



Aviva Investors' response to CESR's Technical Advice to the European Commission in the context of the MiFID Review – Equity Markets

Aviva plc is the world's fifth-largest¹ insurance group, the largest insurance services provider in the UK and is one of the leading providers of life and pension products in Europe and is actively growing its long-term savings businesses in Asia Pacific and the USA. Aviva's main business activities are long-term savings, asset management and general insurance.

Aviva Investors is the global asset management business of Aviva plc, managing assets in excess of £249² billion across a range of real estate, equity, fixed income, money market and alternative funds. The business operates under a single brand with over 1,300 employees in 16 countries across North America, United Kingdom, Continental Europe, and Asia Pacific. We are dedicated to building and providing focused investment solutions for clients which include local government organisations, pension funds, wholesale and retail banks, insurance companies, charities and private wealth managers.

Please note that we ask for our submission to remain private and therefore, not be made available for public inspection.

Please find below our answers to the specific questions raised.

1. Do you support the generic approach described above?

Yes, we support this generic approach. In respect of the third bullet, we welcome the greater clarity this will provide.

2. Do you have any other general comments on the MiFID pre-trade transparency regime?

We have no comments to make.

3. Do you consider that the current calibration for large in scale orders is appropriate (Option 1)? Please provide reasoning for your view.

Yes, we consider that the current calibration for large in scale orders is appropriate (Option 1). We acknowledge that the average size of trades has reduced but we do not think that the calibration should be updated to reflect this level of reduction. We think the waiver works well if it is only used for genuinely large trades, otherwise too much volume will be waived.

4. Do you consider that the current calibration for large in scale orders should be changed? If so, please provide a specific proposal in terms of reduction of minimum order sizes and articulate the rationale for your proposal?

For the reason explained in question 3, we do not think that the calibration should be changed. Moreover, in relation to Option 2, we are concerned that the reduction proposed is described as 'moderate' as we do not think that a 25% change can be considered moderate.

¹ Based on gross worldwide premiums for the year ended 31 December 2008

² As at 31 December 2009

5. Which scope of the large in scale waiver do you believe is more appropriate considering the overall rationale for its application (i.e. Option 1 or 2)? Please provide reasoning for your views.

We believe that Option 1 is more appropriate. We believe that the large in scale waiver should be applied throughout the order, including to stubs, as long as this is the same day. If any stubs are rebooked as new orders then the large in scale waiver should not apply.

6. Should the waiver be amended to include minimum thresholds for orders submitted to reference price systems? Please provide your rationale and, if appropriate, suggestions for minimum order thresholds.

We believe that the reference price waiver is meeting the purpose for which it was designed and therefore we do not think there are any areas in which it needs to be amended.

7. Do you have other specific comments on the reference price waiver, or the clarifications suggested in Annex I?

We welcome the clarifications given by CESR.

8. Do you have any specific comments on the waiver for negotiated trades?

We agree with CESR's conclusion in paragraph 42 that the existing negotiated trades waiver should be retained and that further clarification of the waiver may be desirable.

9. Do you have any specific comments on the waiver for order management facilities, or the clarifications provided in Annex I?

We would prefer a 'levelling up' of disclosure requirements rather than a 'levelling down'.

10. Do you consider the SI definition could be made clearer by:

- i) removing the reference to non-discretionary rules and procedures in Article 21(1)(a) of the MiFID Implementing Regulation?
- ii) providing quantitative thresholds of significance of the business for the market to determine what constitutes a 'material commercial role' for the firm under Article 21(1)(a) of the MiFID Implementing Regulation.

Please provide reasons to support your views.

We agree with CESR that it is important that the criteria defining whether or not a firm falls with the SI regime should be as clear as possible because this will improve consistency of interpretation and application.

11. Do you agree with the proposal that SIs should be required to maintain quotes in a size that better reflects the size of business they are prepared to undertake?

Yes, we agree with this proposal.

12. Do you agree with the proposed minimum quote size? If you have a different suggestion, please set out your reasoning.

Yes, we agree with the proposed minimum quote size.

13. Do you consider that removing the SI price improvement restrictions for orders up to retail size would be beneficial/not beneficial? Please provide reasons for your views.

We consider that it would not be beneficial for the reason set out in CESR's rationale.

