



**Ministerstvo financí České republiky
Ministry of Finance of the Czech Republic**

Prague, 31 May 2010

Dears,

please find below our responses to questions included in the Consultation paper on the CESR Technical Advice to the European Commission in the context of the MiFID Review – Transaction Reporting. These comments are only an indication of the possible approach by the Ministry of Finance of the Czech Republic and they are not meant as our final official policy position.

Section 2 – Key Terminology on Transaction Reporting

Trading Capacity

Question 1: Do you agree with the above analysis on trading capacity and the proposal to introduce a third trading capacity (riskless principal) into transaction reports?

We agree with the CESR's analysis on trading capacity. We share the view that there is a difference between a situation where the investment firm acts on its own account and on its own behalf, i.e. on the decision of the firm, and a situation where it acts on its own account, but on behalf of a client – i.e. on the order of the client. We also agree with the statement that the nature of these transactions is closer to an agency trade, while they are reported in many countries as principal trades and that this fact makes supervision of these trades difficult, especially when some member states are defining such transactions as two separate transactions while other member states define them as a single transaction.

We agree with the statement that the introduction of a third trading capacity (riskless principal) is the best option to make supervision of these transactions effective and therefore we agree with the proposal to introduce a third trading capacity (riskless principal) into transaction reports.

Client and Counterparties

Question 2: Do you have any comments on the distinction between client and counterparties?

We share the view expressed in the paper.

Section 3 – Collection of the client identifier/meaningful counterparty identifiers

Advantages and disadvantages of collecting client identifiers

Question 3: Do you agree with the above technical analysis?

We agree with CESR's analysis.

Question 4: Do you see any additional advantages in collecting client ID?

We think that the paper outlines all the relevant arguments.

Disadvantages of collecting client identifiers

Question 5: Do you agree with the above technical analysis?

We agree with CESR's analysis.

Question 6: Do you see any additional disadvantages in collecting client ID?

No, we think that CESR's analysis is exhaustive.

Proposal

Question 7: Do you agree with this proposal?

We agree with the proposal to amend MiFID and its Implementing Regulation in order to make the collection of client ID and meaningful identifiers for all counterparties by competent authorities mandatory.

Question 8: Are there any additional arguments that should be considered by CESR?

We have no other comments.

SECTION 4 – Standards for client and counterparty identifiers

Question 9: Do you agree that all counterparties should be identified with a BIC irrespective of whether they are an EEA investment firm or not?

We agree with this proposal.

Question 10: Do you agree to adapt coding rules to the ones available in each country or do you think CESR should pursue a more ambitious (homogeneous) coding rule?

We believe that the most effective option would be to introduce a unique Pan-European coding rule, but we agree with the CESR's point as to the difficulties such a project would face. Should that code exist at some point in the future, we think the identifier should not be based on either of the mentioned codes

(personal identity number, tax payer number, business enterprise organisation number, social security number). We don't think any of these codes is universal enough to be used for this purpose, since all these codes are produced in different format for each member state, some of them don't exist in all member states (e.g. social security number, personal identity number), on the other hand it might lead to duplicities. We believe in that case a completely new code should be introduced, which would be homogenous for all member states and anonymous (not using any data allowing for identification of the subject in question to third persons) so that it would not raise data protection issues and could not be misused.

Question 11: Is there any other available existing code that should be considered?

No, according to our opinion there is no other existing code that could be used.

Question 12: When a BIC code has not been assigned to an entity, what do you think is the appropriate level for identification (unique securities account, investment firm, national or Pan-European)?

As mentioned above, we think the Pan-European level, if achievable in future, would be the best option. In the meantime, we think national level is the most appropriate one.

Question 13: What kind of problems may be faced at each of these levels?

We think that the following problems may be faced at the respective levels:
Pan-European level – administrative costs connected with the introduction and operation of a unique identification code, data protection issues
national level – difficulties arising from the fact that not just one type of code can be used, since all the clients may not have such code
investment firm level– difficulties in aggregation of the data – each investment firm uses specific code, the client can be identified only on the basis of further information provided on request by the investment firm
unique securities account level – unnecessary difficulties arising from the fact, that one person can have more than one account – the point is mainly to identify the person, not the account in respect of which the transaction was proceeded; therefore the data would have to be aggregated to identify all transactions the person in question engaged in (e.g. for the purposes of MAD)

SECTION 5 – Client ID collection when orders are transmitted for execution

Question 14: What are your opinions on the options presented in this section?

We think that introducing a new reporting obligation is not a good option. It might lead either to reporting duplication and cause confusion in the data evaluation by the competent authorities or to additional administrative costs to prevent faults.

We agree with the fact that the investment firms might not be willing to pass on client details. The best solution would be to require the firms to disclose to the

receiving firm the client ID information but at the same time introduce an anonymous client identifier, which would not allow the executing firm to identify the client as such.

SECTION 6 – Transaction reporting by market members not authorised as investment firms

Question 15: Do you agree with CESR's proposal on the extension of reporting obligations? If so, which of the two alternatives would you prefer?

Yes, we agree with CESR's proposal on the extension of reporting obligations. We would prefer the second alternative, that the obligation to report such transactions should be placed on the regulated markets or MTFs that admit these undertakings as members. We agree with CESR that introducing such an obligation to firms exempted from the application of MiFID as a whole would be problematic.