



**Financial Services
Commission**

Guidance Note
Transaction Reporting

Markets in Financial Instruments Directive (MiFID)

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Table of Contents

1.	Introduction.....	3
2.	What is transaction reporting	3
2.1.	Purpose	4
3.	Which Competent Authority to report to	4
4.	Who needs to report.....	5
5.	Reporting to the FSC.....	6
5.1.	Financial Instruments.....	6
6.	Report content	7
6.1.	List of fields	8
6.2.	Further details	12
6.3.	Codes	12
7.	Movement of information between Competent Authorities.....	12
8.	Approval of trade matching and reporting systems.....	13
9.	Record Keeping	13
10.	Relevant Markets.....	14
10.1.1.	Shares, transferable security or unit in a collective investment undertaking	14
10.1.2.	Bonds, transferable security or money market instrument.....	14
10.1.3.	Derivative contract or financial contract for differences or transferable security	14
10.1.4.	Other cases.....	15
10.1.5.	Financial instruments admitted to trading on more than one regulated market simultaneously	15
10.1.6.	Regulated markets with different home Member States.....	15
10.1.7.	Where the turnover of the instrument is highest.....	15
10.2.	When a relevant market can change	16

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1. Introduction

The Markets in Financial Instruments Directive (MiFID) came into effect on 01 November 2007, when it replaced the Investment Services Directive (ISD). MiFID has been implemented in Gibraltar via the Financial Services (Markets in Financial Instruments) Act 2006 and the Financial Services (Markets in Financial Instruments) Regulations 2007 (“the Regulations”)¹.

The aim of this Guidance Note is to supplement the legislation in regard to Transaction Reporting.

2. What is transaction reporting

The MiFID transaction reporting regime is based on the reporting of executed transactions² to the relevant competent authority. Hence firms which execute transactions in any financial instruments admitted to trading on a regulated market are required to report details of such transactions to the competent authority as quickly as possible, and no later than the close of business the following working day. This obligation also applies whether or not such transactions were carried out on a regulated market.

The reports can be made either by the firm itself, a third party acting on its behalf, or by a trade matching or reporting system approved by the competent authority or by the regulated market or MTF (Multi-lateral Trading Facility) through whose systems the transaction was completed.

In cases where transactions are reported directly to the competent authority by a regulated market, a MTF, or a trade-matching or reporting system approved by the competent authority, the obligation on the firm to report details of transaction may be waived.

In circumstances where a number of entities are involved in the transaction chain it will be necessary to the separate execution of a transaction from the reception and transmission of orders. This is the case as it is not a requirement to report information on individual orders regarding financial instruments admitted to trading on regulated markets.

In regard to the treatment of transaction chains, the FSC will apply the interim solution proposed by the Committee of European Securities Regulators (CESR) members, outlined below, to enhance convergence on transaction reporting obligations and to clarify situations where a firm may be said to be executing transactions as opposed to simply receiving and transmitting orders. Since this is an interim solution such may change in the near future, as CESR intends to reassess the situation after a year’s experience of full operation of the MiFID transaction reporting regime. Hence in the meantime reports will cover the following:

- Information relating to transactions conducted by the firm transacting directly with an execution venue (immediate market facing firm);

¹ Can be accessed via <http://www.gibraltarlaws.gov.gi/articles/2007s120.pdf>

² For the purpose of this Guidance Note a transaction is interpreted as the purchase and sale of a financial instrument and excludes specifically securities financing transactions; exercise of options or of covered warrants as well as primary market transactions.

- Information relating to transactions not covered above but where the firm is undertaking the transaction on its own accounts (either on or off market);
- Information which is necessary to identify the ultimate client on whose behalf the transaction is undertaken or that information which is necessary to establish the identity of the firm which is dealing with the ultimate client where the competent authority is not already in possession of such information or where it could not obtain such information in a sufficiently timely manner. This information, when available, will be provided to other competent authorities only if it is requested.

