VALTIOVARAINMINISTERIÖ

17.6.2005

SuV:n viite: E 46/2005 vp

Eduskunta
Suuri valiokunta

LUONNOS KOMISSION ASETUKSEKSI RAHOITUSVÄLINEIDEN MARKKINOISTA ANNETUN DIREKTIIVIN 2004/39/EY 25, 56 JA 58 ARTIKLOJEN TÄYTÄNTÖÖNPANOSTA

Valtiovarainministeriö lähettää eduskunnalle perustuslain 97 §:n 1 momentin perusteella eduskunnalle komission edustajan Euroopan arvopaperikomitealle 13 päivänä toukokuuta 2005 jakaman komission luonnosasiakirjan Euroopan parlamentin ja neuvoston direktiivin 2004/39/EY 25, 56 ja 58 artiklojen täytäntöönpanotoimiksi ja luonnoksesta laaditun muistion.

Helsingissä 17 päivänä kesäkuuta 2005

Toinen valtiovarainministeri Ulla-Maj Wideroos

Lainsäädäntöneuvos Seppo Tanninen

LIITTEET: Komission sisämarkkinat –pääosaston Working document ESC/7/2005 – rev2 13/05/05: Draft Commission Document on the methods and arrangements for reporting transactions in financial instruments, the contents of such reports, the exchange of information between competent authorities, and the determination of the most relevant market of a financial instrument in terms of liquidity (saatavana vain englanniksi).

Perusmuistio 17.6.2005

VALTIOVARAINMINISTERIÖ
Seppo Tanninen

EU-PERUSMUISTIO

JULKINEN
17.6.2005

ASIAKOHTA:

EU; Rahoituspalvelut; Rahoitusvälineiden markkinoista annettu direktiivi; Direktiiviä täydentävät säännökset

KOKOUS:

EUTORI-asian nro:

U/E-tunnus:

KÄSITTELYVAIHE JA LUONNE:

Komission sisämarkkinat -pääosaston (*DG Internal Market*) luonnos. Luonnos ei ole vielä komission virallinen ehdotus, jonka antamisesta alkaisi rahoitusvälineiden markkinoista annetun direktiivin (2004/39/EY) 64 artiklassa tarkoitettu kolmen (3) kuukauden määräaika säännöksen hyväksymiselle. Komissio antanee virallisen ehdotuksensa syyskuussa 2005.

Luonnosta on käsitelty kahdessa Euroopan arvopaperikomitean varajäsenten kokouksessa (28.-29.4.2005 ja 26.-27.5.2005).

Komissio on Euroopan arvopaperikomitean kokouksissa ilmoittanut aikomuksestaan antaa lopullinen ehdotus komission asetuksena.

ASIAKIRJAVIITTEET:

Komission sisämarkkinat –pääosaston Working document ESC/7/2005 – rev2 13/05/05: Draft Commission Document on the methods and arrangements for reporting transactions in financial instruments, the contents of such reports, the exchange of information between competent authorities, and the determination of the most relevant market of a financial instrument in terms of liquidity (saatavana vain englanniksi).

EU:N OIKEUDEN MUKAINEN OIKEUSPERUSTA / PÄÄTÖKSENTEKOMENETTELY:

Rahoitusvälineiden markkinoista annetun direktiivin 25, 56 ja 58 artiklat / Neuvoston päätöksen 1999/468/EY 5 ja 7 artiklassa säädetty komiteamenettely ottaen huomioon mainitun säännöksen 8 artiklan säännökset.

KÄSITTELIJÄ(T):

Lainsäädäntöneuvos Seppo Tanninen / RMO, puh. 09 160 33096.

