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<u>Via CESR's website</u>: www.cesr-eu.org

The Committee of European Securities Regulators
17 Place de la Bourse
75082 Paris Cedex 02
France

Re: CESR's Call for Evidence: Consolidation of Market Transparency Data
<u>Ref.: CESR/06-134 (24 March 2006)</u>

Ladies and Gentlemen:

Bloomberg L.P. ("Bloomberg") and Bloomberg Tradebook Europe Limited ("Bloomberg Tradebook Europe") appreciate the opportunity to respond to CESR's call for evidence regarding the consolidation of market transparency data in connection with the draft measures of the EU Commission (the "Commission") for implementing the Directive 2004/39/EC on Markets in Financial Instruments ("MiFID").

<u>INTRODUCTION</u>

MiFID's standards for best execution are necessarily linked to its objectives of market transparency and open market access. Achieving best execution requires ready access not only to the markets themselves but also to accurate, comparable, consolidated real-time data from all market centers and post-trade information for tracking and monitoring execution performance.

In the comments that follow, we offer an analysis of key issues raised in CESR's call for evidence that should be addressed if market participants are to have the level of market data transparency needed to meet their obligations under MiFID.

<u>COMMENTS</u>

<u>Consolidated market data</u>. By reducing asymmetries of information among market participants, consolidated data make the securities markets fairer and more efficient. Market participants seeking best execution need ready access to timely and accurate market data across multiple market centers, as well as the ability to route orders to those pools of liquidity.

The speed with which market data are reported is also important to data consolidators and vendors so they can properly sequence quotation changes and reported trades. In the case of last-sale data, the Nasdaq Stock Market in the United States offers an illustration. Nasdaq participants have up to 90 seconds to report their trades, but 94% of all trades are reported in six seconds or less. As a result, Nasdaq trades can be properly sequenced and consolidated. Most, if not all, the U.S.-based investment firms that will become Systematic Internalisers under MiFID currently operate in the United States as market makers and comply with the Nasdaq standard. Their compliance with comparably exacting standards in Europe would not be difficult. Given the facts, those who claim the contrary should bear an exceedingly heavy, if not impossible, burden of persuasion.

Obstacles to effective consolidation of data

The principal obstacles to effective consolidation of data are: 1) proper sequencing of the data; 2) data latency (that is, the difference between the time indicated on the time stamp of a trade at the point of execution or the posting of a firm quotation and the time of receipt of that data recorded by the receiving computer); 3) disparate pricing and contract terms; 4) speed of reporting and ready access to data; and 5) different currencies and differences among settlement and clearing systems. We note the following concerning these obstacles:

- Proper sequencing of quotation changes and trades in equity securities are vitally important. If quotation changes or trades are out of sequence, they give misleading signals as to market trends and are in fact virtually useless if not worse than useless.

- The most important reporting requirements concern the precise data to be reported and the time within which the data must be reported. Whether for pre-trade or post-trade data, these regulatory requirements will determine whether the data can be properly sequenced.

- Accurate time stamping of data, indicating the time when a trade was executed or a firm quotation published, is essential for properly sequencing and consolidating the data. Accurate time stamping to the second or better and clocks synchronized to an atomic clock would make it possible for re-distributors to calculate data latency and monitor for time skews that indicate operational problems.

- Where data must be collected from multiple market centers to create a consolidated tape, the terms on which the data are available are critical. Widely disparate pricing, and contracts limiting display and redistribution of data, would pose significant barriers to effective consolidation.

- As already noted, the speed at which data are made available and ready access to those data are essential. It is not clear at this stage that MiFID will provide adequate mandates or incentives to achieve either. Changes in quotations, including corrections, must meet the same standards.

- Different currencies and settlement procedures pose even more fundamental obstacles in that they lead to price differentials. The result is that the price for a security in Market A is not the same as it is in Market B. With respect to settlement in particular, we note that several of the Member States have different settlement rules, changing the economics of trades and virtually eliminating the usefulness of commingled data. The lack of a single currency, a single settlement cycle and uniform clearing and settlement procedures pose formidable obstacles to the effective consolidation of data on a pan-European basis. We understand this issue already is on the Commission's agenda.