Under MiFID the transaction reporting provisions apply not only to shares, as was the case previously, but to all financial instruments admitted to trading on a regulated market (i.e. including bonds, derivatives, etc). Therefore details of **all** transactions executed in financial instruments admitted to trading on a regulated market need to be reported (as well as those transactions that were not carried out on a regulated market).

2.1. Purpose

The purpose of transaction reporting is to enable competent authorities to monitor the activities of firms that execute trades to ensure that firms act honestly, fairly and professionally and in a manner which promotes the integrity of the market.

To facilitate the supervision by competent authorities, transaction reporting data is needed to detect and pursue suspected instances of financial crime, including market abuse, and maintain investor protection by obtaining an adequate picture of transactions that have been conducted in each Member State's market.

3. Which Competent Authority to report to

Under MiFID, transaction reports are no longer only made to the home country competent authority of the firm concerned.

The parent entity of the firm is required to continue to report its transactions to its home country authority however branches are now required to report transactions that are executed in the course of "the services provided by the branch within the territory" to their local regulator (i.e. host country authority).

The competent authority of the Member State in which the branch is located assumes responsibility for ensuring that the services provided by the branch within its territory comply with the relevant MiFID obligations therefore all transaction executed by branches within the territory must be reported to the host Member State competent authority. Transactions executed by the branch **outside** the territory of the host Member State would have to be reported to its home country authority under the home Member State's reporting requirements.

The competent authorities of the home Member States will be forwarded all transaction reports received by the competent authorities of the host Member States from branches, unless the Home Member State decides it does not want to receive this information. Hence, home state authorities will have access to all information about transactions carried out by branches of entities under their supervision.



A situation where reports by branches would only be channelled to the "home" authority of the firm is not possible.

However from a practical point of view, it is recognised that it would be burdensome for branches of firms to be obliged to report their transactions to two competent authorities, depending on where the transaction is executed. The FSC will adopt the proposal offered by CESR that all transactions executed by branches be reported to the host Member State competent authority of the firm, if the firm elects to do so. In these cases transaction reports should follow the rules of the competent authority to which the report is made. However if a firm chooses to use two reporting channels the FSC, where it is classed as the host competent authority, will not challenge the firm's choice.

Firms should note that practices may differ from country to country due to different supervisory techniques, in relation to different structures and sizes of the markets. For example information concerning the identity of the originator of the order may be collected as part of the transaction report or it may be acquired by other means. A firm therefore reporting to another authority, other than the FSC, must take into account and familiarise itself with that Member State's practices.

4. Who needs to report

A category 2 or 3 firm is required to report details of each reportable transaction to which it is a party unless the transaction is carried out in a regulated market and the firm is satisfied that a report will be made to the authorities responsible for regulating that market. Additionally if the firm arranges for another person to report the transaction as agent on its behalf, and is confident that such reports are being made to the relevant competent authority then the firm does not need to report details of each transaction to the FSC. In such cases the firm should ensure that such an arrangement is appropriately documented.

Likewise portfolio managers who execute trades through a broker operating outside of the EU, who has to comply with alternative transaction reporting requirements, will not be required to report such trades to the FSC, thus avoiding duplicate reports being made. For example where such trades are executed by a US broker who is obliged to comply with alternative reporting requirements imposed by the Securities and Exchange Commission and this has been verified, then as long as such arrangement has been duly notified to the FSC, transaction reports will not be required.

The above exemptions do not apply to firms authorised as a category 1 firm therefore such firms are required to report all transactions.

Firms will be required to implement the necessary systems and controls to ensure that the relevant transaction reports are made. The FSC will expect firms to have implemented the relevant measures no later than 1 July 2008. Where a firm envisages any problem with implementing such, this should be communicated to the FSC immediately, and each situation will be assessed on a case-by-case basis.