SUOMEN KANTA/OHJE:

Suomi on suhtautunut varauksellisesti luonnoksen sisältöön. Komiteakäsittelyssä pyritään vähentämään ehdotuksen yksityiskohtaisuutta. Samoin pyritään vaikuttamaan siihen, että osa yksityiskohtaisesta asioiden sääntelystä komission direktiiveinä tai asetuksina siirrettäisiin valvontaviranomaisten yhteistyössä tapahtuvaksi joustavammaksi menettelyksi. Komiteakäsittelyssä pyritään vaikuttamaan myös siihen, että vaihtoehtoisista raportointijärjestelmistä valittaisiin kustannustehokkain järjestelmä.

Valtioneuvosto ei ole vielä muodostanut kantaansa asiaan.

PÄÄASIALLINEN SISÄLTÖ:

Asetusluonnoksessa on 10 artiklaa ja kaksi liitettä, yhteensä 13 sivua. Artikla 1 koskee asetusluonnoksen asiasisältöä ja soveltamisalaa. Sen mukaan asetuksessa säädetään:

- niistä tiedoista, jotka on sisällytettävä rahoitusvälineillä tehtyihin kaupparaportteihin, rahoitusvälineiden markkinoista annetun direktiivin 25 artiklan 3. ja 5. kohdan mukaan;
- raporttien siirtoa valvontaviranomaiselle koskevista vaatimuksista;
- vaatimuksista ja menetelmistä, joilla kaupparaportit siirretään valvontaviranomaisten välillä, rahoitusvälineiden markkinoista annetun direktiivin 25, 56 ja 58 artiklan mukaan; ja
- kriteereistä, joilla määritetään rahoitusvälineiden osalta likviditeetiltään merkittävimmät markkinat.

Asetusta sovelletaan samalla tavalla sekä luottolaitoksiin, kun ne tarjoavat yhtä tai useampaa direktiivissä määriteltyä sijoituspalvelua, kuin sijoituspalveluyrityksiin. Artikla 2 sisältää keskeiset asetusluonnoksessa käytetyt määritelmät.

Artikla 3 sisältää säännökset siitä, miten erilaisten rahoitusvälineiden osalta määritellään likviditeetiltään merkittävimmät markkinat (*Determination of the Most Relevant Market in terms of Liquidity*). Määrittely johtuu siitä, että valvontaviranomaisten on huolehdittava, että eräiden rahoitusvälineiden osalta likviditeetiltään merkittävimpien markkinoiden valvontaviranomaiset saavat kyseisiä rahoitusvälineitä koskevat raportit muilta valvontaviranomaisilta. Artiklassa 3 a säädetään valvontaviranomaisen mahdollisuudesta kiistää kerran vuodessa toisen valvontaviranomaisen voimassa oleva määrittely uuden määrittelyn saamiseksi. Artikla 4 sisältää säännökset valvontaviranomaisten velvollisuudesta ylläpitää ja päivittää listaa niistä valvomiensa markkinapaikkojen rahoitusvälineistä, jotka on määritelty likviditeetiltään markkinoiden merkittävimmiksi.

Artikla 5 sisältää säännökset raportoinnin tarkemmasta menettelystä (*Reporting Channels*). Artiklan mukaan raportointikanavien ja raporttien on täytettävä tietyt vaatimukset koskien mm. raporttien muotoa, turvallisuutta, raportoinnin aikataulua, mahdollisuutta korjata virheellisiä raportteja, lähettäjän varmentamista ja varautumista systeemivirheisiin. Artiklassa säädetään myös siitä, että toimivaltaisen viranomaisen on annettava hyväksyntänsä kaikille raportointikanaville, jos ne täyttävät artiklan vaatimukset. Artiklassa 6 säädetään tiedoista, jotka kaupparaporttien tulee sisältää (*Content of the Transaction Report*). Yksityiskohtaiset tiedot on liitteessä A. Artikla sisältää myös tietyin ehdoin jäsenvaltioille mahdollisuuden vaatia kaupparaportteihin sisällytettävän liitettä A enemmän tietoa.

