on whether to exercise it
<i>Finanstilsynet [DENMARK]</i>						
<i>Finantsinspektioon [ESTONIA]</i>		To be decided	Discretion will not be exercised	Discretion will not be exercised	Discretion will not be exercised	under consideration

	<i>Recital 62</i>	<i>Article 4</i>	<i>Article 31(2) para 2</i>	<i>Article 50(1) para 1</i>	<i>Article 50(1) para 2</i>	<i>Article 51(4)</i>
<i>FMA [AUSTRIA]</i>	Discretion will not be exercised.	Discretion will not be exercised.	Discretion will not be exercised [there is already a well implemented self regulation in place, which will be improved to the MiFID standards]	Discretion will be exercised	Discretion will be exercised	Discretion will not be exercised
<i>FSA [UK]</i>	They are not likely to exercise such discretion.	They have decided to retain certain requirements that are, or may be, additional to those under MiFID. The package of measures is agreed with the Commission.	They do not intend to exercise this discretion.	They intend to exercise this discretion. Please refer to Article 24(3) of Level 1	They intend to exercise this discretion. Please refer to Article 24(3) of Level 1	The FSA has consulted on introducing a taping obligation - it is now looking at concerns raised by industry and no rules will be introduced before 2008.
<i>FSC [BULGARIA]</i>	Discretion will not be exercised.	Discretion will not be exercised.	FSC will have powers to exercise this discretion.	Discretion will not be exercised.	Discretion will not be exercised.	FSC will have powers to exercise this discretion.
<i>Kredittilsynet [NORWAY]</i>						
<i>MFSA [MALTA]</i>	Discretion will be exercised	It is not envisaged that this option will be exercised at the outset, although it may be exercised at a later stage.	Discretion will not be exercised	Discretion will not be exercised.	Discretion will not be exercised	Discretion exercised – MFSA reserves the right to request its Licence Holders to record telephone conversations with its clients.

	<i>Recital 62</i>	<i>Article 4</i>	<i>Article 31(2) para 2</i>	<i>Article 50(1) para 1</i>	<i>Article 50(1) para 2</i>	<i>Article 51(4)</i>
<i>PFSA [POLAND]</i>	Discretion will not be exercised	Discretion will be exercised (the requirement to employ a securities broker or investment advisor when providing certain services)	Not yet decided	Not yet decided	Not yet decided	Discretion will be exercised
<i>Rahoitustarkastus [FINLAND]</i>	Discretion will not be exercised	To be decided [however, the general aim is not to retain or impose additional requirements]	Discretion will not be exercised	Discretion will be exercised	Discretion will be exercised	Discretion will be exercised