5. Reporting to the FSC

Firms do not have to establish new or enhanced individual reporting mechanisms but can, if they wish, use trade matching or reporting mechanisms to submit the data to the competent authorities. However the FSC will, unless otherwise notified, expect to receive transaction reports, containing the information specified in Section 6.1, from firms as they have been previously reported i.e. submitted in the format of a CSV files and sent to trs@fsc.gi using Secure E-mail (S/MIME). If the firm does not have its own Public Key Infrastructure then it may wish to acquire a Digital ID, from a commercial Certificate Authority, such as Verisign or Thawte. If confidentiality is not an issue the FSC will accept the reports using unencrypted e-mail.

The CSV template used for reporting transaction under MiFID can be obtained from the FSC's website at <http://www.fsc.gi>. Firms should ensure that this template is used in the exact layout in which it is presented i.e. no changes are to be made to the title headings. If changes are made to this format the firm will be required to re-submit the report.

The transaction reporting fee continues to be applicable and stands at 3p per transaction. The FSC retain the right to amend the fee and firms will be notified according.

MiFID requires that reports of transactions in financial instruments are made in an electronic form, except under exceptional circumstances when they may be made in a medium which allows for the storing of the information in a way accessible for future reference by the competent authorities (other than an electronic form), and the methods by which those reports are made shall satisfy the following conditions:

- They ensure the security and confidentiality of the data reported;
- They incorporate mechanisms for identifying and correcting errors in a transaction report;
- They incorporate mechanisms for authenticating the source of the transaction report;
- They include appropriate precautionary measures to enable the timely resumption of reporting in the case of system failure;
- They are capable of reporting the information required under Section 13 of Schedule 1 to the Regulations³ in the format required by the competent authority and in accordance with this paragraph, within the time limits set out in Section 25(4) of the Financial Services (Markets in Financial Instruments) Act 2006.

5.1. Financial Instruments

Besides requiring the transaction reports from firms, the FSC will also need information from regulated markets, for which it is the home competent authority, in regard to financial instruments.

Each regulated market must submit identifying reference data on **each** financial instrument admitted to trading in an electronic and standardised format to its **home** competent authority. Such information must be submitted before trading commences in that particular instrument.

³ Can be accessed via <http://www.gibraltarlaws.gov.gi/articles/2007s120.pdf>

Where information is received by the FSC from the regulated markets, it will ensure that this information is then transmitted to the **relevant** competent authority of the financial instrument concerned.

Inversely where the FSC receives information from other competent authorities, i.e. in instances where the FSC is the competent authority for one or more financial instrument, it will establish and maintain an updated list of those financial instruments.

The reference data must be updated whenever there are changes to the data with respect to an instrument. However these requirements may be waived if the relevant competent authority for that financial instrument obtains the relevant reference data by other means.

Section 10 defines the relevant markets for specific types of financial instruments.

6. Report content

The transaction reports must contain specific information which is relevant to the type of financial instrument in question and which the competent authority declares is not already in its possession or is not available to it by other means.

Further information related to the transactions in question, other than that specified in Section 6.1, may be required. This would be the case in circumstances where that information is necessary to enable the competent authority to monitor the activities of investment firms to ensure that they act honestly, fairly and professionally and in a manner that promotes the integrity of the market, and provided that one of the following criteria is met:

- 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 6.1;
- Trading methods which are specific to the trading venue where the transaction took place involve features which are not covered by the information items specified in 6.1.

A firm may also be required to provide in a report of a transaction to identify the clients on whose behalf the investment firm has executed that transaction. Furthermore the competent authority may request further details in regard to the reporting firm identification, instrument identification or counterparty. These fields are set out in Section 6.2.

If a firm is required to supply further information, the FSC will liaise directly with the firm.

Where relevant, the content requirements concerning confirmation notices to retail clients (as detailed in Section 2.9.1 of the Client Reporting Guidance Note) should be provided in accordance with the contents requirements for transaction reports to the competent authority. This is intended to assist the firm in using the same systems for reporting to clients and to the competent authority.