Artiklassa 7 säädetään kauppraraporttien välittämisestä valvontaviranomaisten välillä *(Automatic Exchange of Information in respect of Transaction Report).* Tästä on ehdotuksessa kaksi vaihtoehtoa: vaihtoehto A perustuu rahoitusvälineiden markkinoista annetun direktiivin vaatimien tietojen edelleen lähettämiseen valvontaviranomaisten välillä. Sen mukaan valvontaviranomaisen on lähetettävä rajat ylittävien kauppojen osalta likviditeetiltään merkittävimpien markkinoiden valvontaviranomaisille kyseisiä rahoitusvälineitä koskevat raportit. Vaihtoehto B sisältää ehdotuksen kauppraraporttien keskittämisestä yhteiseen eurooppalaiseen tietokantaan. Keskustietokantaan lähetettäisiin kaikki kauppraraportit, eikä pelkästään rahoitusvälineiden markkinoista annetun direktiivin edellyttämiä raportteja.

Artiklassa 8 säädetään valvontaviranomaisten yhteistyöstä ja tietojenvaihdosta *(Request for Cooperation and Exchange of Information*). Artikla koskee valvontaviranomaisten yhteistyötä muutoinkin kuin kauppraraportoinnissa. Artiklassa säädetään yksityiskohtaisesti valvontaviranomaisten yhteistyöstä ja valvontaviranomaisten välisen tietojenvaihdon menettelystä.

Artiklassa 9 säädetään siirtymäajasta tiettyjen rahoitusvälineiden osalta kauppraraportointiin, jos valvontaviranomaiset eivät ole vaatineet raportointia tähän mennessä. Siirtymäaika voi jatkua korkeintaan vuoteen 2010 asti.

KANSALLINEN KÄSITTELY:

Euroopan Arvopaperikomitean kokousten valmistelusta vastaa valtiovarainministeriön rahoitusmarkkinaosasto. Kantoja on valmisteltu keskusteluin Rahoitustarkastuksen Markkinavalvontaosaston kanssa sekä Rahoitusvälineistä annetun direktiivin implementointia valmistelevassa valtiovarainministeriön työryhmässä. Kantoja on sovitettu yhteen valmistelujaosto 10:n (rahoituspalvelut ja pääomaliikkeet) kirjallisessa menettelyssä 3.6.2005-10.6.2005.

EDUSKUNTAKÄSITTELY:

Tämä muistio ja komission sisämarkkinat –pääosaston asetusluonnos lähetetään E-kirjeellä eduskuntaan (PeL 97 § 1 mom.).

KANSALLINEN LAINSÄÄDÄNTÖ:

Suomen lainsäädäntöön sisältyy säännöksiä sijoituspalveluyritysten kauppraraportoinnista arvopaperimarkkinalain (495/1989) 4 luvun 7 §:ään (Arvopapereita koskevien luovutusten ilmoittaminen).

TALOUDELLISET VAIKUTUKSET:

Ehdotukset tulevat vaikuttamaan sekä kauppraraporttien sisältöä koskeviin nykyisiin vaatimuksiin että niiden viranomaisille toimittamista koskeviin järjestelyihin ja järjestelmiin. Taloudellisesti merkittävin uudistus on kuitenkin valvontaviranomaisten välisen kauppraraporttien lähettämisen sääntely. Ehdotukseen sisältyy ehdotus kauppraraporttien edelleen lähettämisestä toisille viranomaisille tai vaihtoehtoisesti niiden toimittaminen keskustietokantaan. Sekä kauppraraporttien edelleen lähettämisen että keskustietokannan kustannusvaikutukset ovat huomattavat. Päätöstä valittavasta raportointijärjestelmästä ei ole tehty. Epäselvää erityisesti keskustietokannan osalta on se, kuka maksaisi keskitetyn järjestelmän perustamisen ja käyttökustannukset ja miten kustannukset jaettaisiin. Selvitykset kustannusvaikutuksista valmistunevat kesän aikana.

AVOIMET KYSYMYKSET JA MUIDEN JÄSENVALTIOIDEN/EU-TOIMIELINTEN KANNAT NIIHIN:

Muiden jäsenvaltioiden kannat eivät ole vielä lopullisesti tiedossa.