Removing these obstacles

In electronic markets, investment decisions are driven by data that are instantaneously available, both (i) pre-trade data (quotations) that investors use to determine what prices are being offered and where to seek the best prices and greatest liquidity, and (ii) post-trade data (completed trades), which alert investors to pricing trends and give them a basis for judging the quality of trade executions they receive. At the same time, the more advanced securities markets continue to migrate toward smart order routing and algorithmic trading, applications which rely on consolidated post-trade data to determine the pattern of orders generated to achieve benchmarks such as VWAP (volume-weighted average price). Indeed, in these markets, post-trade data give investors information that they can use in much the same way as pre-trade data in the sense that data as to one trade can influence — often electronically through the trading software itself — order-handling decisions for subsequent trades in a trading program.

Europe's securities markets must be able to provide timely data if they are to be globally competitive. Under MiFID, reporting market centers will control the speed with which data are reported and the accessibility of the data. Differences in how market centers report and provide access to their data can frustrate effective consolidation of data.

We would suggest that, at a minimum, data reporting be required to be made real time, that is, without any delay at all, in the case of quotation changes. Securities trades should be reported without more than a very small delay, as close to real time as possible, and trade reports that are delayed beyond that should be labeled as such. Under the Lamfalussy process, CESR may be able to address this problem at Level 3 by seeking cooperation among regulators and market participants to reach the minimum reporting standards, including synchronized time stamping of data, necessary to facilitate effective consolidation of the data.

A related consideration is the price of the data. Investment firms seeking to meet their best-execution obligations must have ready access on reasonable terms to executable quotations throughout the trading day and to the market centers posing those quotations. Hence, the value of market data and the fees market centers may charge, both for data and for access, become particularly important. Investors could be disadvantaged unless reasonable limits are set on those fees. Investors also may be adversely effected by the prices dominant data aggregators may charge, thereby limiting access to essential data. We recommend, therefore, that CESR consult with the industry and the Commission concerning pricing parameters for market data and market access.

Perhaps the most important is the need for a composite quotation tape to account for different currencies, different settlement dates and different clearance systems, all of which affect the comparability of quotations and trade data.

We think the MiFID transparency regime should be introduced on a pilot basis to limit possible disruption. CESR may wish to consider and propose to the Commission a pilot program consisting initially of a small sample of liquid shares traded in different market centers. CESR and the Commission could then monitor the MiFID transparency regime and, using the Level 3 process, consider appropriate adjustments before including more liquid shares.

Prioritizing steps needed to remove these obstacles

Working through Level 3, CESR should seek to establish parameters for timely reporting, accessibility and pricing of market data by market participants. CESR also should confer among its members regarding the feasibility of introducing the MiFID transparency regime through a pilot program.

The price of trade data

If there is to be a market-led solution to consolidating trade data, the data made available by market participants must be reasonably priced and available on reasonable terms. Onerous contract terms (e.g., imposing burdensome conditions on the display and dissemination of market data that frustrate consolidation) also will block data consolidation.

CESR's role

We have already indicated possible roles for CESR in addressing the significant obstacles to transparency data publication and consolidation of those data that we have discussed. We do not think establishing a single central utility for gathering and consolidating MiFID data is either necessary or desirable. It is not at all clear, for instance, that all interested parties would be willing to pay for such a facility and valuable time and resources can be squandered pursuing that solution. It seems to us that CESR is best situated to bring together all interested parties to identify these issues, reach agreement on how to resolve them and establish mechanisms for facilitating and monitoring compliance.

CONCLUSION

To summarize, we believe CESR, in consultation with Commission services and industry participants, should consider the following measures to ensure effective transparency and consolidation of market data under MiFID:

1) Identify standards for accurate time stamping of pre- and post-trade data; and

2) Seek to establish the synchronization of the clocks used by market centers so that time stamps will be sufficiently uniform to avoid time skews in data that compromise the integrity of a consolidated data stream.

Under MiFID, the market is expected to take the leading hand in realizing market transparency. As the Lamfalussy process has demonstrated, that will require a kind of partnership between industry and the competent authorities as represented by CESR. We recommend, therefore, that CESR take affirmative steps, particularly at Level 3, to assist industry in realizing the MiFID goal of market transparency. In addition, as noted above, we recommend that CESR consult with the industry and the Commission concerning pricing parameters for market data and market access

One step CESR might wish to consider is to publish on its Web site the names of investment firms that are planning to become Systematic Internalisers or planning to operate MTFs. This would alert market participants to new sources of liquidity so they can determine whether to seek access to those sources. We also think it would be helpful for CESR to formulate and post interpretive guidance regarding the implementation of MiFID in the form of FAQs on its Web site providing a single, authoritative resource for Member State regulators, the industry and market participants.

Respectfully submitted,

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