Section 6.1 lists the required reporting fields when completing a transaction report to the FSC, whereas Section 6.2 provides the fields that the FSC **may** request firms to provide further information on. The majority of the fields will be familiar to those firms who have previously reported transactions to the FSC. The order of information required in the report has been maintained where

possible and for ease of reference new fields required under MiFID are marked with an asterisk. All fields are mandatory unless otherwise stated.

Firms should familiarise themselves with the CESR MiFID database which provides the relevant codes for, Systematic Internalisers, Multilateral Trading Facilities, Regulated Markets and Central Counterparties.

The database can be accessed from the following link:
<http://mifiddatabase.cesr.eu/>

6.1. List of fields

1. Reporting firm identification⁴

A unique code to identify the firm which executed the transaction – this should contain the FSC number of the firm making the report. The FSC number is a character text field and will be validated against the FSC's list of authorised firms.

2. Instrument identification

This shall consist of:

- a unique code, to identify the financial instrument which is the subject of the transaction. An ISO 6166 ISIN should be used where available; or
- Alternative Instrument Identifier (All). This is defined by CESR as containing the following elements:
 - Exchange Code – Four character ISO 10383 MIC code of the regulated market that admits the derivative to trading.
 - Exchange Product Code – Code maintained by the derivative exchanges. It is between 1 and 12 characters long and is uniquely associated with a particular underlying instrument and settlement type, and other characteristics of the contract.
 - Derivative Type – Single character field identifying whether the instrument is an option or a future.
 - Put/Call Identifier – Single character field identifying whether the derivative is a Put or a Call Option.
 - Expiry/Delivery/Prompt Date – Exercise date/maturity date of a derivative contract. ISO 8601 YYYY-MM-DD standard.
 - Strike Price – The strike price of an option or other financial instrument. There is no strike price for futures.
- 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. - Where an ISIN is not the industry method of identification, the code assigned to the instrument by that market can be inputted.

⁴ Firms should note that field names in the transaction reporting template, even though they are presented in the same order, may vary slightly from the headings used in this Guidance Note.



3. Instrument code type*

The code type used to report the instrument which is the subject of the transaction. For example an ISIN or local market code used. Codes to be used:

I - ISIN code; or

A – Alternative Instrument Identifier; or

O - Other code used.

4. Instrument type*

The harmonised 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 top level categories as provided by a uniform internationally accepted standard for financial instrument classification. Codes to be used are:

A - Equity; or

B - Bond/Fixed interest; or

I - Index or Basket; or

F - Future; or

O - Option; or

X - Other

5. Cancellation flag (optional)

An indication as to whether the transaction was cancelled. This field is set with the default of "False". This field can be used to either cancel a trade or to correct a previously submitted transaction report that has incorrect data. For cancelled trades all the fields, apart from the Cancel Indicator, should be the same as the original trade report.

To correct a previously submitted transaction report that was in error, the firm should send a copy of the original transaction report with the cancel indicator set to "true". The firm should then transmit the correct transaction report. The original is cancelled and resubmitted trades can be transmitted in the same file if required.

6. Transaction reference number

A unique identification number for the transaction provided by the investment firm or a third party reporting on its behalf. This should be a unique reference, internal to the firm making the report that will enable the firm to provide the FSC with more information about the trade should it be required. The format and content of the reference is at the discretion of the firm making the transaction report, subject to it being no more than 32 alphanumeric characters.

7. Counterparty

Identification of the counterparty to the transaction. That identification shall consist of:

- where the counterparty is an investment firm regulated by the FSC, then the FSC reference number should be used. The FSC should be contacted if this number is not known.
- where the counterparty is a regulated market or MTF or an entity acting as its central counterparty, the identification code for that

market, MTF or entity acting as central counterparty, as specified in the list published on the CESR database, should be used.

- 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. In this case the wording "customer/client" should be inputted.