MUUT MAHDOLLISET ASIAAN VAIKUTTAVAT TEKIJÄT:

Working document ESC/7/2005 –rev2 13/05/05

Draft Commission Document on the methods and arrangements for reporting transactions in financial instruments, the contents of such reports, the exchange of information between competent authorities, and the determination of the most relevant market of a financial instrument in terms of liquidity

Cooperation and enforcement

Draft Commission Document on the methods and arrangements for reporting transactions in financial instruments, the contents of such reports, the exchange of information between competent authorities, and the determination of the most relevant market of a financial instrument in terms of liquidity

Article 1

Subject Matter and Scope

This Regulation lays down:

- the information to be included in reports of transactions in financial instruments provided in accordance with paragraphs (3) and (5) of Article 25 of Directive 2004/39/EC;
- requirements relating to arrangements for transmitting such reports to the competent authority;
- requirements and procedures relating to the exchange of information contained in such transaction reports between competent authorities, in accordance with Articles 25, 56 and 58 of Directive 2004/39/EC;
- the criteria for determining the most relevant market of a financial instrument in terms of liquidity.

~~Articles 5 and 6 of~~ This Regulation shall apply to credit institutions authorised under Directive 2000/12/EC, when providing one or more investment services or performing investment activities as defined by Article 4(1)(2) of Directive 2004/39/EC, in the same way as ~~they~~ **it** appl~~y~~**ies** to investment firms.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those provided in Directive 2004/39/EC:

(1) "community issuer" means an issuer which has its registered office in a Member State;

(2) "the Directive" means Directive 2004/39/EC on markets in financial instruments;

(3) "issuer" means an entity which issues transferable securities;

(4) "**execution** ~~trading~~ venue" means the venue where a transaction takes place, and will be a regulated market, a multilateral trading facility, or an investment firm trading on its own account or on behalf of a client;

(5) "transaction" means an agreement by which ownership of, or rights in, a financial instrument are transferred for a price or other valuable consideration, or an agreement by which a financial instrument is created.

[The following are not to be considered as transactions:

- Securities Loans

- Repurchase agreements and reverse repurchase agreements

- Exercise of Options

- Conversion of convertibles

- Exercise of Subscription Rights

- Primary market transactions (excluding derivatives)][1].

(6) "turnover", in relation to a financial instrument, means the number of units of that instrument exchanged between buyers and sellers, in a defined period of time, pursuant to a transaction taking place on a **execution** ~~trading~~ venue, multiplied by the **single price of each unit** total ~~value of each transaction~~

Article 3

Determination of the Most Relevant Market in terms of Liquidity

1. For the purposes of article 25(3) of the Directive, the most relevant market for a financial instrument in terms of liquidity shall be deemed to be the market of the Member State determined as follows:

   a) in the case of a share **or other equivalent transferable securities included under article 4 (1).18.a) of the Directive** or of a unit in a collective investment undertaking, the Member State where the share or the unit was first admitted to trading on a regulated market;
   b) in the case of a bond or other **equivalent transferable securities included under article 4 (1).18.b) of the Directive** ~~form of securitised debt~~ or a money market instrument, the Member State where the registered office of the issuer is situated;
   c) in the case of a bond or other **equivalent transferable securities included under article 4 (1).18.b) of the Directive** ~~form of securitised debt~~ or a money market instrument which, in either case, is issued by an issuer incorporated in a third country, the Member State where that security was first admitted to trading on a regulated market;
   d) in the case of a bond or other **equivalent transferable securities included under article 4 (1).18.b) of the Directive** ~~form of securitised debt~~ or a money market instrument which, in either case, is issued by ~~a~~ either a community issuer or an issuer incorporated in a third country which, in either case, is ~~not~~ a subsidiary **, as defined in Directive 83/349/EEC** of an entity which has its registered office in a Member State, the Member State where the registered office of the parent entity is situated;
   e) in the case of a derivative or a financial contract for differences or a transferable security included under article 4 (1).18.c) of the Directive:

   – where the underlying security is a share **or other equivalent transferable securities included under article 4 (1).18.a) of the Directive** admitted to trading on a regulated market, the Member State which is deemed to be the most relevant market in terms of liquidity for the underlying share, in accordance with (a);
   – where the underlying security is a bond or other **equivalent transferable securities included under article 4 (1).18.b) of the Directive** ~~form of securitised debt~~ admitted to trading on a regulated market, the Member State which is deemed to be the most relevant market in terms of liquidity for that underlying debt security, in accordance with (b), (c) or (d);
   – where the underlying is an index composed of shares all of which are traded on a particular regulated market, the Member State where that regulated market is situated;

[1] Member States should indicate which types of transactions in this list they wish to exclude from the definition. The Commission preference would be not to exclude Securities Loans and Repos.

f) in the case of a derivative or a transferable security included under article 4 (1).18.c) of the Directive not covered by (e) above, the Member State where the regulated market that has admitted to trading the derivative is located.

2. Where a share, or bond or other **equivalent transferable securities included under article 4 (1).18.c) of the Directive** ~~or other form of securitised debt~~ or a security covered by paragraph 1(f) or, in the case of a derivative included under paragraph 1(e), the underlying share, or bond or other form of securitised debt, was first admitted to trading on more than one regulated market simultaneously (with the result that paragraph (1)(a), **(c),** (e) or (f) would deem more than one market to be the most relevant market in terms of liquidity) the single most relevant market in terms of liquidity for that financial instrument shall be determined as follows:

a) the competent authorities of each market which would be deemed to be the most relevant market in terms of liquidity for that instrument, in accordance with paragraph (1), shall calculate the turnover for that instrument in their respective market for year 2006 provided that the instrument was admitted to trading at the beginning of that year.

The most relevant market in terms of liquidity for that instrument shall be that market where the calculation made in accordance with this paragraph indicates that the turnover of that instrument is highest.

b) In a case where the turnover for the relevant financial instrument cannot be calculated in accordance with (a) by reason of insufficient or non existent data and the issuer has its registered office in a Member State, the most relevant market in terms of liquidity shall be the market of the Member State where the registered office of the issuer is situated.

c) In a case where the turnover for the relevant financial instrument cannot be calculated in accordance with (a) by reason of insufficient or non existent data and the issuer does not have its registered office in a Member State, the competent authorities of each market which would be deemed to be the most relevant market in terms of liquidity for that instrument in accordance with paragraph (1), shall calculate the turnover for the instruments of the same class (meaning shares, bonds or other forms of securities debt, or derivatives) in their respective markets for the preceding calendar year. The most relevant market in terms of liquidity for that instrument shall be that market where these calculations indicate that the turnover of the relevant instrument class is the highest.

Article 3 a)

Alternative determination of most liquid market by reference to turnover

1. Once a year, a competent authority may contest the determination, made in accordance with Article 3, of the most relevant market in terms of liquidity for a particular financial instrument in the following way –

(a) In January, it shall notify the competent authority of the Member State which is deemed to be the most relevant market in terms of liquidity for that instrument in accordance with Article 3 that it intends to contest the determination; and

(b) within four weeks after the notification is made **both** ~~the notified~~ authorities shall calculate the turnover for that instrument in the respective markets over the period of the previous calendar year.

If the results of that calculation indicate that the turnover is higher in the market of the contesting competent authority, that market shall be the most relevant market in terms of liquidity for that financial instrument.

2. Without prejudice to article 226 of the Treaty a competent authority whose request is not acted upon within a reasonable time or who does not agree with the calculation made by the notified authority may bring that matter to the attention of the Committee of European Securities Regulators, where discussion will take place in order to reach a rapid and effective solution in accordance with the preceding paragraph.

