**British Bankers Association (BBA)**
**International Capital Markets Association (ICMA)**
**Association of Private Client Investment Managers & Stockbrokers (APCIMS)**
**International Swaps and Derivatives Association (ISDA)**
**Futures and Options Association (FOA)**
**Securities Industry and Financial Markets Association(SIFMA)**
**London Investment Banking Association (LIBA)**
**Asociación de Mercados Financieros (AMF)**
**Bundesverband der Wertpapierfirmen an den Deutschen Börsen e.V. (BWF)**
**Danish Securities Dealers Association (DSDA)**
**Euribor ACI European Commission Working Group**
**Finnish Association of Securities Dealers (FASD)**
**Icelandic Financial Services Association (IFSA)**
**Norwegian Securities Dealers Association (NSDA)**
**Swedish Securities Dealers Association (SSDA)**

# JOINT RESPONSE TO CESR CONSULTATION PAPER (CP CESR/06-648b) ON USE OF REFERENCE DATA STANDARD CODES IN TRANSACTION REPORTING

We welcome the opportunity to comment on CESR's Public Consultation on the use of Reference Data Standard Codes in Transaction Reporting under MiFID. We start with a number of general comments; we then answer CESR's specific questions, and comment in particular on the codes in Annex 1.

## *General comments*

It is important to consider how CESR's proposed standards for exchanging information between competent authorities will interact with existing standards and mechanisms for reporting transactions to competent authorities.

Financial services firms tend to use classifications defined by data vendors or create a new model using their own bespoke template. For CESR's proposals to integrate well with national reporting mechanisms, they need to be supported by data vendors as well as by firms so that the industry as a whole uses the same standards.. For example, Bloomberg do not currently use ISO10962 or intend to do so. Until a uniform source for the information exists, it would not be possible to guarantee that any given firm would give an instrument the same classification as one of its peers. Although some database vendors market themselves as a uniform source, they only usually cover the vanilla products. There are other products which they do not generally cover, and which may cause problems (such as prefs and equity-linked notes).

For the potential benefits from CESR's proposed set of ISO standards to be realised, an agency would be needed to determine, in cases of doubt, how particular instruments should be classified. However, centralised classification would introduce delays in the market. In the absence of centralised classification, regulators have to rely on individual organisations to correctly assign the category or model themselves. CESR should also consider the legacy issue of how best to obtain agreement on all the existing mismatches.

CESR should be prepared to apply a cascade of codes for the link between national reporting mechanisms and the systems used to exchange transaction reports between competent authorities. Under this approach, if a specific code is not available, firms would use an alternative (nationally recognised code) rather than delaying the transaction report. The national regulator could then backfill with the required CESR code when it becomes available.

CESR should consider the timetable for any proposed changes to transaction reporting. Any change that required consequential changes to firms' IT systems and training of personnel would involve significant costs for firms. There could also be operational risks involved in altering core systems in a short period of time. If extensive changes were required as a result of the outcome of the CESR consultation, the industry might well not have sufficient time to be in compliance by November 2007, given that they will have less than nine months to do so.

As many firms operate on a pan-European basis, it is likely to be most cost-effective for them to build a single transaction reporting system to report to many different national regulators. As a result, if any additional standards are imposed by national regulators, that will increase costs for these firms. National regulators in Member States should take a flexible approach.

We would like to endorse CESR's proportionate approach to transaction reporting standards. It is helpful for the industry to be aware of the standards being used between competent authorities as they are likely to form a quasi standard for the industry. It is equally important that CESR has not prescribed these standards for firms because they could result in significant systems costs. This flexibility is helpful as for many firms it will be preferable to be able to harmonise systems and processes to use these standards over time rather than as a 'big bang' style changeover.

We have the following specific comments on CESR's questions:

***A. Do you think that the standards chosen by CESR are the relevant ones?***

In general, CESR proposes ISO standards that are widely used as international standards and which are likely to be relevant and extensively used, but see our comments under Question D below on each of the proposed specific standards. In particular, the full ISO 10962 CFI code is not widely used: in such cases, it will be important for CESR to be clear that it is using the code solely for the purposes of exchanging transaction reports between CESR members, and that firms are not required to use it in the reports that they make to local regulators.

More generally, the relevance of the standards will depend on the use that CESR proposes to make of them: see our comments on Question C below.

***B. What would be the benefits if these standards were also widely used in reporting by the investment firms to the local CESR Member?***

We see advantages for firms that have to report to more than one competent authority if common codes are used across the EEA. Firms may be in this situation if they are reporting to both home and host regulators or if they are reporting on behalf of third parties (under Article 25.5) who have different competent authorities.

***C. What are the practical implications of the use of these standards for the financial industry?***

CESR's use of widely recognised international standards for exchanging transaction information between its members has the potential to encourage CESR members to move towards consistent standards for transaction reporting requirements, which would assist internationally active firms to streamline their systems for reporting transactions to different competent authorities. However, given that firms need to develop their systems now to be able to comply with MIFID transaction reporting obligations by November 2007, it is important to keep the issue of standards for investment firms' reporting to local CESR members separate from the standards that CESR uses for exchange of transaction reports, in order to avoid disrupting firms' implementation.