8. Quantity

The number of units of the financial instruments, the nominal value of bonds, or the number of derivative contracts included in the transaction.

This field has to contain a positive (whole) number or zero. (Non-negative integer)

9. Quantity notation*

An indication as to whether the quantity is the number of units of financial instruments, the nominal value of bonds or the number of derivative contracts. The following codes should be used:

NOU - Number of units; or

NVB - Nominal value of bonds; or

NDC - Number of derivative contracts.

10. Buy/sell indicator

Identifies whether the transaction was a buy or sell from the perspective of the reporting investment firm or, in the case of a report to a client, of the client. Either 'B' (i.e. buy) or 'S' (i.e. sell) with respect to the firm making the transaction report. If the firm making the transaction report is buying from the first counterparty the field is set to 'B'. If the firm making the transaction report is selling as principal or is selling for a third-party as an agent, the field is set to 'S'.

11. Price notation

The currency in which the price is expressed, an ISO 4217 code such as GBP, EUR or USD is to be used.

If, in the case of a bond or other form of securitised debt, the price is expressed as a percentage, that percentage shall be included.

12. Unit price

The price per security or derivative contract excluding commission and (where relevant) accrued interest in the currency in which the trade was dealt (as indicated by the trade currency code in field 11). In the case of a debt instrument, the price may be expressed either in terms of currency or as a percentage (for bonds, it must be percentage price. For derivatives, the decimal value per contract is to be entered not the tick value).

13. 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.

14. Trading day and time

The trading day on which the transaction was executed. The date value must be expressed in dd/mm/yyyy (where y = year, m = month, d = day).



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 basis in which the transaction is reported expressed as Coordinated Universal Time (UTC) +/- hours. The time should be specified in hh:nn:ss (where h = hours, n = minutes and s = seconds).

15. Maturity date (optional but mandatory where bond, securitised debt or derivative contract is reported)

The maturity date of a bond or other form of securitised debt, or the exercise date/maturity date of a derivative contract.

The date must be expressed in dd/mm/yyyy.

16. Venue identification

Identification of the venue where the transaction was executed. That identification shall consist in:

- where the venue is a trading venue: identification code as listed on the CESR database. To identify trading venues outside this area, refer to the ISO Web Site of the Market Identifier Code (MIC): <http://www.iso15022.org/MIC/homepageMIC.htm>
- otherwise: the code "OTC".

17. Trading capacity

Identifies whether the firm executed the transaction:

- on its own account (either on its own behalf or on behalf of a client). Code P should be used.
- for the account, and on behalf, of a client. Code A should be used.

18. Underlying instrument identification (optional, but mandatory where the transaction has an underlying instrument)

The instrument identification applicable to the security that is the underlying asset in a derivative contract as well as the transferable security falling within the definition provided in the Financial Services (Markets in Financial Instruments) Act 2006 for transferable securities Part (c). An ISO 6166 ISIN should be used.

19. Underlying instrument identification code type (optional, but mandatory where the transaction has an underlying instrument)

The code type used to report the underlying instrument, which should be input as "I" = ISIN code.

20. Strike price (optional, but mandatory where an option or warrant is reported in the *Derivative type* field)

The strike price of an option or other financial instrument.

21. Derivative type (optional but mandatory where a derivative is traded)

The harmonised description of the derivative type should be done according to one of the top level categories as provided by a uniform internationally accepted standard for financial instrument classification. The following codes are to be used:

- O - option; or
- F - Future; or
- W - warrant; or

- D - contract for difference; or
- X - spread bet; or
- Z - credit default swap; or
- S - other types of swap agreements.

22. Put/call

Must be completed where an option or any other financial instrument is a put, call or derivative.

- C – call
- P – put
- F – derivative type.

6.2. Further details

The details below will only be required at the specific request of the relevant competent authority.

Reporting firm identification

If the unique code referred to in Section 6.1 is not sufficient to identify the counterparty.