Article 4

List of Financial Instruments

The competent authority of a market which is treated as the most relevant market in terms of liquidity for one or more financial instruments, in accordance with the provisions of Article 3, shall establish and maintain an updated list of those financial instruments. This list shall be made available to the competent authorities designated as contact points in accordance with article 56 the Directive.

Article 5

Reporting Channels

1. In order to comply with the obligation in Article 25(5) of the Directive, the reports of transactions in financial instruments and the methods by which they are made shall satisfy the following conditions:
   a) reports shall be made in an electronic form except under exceptional circumstances, when they may be made in another form;
   b) the method of making the report shall ensure the safety and confidentiality of the data reported;
   c) the report shall be made to the competent authority within the timeframe established in Article 25(3) of the Directive;
   d) the method of making the report shall incorporate mechanisms for identifying and correcting errors in a transaction report;
   e) the method of making the report shall incorporate mechanisms for authenticating the source of the transaction report;
   f) the method of making the report shall include appropriate precautionary measures to enable the timely resumption of reporting in the case of system failure;
   g) the method of making the report shall be capable of reporting the information required under Article 6 of this Regulation in the format required by the competent authority and in the form and within the timeframe required by (a) and (c) above.
2. A trade-matching or reporting system shall be approved by the competent authority for the purposes of Article 25(5) of the Directive if:
   a) the arrangements for reporting transactions established by that system satisfy, the conditions set out in paragraph (1) above; and
   b) the arrangements are operated by an entity which is subject to monitoring by a competent authority in respect of continuing compliance with the conditions set out in paragraph (1).

Article 6

Content of the Transaction Report

1. Reports of transactions made in accordance with Article 25(3) and (5) of the Directive shall contain the information specified in Part A of the Annex which is relevant to the type of financial instrument in question and which **the competent**

authority declares is not already in **its** ~~the~~ possession ~~of the competent authority~~ or is not available to it by other means.

2. For the purposes of the identification of a Counterparty, as specified in the Annex, each competent authority shall make available ~~to the other competent authorities~~ a list of identification codes of the regulated markets, multilateral trading facilities, and entities which act as their central counterparties for which (in each case) it is the home Member State competent authority, and those codes shall be used to identify a counterparty to the transaction which is a regulated market, multilateral trading facility or other central counterparty.

3. Member States may require reports made, in accordance with Article 25(3) and (5) of the Directive to contain information, related to the transactions in question, which is additional to that specified in Part A of the Annex provided that:
   – the financial instrument which is the subject of the report has characteristics which are specific to an instrument of that kind and which are not covered by the information items specified in Part A of the Annex ; or
   – trading methods which are specific to the **execution** ~~trading~~ venue where the transaction took place involve features which are not covered by the information items specified in Part I of the Annex; and (in either case)
   – that additional information is necessary to enable the competent authority to carry out its functions to monitor the activities of investment firms to ensure that they act honestly, fairly and professionally and in a manner which promotes the integrity of the market, as required by Article 25(1) of the Directive.

   In addition to the power to require additional information in paragraph (3), Member States may also require a report of a transaction made in accordance with Article 25(3) and (5) of the Directive to identify the clients on whose behalf the investment firm has executed that transaction.

4. ~~Investment Firms are not required to report a transaction that is cancelled before the expiry of the deadline for reporting that transaction under article 25(3) of the directive~~.

Article 7a

Automatic Exchange of Information in respect of Transaction Reports

1. Arrangements established by competent authorities in accordance with Article 25(3) **of the Directive** shall ensure that the competent authority of the most relevant market in terms of liquidity for the financial instrument which is the subject of the report receives:
   - all the information specified in Part A of the Annex, as adapted by Part B; and
   - an identification of the competent authority providing the information,

   in a harmonised format agreed by all the competent authorities designated in accordance with Article 48 of the Directive.

2. A competent authority of the host Member State of an investment firm which is required by Article 25(6) to transmit information to the competent authority of the home member state of that firm shall ensure that the latter authority receives:
   - all the information specified in Part A of the Annex, as adapted by Part B; and
   - an identification of the competent authority providing the information,

   in a harmonised format agreed by all the competent authorities designated in accordance with Article 48 of the Directive.