Where CESR proposes to use standards for the exchange of transaction reports which are not widely used for transaction reporting, such as the ISO 10962 CFI code, it will be particularly important to insulate the effect by ensuring that the consequence is not to encourage or impose disruptive changes to existing standards on national reporting systems.

***D. Do you have comments on the individual standards?***

See our comments on each of the proposed standards in Annex 1 below.

***Annex 1: CESR's proposed standard codes for the exchange of transaction reporting information between competent authorities.***

**Standard: SWIFT / Bank Identifier Code (BIC) ISO 9362**

*Accuracy of data SWIFT BIC database:* Two factors make it very difficult for participant banks to accurately reference and maintain unique SWIFT codes in their internal systems and almost impossible for all banks to consistently reference the same BIC code for the same entity:

*(i) Maintenance:* The counterparty data held in the SWIFT database is often not actively maintained: e.g.
Allied Provincial Securities Limited is live in SWIFT database but dissolved in 2005
Eden Financial Limited still showing in SWIFT under former name Eden Group Limited

*(ii) Duplication:* Where two or more live SWIFT codes for same address and name, but no branch details are included to help differentiate – are they both valid? If the 'wrong' code was selected would this be considered inaccurate reporting?
e.g.
AASIUS33XXX ABN Amro Securities (USA) Inc - NY
AASIUS3AXXX ABN Amro Securities (USA) Inc – NY
e.g. 2
BOFAUS6SIPB Bank of America NA – San Francisco
BOFAUS6SFCD Bank of America NA – San Francisco
BOFAUS6SGCI Bank of America NA – San Francisco

*Population:* Many of firms' active trading counterparties will not have a BIC code assigned in the SWIFT database - corporates, individuals, newly incorporated financial institutions, joint ventures etc

If no SWIFT (or for example in the UK) FSA SIB code exists then there is no universally accepted unique identifier for counterparties. One firm has outlined that just 1132 of 12165 its UK 'know your customer' counterparties have a SWIFT code assigned.

**Standard: the ISO 8601 Time**

This is a standard that is generally acceptable to the industry. However there are difficulties in reporting to the second. The synchronising of clocks to the second across the industry and across Europe would be an inordinately difficult task. We would propose the option of reporting "00" for seconds were firms do not already report in seconds. Any other approach would bring more cost than benefit.

**Standard: ISIN code ISO 6166**

If CESR accepts only ISINs, firms will not be able to meet the transaction reporting deadline of T+1 for certain transactions, as ISINs are not always available in time. In particular, the code may not be issued quickly enough to cover futures/options and other OTC products reporting. Where the publication of an ISIN is delayed, the UK FSA has indicated that it is acceptable for the transaction to be reported once the ISIN is available, even if this results in reporting outside the required transaction reporting period. This poses operational risk for firms and approved reporting systems alike. A prudent alternative would be to accept substitute security codes in order that firms can meet the transaction reporting deadline of T+1.

It would appear that CESR are going to be reliant on vendors/exchanges to issue and maintain ISIN codes. Whilst this will be relatively straightforward for vanilla equities and bonds there will need to be a substantial buy in from derivatives exchanges. For example, exchange traded Index Futures do not have a standard ISIN Code nor do the various on exchange commodities, for example Gas, Oil, base metal contracts, CDS indices etc.

**Standard: the full ISO 10962 CFI code**

This particular standard has never been adopted by the industry. One of the reasons why the CFI code has not been adopted by the industry is that it is at too high a level of generality to provide useful information about transactions. At the top level, which is all that we understand that certain national competent authorities will require, the only categories recorded are: equities, debt instruments, entitlements (ie rights), options, futures and "others/miscellaneous". The miscellaneous category would include a considerable amount of transaction reporting activity: eg swaps, spread bets, CFDs. Competent authorities will not have the requisite information to understand the type of financial instrument being reported. In addition, if firms were required to adopt the CFI code, this would impose on the industry significant additional costs. Therefore, while

CESR may wish to use this code to exchange information among its members, it is important that it is not imposed for firms' reporting to competent authorities.

**Standard: ISO 3166-1 country codes**

*Turnaround times:* The body that assigns codes is slow to react to changes. For example, in the case of Serbia & Montenegro (formerly code CS) the vote for independence was passed at the start June 2006 but new codes for the two independent countries were only released by ISO in October 2006.

*Internal requirements:* The ISO country standards are generally an accurate reflection of the way firms need to split information by country. The main exception to this is United Arab Emirates which ISO views as a single country but firms split internally into the individual Emirates.

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| XW | Abu Dhabi |
| XV | Ajman |
| XU | Dubai |
| XT | Fujairah |
| XS | Ras al Khaimah |
| XN | Sharjah |