

Circular regarding the EU Markets in Financial Instruments Directive

5th February 2007

On the 27th December 2006, the MFSA brought to the industry's attention a CESR consultation document on **the use of reference data standard codes in transaction reporting**. Two CESR consultation documents in the fields of **Passporting** and **Inducements** were brought to the attention of the industry on the 28th December 2006. Similarly, the aim of this circular is to bring to the attention of MFSA's licence holders another two CESR consultation documents- being consultation documents on the **Best Execution** requirement and **Transaction Reporting**.

[1] **Best Execution** is a the corner stone of the MiFID regulatory architecture where consistency amongst supervisors will be crucial in achieving an integrated pan- European Single Market in Financial Services. The MiFID's best execution requirements establish a new standard aimed at promoting market efficiency and investor protection. These in turn provide a mechanism that requires firms to direct their order flows to execution venues that allow them to obtain the best possible result for their clients' orders on a consistent basis, fostering competition between trading venues whilst at the same time promoting investor confidence.

This consultation paper sets out a number of practical proposals and questions for a common approach with respect to the following issues: [i] Contents of execution policy and arrangements; [ii] disclosure to client; [iii] client consent; [iv] relationship between firms in chains of execution; [v] review and monitoring; [vi] execution quality data. This notwithstanding it should be noted that the paper does not address, at this stage, questions of scope of application of the best execution requirements and all aspects related. This in light of the fact that CESR asked the European Commission for clarification on some of these issues and is currently waiting for further guidance.

[2] The consultation document on **Transaction Reporting** covers guidance as regards to the [i] reporting obligation by branches of investment firms; [ii] further details on what constitutes the execution of a transaction; and [iii] approval of reporting channels.

An area of proposed guidance, which is very relevant for the Maltese industry, relates to transactions in cases where several intermediaries are involved in the execution of a transaction. In this regard, **CESR members have agreed to collect (and exchange when needed) information from the transactions which are conducted by the immediate market facing party and transactions where the investment firm is undertaking the transaction on its own account**. This proposal is in line with current and proposed applicable local transaction reporting requirements.

The MFSA encourages the local industry to participate in this CESR consultation process by considering the questions set out in these consultation documents and sending their responses, by not later than **2nd March 2007 in respect of Transaction Reporting** and by not later than

16th March 2007 in respect of Best Execution. All consultation responses/ comments should be sent via CESR's website (www.cesr.eu) under the section '*Consultation*'. Respondents are also welcome to make any relevant points which they do not think are covered directly by the questions.

Contacts

Should you have any queries regarding the **MiFID**, please do not hesitate to contact:

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