3. Competent authorities must transmit the information specified in paragraph 1 or paragraph 2 as soon as possible and no later than the close of the working day following the day on which the Competent Authority has received the information.

OR

Article 7b[2]

Automatic Exchange of Information in respect of Transaction Reports

1. In order to discharge its duties under Articles 25 and 58 of the Directive, a competent authority shall make available

   - all the information received under article 25 (3) as specified in Part A of the Annex, as adapted by Part B; and
   - an identification of the competent authority providing the information,

   to a Common Database established by the Committee of European Securities Regulators.[3]
2. Competent authorities shall make available the information specified in paragraph 1 as soon as possible and no later than the close of the working day following the day on which the Competent Authority has received the information.
3. Each competent authority shall have access**, in accordance with the conditions in respect of professional secrecy and confidentiality established in articles 54 and 58 (3) of the Directive,** to all the information made available to the Common Database in accordance with paragraph 1 **that is necessary for the purpose of complying with its obligations under article 25 (1) of the Directive**.

Article 8

Request for cooperation and exchange of information

[When, on the basis of an obligation established under Article 56 or 58 of the Directive, a competent authority is requested by another competent authority to supply or exchange information the following conditions shall be satisfied:

a) a request shall be made in writing. In a case of urgency, a request may be transmitted orally provided that it is confirmed in writing;
b) the request shall contain sufficient detail to enable the competent authority which received the request to provide the information requested;
c) the contact point of the competent authority which received the request shall acknowledge the receipt of the request as soon as practicable;

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[2] Commission services have a clear political and technical preference for option 7b not only because it considers that it is simpler and more effective, but, above all, because it is seen as a more adequate tool to deal with increasingly integrated capital markets.

At this point, there is no evidence suggesting that the setting up of the Common Database would present more legal and practical difficulties or that it would be more costly than the technical and institutional arrangements related to option 7a. Commission services, along with CESR, the ECB and industry, will continue to evaluate and assess these matters.

If this option were to be followed the text of this measure could be shortened and simplified: Article 2 (2), Article 3 paragraph 1 b) to f) and paragraph 2 as well as Articles 3a and 7a could be deleted.

[3] Established by Commission Decision of 6 June 2001 establishing the Committee of European Securities Regulators (2002/527/EC), as amended by Commission Decision of 5 November 2003 (7/2004/EC).

d) where the information requested is in the possession or under the control of the competent authority which received the request, the contact point of that authority must transmit the requested information without delay to the contact point of the competent authority which made the request.

If the competent authority which received the request does not possess or control the information which has been requested, it must immediately take the necessary steps to obtain that information and to comply fully with the request. The contact point of the competent authority which received the request must also inform the contact point of the competent authority which made the request about the reasons for not sending immediately the information requested.]

Article 9

Competent authorities that do not currently impose on investment firms the obligation to report on [Securities Loans], [Repurchase agreements], [Exercise of Options], [Conversion of convertibles], [Exercise of Subscription Rights], [Primary market transactions (excluding derivatives)] shall be allowed to continue with their current arrangements until [] 2010 at the latest[4].

Article 10

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply from 30th April 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

[4] The content of this article will depend on the decision taken in article 2.

