

Mr John Mogg
Director-General DG MARKT
European Commission
rue de la Loi, 200
1049 Bruxelles

02/07/2001

Dear Mr Mogg,

RE: Conduct of Business Proposals - categorisation of investors

Although the consultation period has formally closed, UNICE would like to add its voice to the concerns raised by many market participants about the above proposals.

The proposed approach to the classification of investors into professional and retail seems inappropriate, and risks imposing an unnecessary burden upon business, as well as raising the possibility of a two-tier market.

The proposal would automatically classify corporate investors into the retail category. This is clearly unnecessary for a very substantial number of corporate investors. These companies often run highly sophisticated treasury departments, which are certainly not in need of the additional protection offered by the retail category. There is no evidence that the current levels of protection need to be increased.

The retail category, and the associated protection, would appear to be relevant only for smaller companies with no market expertise.

The protection offered under the retail category is highly likely to be reflected in greater costs of market activity, or more restricted access to products and certain transaction sizes. A two-tier market is a distinctly possible outcome, unless a large number of companies opts for the professional investor category, with the most competitive pricing available only to professional investors.

The process of opting for the professional investor status would entail each firm setting up agreements with all of its bank counterparties, simply in order to maintain the current professional investor status. This is time-consuming and an unnecessary administrative burden, which will negatively affect the international competitiveness of European firms.

We would, therefore, support the idea of mechanism which enables companies of a reasonable size and level of expertise to be automatically categorised as professionals. This mechanism should include a provision allowing companies to opt into to the retail category, although we feel it is very unlikely that companies with significant market expertise would want to shift to the position of a retail customer.

Yours sincerely,

Daniela Israelachwili
Acting Secretary-General