Instrument identification

The unique code, agreed between all the competent authorities, applicable to the financial instrument in question must be used.

Counterparty

If a unique code, or unique harmonised identification code referred to in Section 6.1 is not sufficient to identify the counterparty.

6.3. Codes

A list of identification codes of regulated markets and MTFs for which the FSC is the home member state (including any entities which act as central counterparties for such regulated markets and MTFs) will be published when applicable. At present the FSC is not the home member state for any regulated market or MTF.

7. Movement of information between Competent Authorities

Firms should note that under the following situations information provided in the transaction reports, i.e. information submitted to the FSC under Section 6.1 and 6.2, will be forwarded to other competent authorities. However such information will not be made available to the public.

As previously discussed in Section 3, where the FSC is the host competent authority it will transmit the reports to the competent authorities of the home Member State of the firm, unless the home authority decides that it does not want to receive this information.

The FSC is also obliged to ensure that the competent authority of the most relevant market in terms of liquidity for financial instruments admitted to trading on a regulated market receives information of such transactions, as well as, where relevant, the firm's home competent authority.

Firms should also note that details will be made available, as soon as possible, to the following:

- the relevant competent authority for the financial instrument in question;
- any other competent authority that requests the information for the proper discharge of its supervisory duties under ensuring that a firm acts honestly, fairly and professionally and in a manner which promotes the integrity of the market.

8. Approval of trade matching and reporting systems

MiFID allows for transaction reports to be made by different means however if this is done by a trade matching or reporting system prior approval of the system is required from the relevant competent authority.

The reporting systems do not benefit from a European passport therefore where a firm wishes to use such a system in various jurisdictions it will need to obtain the necessary approval individually in these jurisdictions. Furthermore the firm needs to apply the relevant local procedures and, for example, ensure that the content of the transaction report is submitted in the format required by the relevant competent authority. Once approval has been granted the system will be subject to monitoring by the relevant competent authority to ensure continuing compliance.

CESR recommends that prior approval, granted by the home competent authority of the reporting channel (given that it is a CESR member), should be sufficient when assessing the suitability of the system used. The FSC will follow this approach. Hence the FSC will rely on the evaluation of the reporting system carried out by another CESR member, thus avoiding unnecessary duplication of documents.

9. Record Keeping

Firms are to keep the relevant data pertaining to all transactions in financial instruments which they have carried out, whether on own account or on behalf of a client for at least five years.

In the case of transactions carried out on behalf of clients, the records must contain all the information and details of the identity of the client, as well as the information required under the 2007 AML/CFT Guidance Notes on *systems of control to prevent the financial system from being used for Money Laundering or Terrorist Financing Activities*. These Guidance Notes can be accessed from the following link:

<http://www.fsc.gi/amlgn/>

Firms must ensure that such records are at the disposal of the FSC, or to another competent authority in cases where the firm reports to another competent authority. Furthermore a firm must ensure that appropriate measures are in place to enable the FSC to monitor the activities of firms and to assess that the firm is acting honestly, fairly and professionally and in a manner which promotes the integrity of the market.

10. Relevant Markets

Having received the transaction reporting information the competent authority in question will need to make sure that it passes on the transaction reporting information to the competent authority of the most relevant market in terms of liquidity, as well as where relevant the firm's home competent authority.

The competent authority of the most relevant market in terms of liquidity is determined on an instrument-by-instrument basis. It can be based on the Member State competent authority:

- Where a financial instrument has been first admitted to trading (e.g. in the case of shares or other transferable securities);
- Where the issuer is situated (e.g. in the case of bonds or to other transferable securities);
- Where the relevant market is in terms of the underlying instrument (e.g. in the case of share options);
- Where the regulated market is situated (e.g. in the case of index products); or
- Where the turnover of the instrument is highest (e.g. if an instrument is admitted to trading simultaneously to different markets in different Member States).

The sub-sections below present which is the relevant market for the different types of financial instruments.