ANNEX

PART A

Field Identifier	Description
Reporting Firm Identification	A unique code to identify the firm which executed the transaction.
Trading Day	The day on which the transaction was executed.
Trading Time	The time at which the transaction was executed, reported in the local time of the competent authority to which the transaction will be reported and the time zone in which the transaction was executed expressed as GMT +/- hours.
Buy/Sell Indicator	Defines whether the transaction was a buy or sell from the perspective of the reporting investment firm.
Trading Capacity	Identifies whether the firm executed the transaction on its own account (either on a principal basis or acting as an agent **on behalf of a client**) or for the account **and on behalf** of a client.
Instrument Identification	This should consist in: - a unique code, to be ~~determined~~ **decided** by the competent authority to which the report is made identifying the financial instrument which is the subject of the transaction; - if the financial instrument in question does not have a unique identification code, the report must include the name of the instrument or, in the case of a derivative contract, the characteristics of the contract.
Instrument Security Code Type	The code type used to report the security code of the instrument
Underlying Instrument Identification	Instrument identification applicable to the security that is the underlying asset in a derivative contract as well as the transferable security included under article article 4, (1), 18.c) of the Directive.
Underlying Instrument Identification Code type	The code type used to report the underlying security code of the instrument
Instrument Type	The classification of the financial instrument that is the subject of the transaction. The description must at least indicate whether the instrument belongs to one of the following categories: Shares Bonds or other forms of securitized debt Money Market Instruments Units in collective investment undertakings Derivatives which underlying is a share Derivatives which underlying is a bond or other forms of securitized debt Derivatives which underlying is a commodity Derivatives which underlying is an index Derivatives which underlying is an interest rate Others
Maturity Date	The maturity date of a bond or other form of securitized debt, or the exercise date / maturity date of a derivative contract.

Derivative Type	Specification whether a derivative is an option, future, swap, forward rate agreement or any other derivative contract.
Put/Call	Specification whether an option or any other financial instrument is a put or a call.
Strike Price	The strike price of an option or other financial instrument.
Price Multiplier	The number of units of the financial instrument in question which are contained in a trading lot; for example, the number of derivatives or securities represented by one contract.
Price	The price per security or derivative contract excluding commission and accrued interest. In the case of a debt instrument, the price may be expressed either in terms of currency or as a percentage.
Price notation	The currency in which the price is expressed. If, in the case of a bond or other form of securitized debt, the price is expressed as a percentage, that percentage shall be included.
Quantity	The number of units of the financial instruments, the nominal value of bonds, or the number of derivative contracts included in the transaction.
Quantity Notation	An indication whether the quantity is the number of units of financial instruments, the nominal value of bonds or the number of derivative contracts.
Counterparty	Identification of the counterparty to the transaction. That identification shall consist in: - where the counterparty is an investment firm, a unique code for that firm, to be determined by the competent authority to which the report is made; - where the counterparty is a regulated market or MTF or an entity acting as its central counterparty, the unique harmonized identification code for that market, MTF or entity acting as central counterparty, as specified in the list published by the competent authority of the home Member State of that entity in accordance with Article 6(2) of this Regulation. - where the counterparty is not an investment firm, a regulated market, an MTF or an entity acting as central counterparty, it should be identified as "customer/client" of the investment firm which executed the transaction.
execution ~~trading~~ Venue	Identification of the **execution** ~~trading~~ venue where the transaction was executed. That identification shall consist in: - where the **execution** ~~trading~~ venue is a regulated market or MTF, its unique harmonized identification code; - where the transaction was executed by an investment firm, or credit institution, acting as a systematic internaliser, it shall be identified as "systematic internaliser". Where the transaction was not executed in any of the **execution** ~~trading~~ venues described above, this field shall contain an indication that the transaction was executed "OTC".
Transaction Reference Number	A unique identification number for the transaction provided by the investment firm or a third party reporting on its behalf.
Cancellation Flag	An indication as to whether the transaction was cancelled.

PART B

Field Identifier	Description
Reporting Firm Identification	In addition to the information specified in Part A, the full name of the reporting firm.
Instrument Identification	The unique code, agreed between all the competent authorities, applicable to the financial instrument in question shall be used.
Counterparty	Where the counterparty is an investment firm, instead of the information specified in Part A, the full name of the investment firm shall be included.
execution ~~trading~~ Venue	Where the **execution** ~~trading~~ venue is a systematic internaliser, instead of the information specified in Part A, the full name of that systematic internaliser shall be included.
Trading Time	The time included in Part A should be expressed in GMT