10.1.1. Shares, transferable security or unit in a collective investment undertaking

In the case of a share or other transferable security or of a unit in a collective investment undertaking, the most relevant market shall be the Member State where the share or the unit was first admitted to trading on a regulated market.

10.1.2. Bonds, transferable security or money market instrument

In the case of a bond or other transferable security covered or of a money market which, in either case, is issued by:

- A subsidiary⁵ of an entity which has its registered office in a Member State the most relevant market shall be the Member State where the registered office of the parent entity is situated.
- A Community issuer and which is not covered by the above paragraph, the most relevant market shall be the Member State where the registered office of the issuer is situated.
- A third country issuer and which is not covered by the first paragraph, the most relevant market shall be the Member State where that security was first admitted to trading on a regulated market.

10.1.3. Derivative contract or financial contract for differences or transferable security

In the case of a derivative contract or a financial contract for differences or a transferable security, the most relevant market shall be:

⁵ Within the meaning of the Seventh Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts (1).

- Where the underlying security is a share or other transferable security which is admitted to trading on a regulated market, the Member State deemed to be the most relevant market in terms of liquidity for the underlying security, in accordance with Section 8.1.1;
- Where the underlying security is a bond or other transferable security or a money market instrument which is admitted to trading on a regulated market, the Member State deemed to be the most relevant market in terms of liquidity for that underlying security, in accordance with Section 8.1.2;
- 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.

10.1.4. Other cases

In any case not covered by Sections 8.1.1, 8.1.2 and 8.1.3, the most relevant market shall be the Member State where the regulated market that first admitted the transferable security or derivative contract or financial contract for differences to trading is located.

10.1.5. Financial instruments admitted to trading on more than one regulated market simultaneously

Where a financial instrument covered by Sections 8.1.1, 8.1.2.3 or 8.1.4, or the underlying financial instrument of a financial instrument covered by Section 8.1.3 to which one of Section 8.1.1, 8.1.2.3 or 8.1.4 is relevant, was first admitted to trading on more than one regulated market simultaneously, and all those regulated markets share the same home Member State, that Member State shall be the most relevant market.

10.1.6. Regulated markets with different home Member States

Where the regulated markets concerned do not share the same home Member State, the most relevant market in terms of liquidity for that instrument shall be the market where the turnover of that instrument is highest.

10.1.7. Where the turnover of the instrument is highest

For the purposes of determining the most relevant market where the turnover of the instrument is highest, each competent authority that has authorised one of the regulated markets concerned shall calculate the turnover for that instrument in its respective market for the previous calendar year, provided that the instrument was admitted to trading at the beginning of that year.

Where the turnover for the relevant financial instrument cannot be calculated by reason of insufficient or non-existent data and the issuer has its registered office in a Member State, the most relevant market shall be the market of the Member State where the registered office of the issuer is situated.

However, where issuer does not have its registered office in a Member State, the most relevant market for that instrument shall be the market where the turnover of the relevant instrument class is the highest. For the purposes of determining that market, each competent authority that has authorised one of the regulated markets concerned shall calculate the turnover for the instruments of the same class in its respective market for the preceding calendar year.

The relevant classes of financial instrument are the following:

- (a) shares;



- (b) bonds or other forms of securitised debt;
- (c) any other financial instruments.

10.2. When a relevant market can change

A competent authority may, in January every year, notify the relevant competent authority for a particular financial instrument that it intends to contest the determination⁶ of the most relevant market for that instrument.

Within four weeks of the sending of the notification, both authorities shall calculate the turnover for that financial instrument in their 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 for that financial instrument. Where that financial instrument is of a type specified in Section 8.1.3 (a) or (b), that market shall also be the most relevant market for any derivative contract or financial contract for differences or transferable security and in respect of which that financial instrument is the underlying.

⁶ In accordance with Article 9 of the Schedule of the Financial Services (Markets in Financial Instruments) Regulations 2007 (covered in Sections 8.1 to 8.5).