14. Do you agree with the proposal to require SIs to identify themselves where they publish post-trade information? Should they only identify themselves when dealing in shares for which they are acting as SIs up to standard market size (where they are subject to quoting obligations) or should all trades of SIs be identified?

Yes, we agree with the proposal to require SIs to identify themselves and we think this should be for all trades.

15. Have you experienced difficulties with the application of 'Standard Market Size' as defined in Table 3 of Annex II of the MiFID Implementing Regulation? If yes, please specify.

We have not experienced any difficulties.

16. Do you have any comments on other aspects of the SI regime?

We agree with CESR's view that there is a strong case for making SI information more meaningful. We would welcome greater consistency in how SIs apply the process of publishing quotes.

17. Do you agree with this multi-pronged approach?

Yes, we agree.

18. Do you agree with CESR's proposals outlined above to address concerns about real-time publication of post-trade transparency information? If not, please specify your reasons and include examples of situations where you may face difficulties fulfilling this proposed requirement.

Yes, we agree with CESR's proposals regarding real-time publication. We would add, however, that the priority should be firstly the accuracy/quality of the data reported and then the reduction of reporting deadline.

19. In your view, would a 1-minute deadline lead to additional costs (e.g. in terms of systems and restructuring of processes within firms)? If so, please provide quantitative estimates of one-off and ongoing costs. What would be the impact on smaller firms?

Yes, we think that this would lead to additional costs but, as an investment manager acting as agent for our clients (and not a broker) we are not in a position to provide quantitative estimates.

20. Do you support CESR proposal to maintain the existing deferred publication framework whereby delays for large trades are set out on the basis of the liquidity of the share and the size of the transaction?

Yes, we support CESR's proposal.

21. Do you agree with the proposal to shorten delays for publication of trades that are large in scale? If not, please clarify whether you support certain proposed changes but not others, and explain why.

Yes, we agree with the proposal as it is beneficial to the industry.

22. Should CESR consider other changes to the deferred publication thresholds so as to bring greater consistency between transaction thresholds across categories of shares? If so, what changes should be considered and for what reasons?

We have no specific comments to make.

23. In your view, would i) a reduction of the deferred publication delays and ii) an increase in the intraday transaction size thresholds lead to additional costs (e.g. in ability to unwind large positions and systems costs)? If so, please provide quantitative estimates of one-off and ongoing costs.

In our view, both may lead to additional costs but we are unable to provide quantitative estimates.

24. Do you agree with the CESR proposal to apply transparency requirements to each of the following (as defined above):

- DRs (whether or not the underlying financial instrument is an EEA share);
- ETFs (whether or not the underlying is an EEA share);
- ETFs where the underlying is a fixed income instrument;
- ETCs; and
- Certificates

If you do not agree with this proposal for all or some of the instruments listed above, please articulate reasons.

Yes, we agree with the proposal.

25. If transparency requirements were applied, would it be appropriate to use the same MiFID equity transparency regime for each of the 'equity-like' financial instruments (e.g. pre- and post-trade, timing of publication, information to be published, etc.). If not, what specific aspect(s) of the MiFID equity transparency regime would need to be modified and for what reasons?

Yes, we think it would be appropriate to use the same regime.

26. In your view, should the MiFID transparency requirements be applied to other 'equity-like' financial instruments or to hybrid instruments (e.g. Spanish participaciones preferentes)? If so, please specify which instruments and provide a rationale for your view.

We have no specific comments to make.

27. Do you support the proposed requirements/guidance (described in this section and in Annex IV) for APAs? If not, what changes would you make to the proposed approach?

Yes, we support the proposed requirements.

28. In your view, should the MiFID obligation to make transparency information public in a way that facilitates the consolidation with data from other sources be amended? If so, what changes would you make to the requirement?

We welcome clarity.

29. In your view, would the approach described above contribute significantly to the development of a European consolidated tape?

Yes, we think that this approach would contribute significantly to the development of a European consolidated tape.

30. In your view, what would be the benefits of multiple approved publication arrangements compared to the current situation post-MiFID and compared to an EU mandated consolidated tape (as described under 4.1.2 below)?

In our view, the multiple approved publication arrangements would provide improved data for execution analysis and therefore better execution, compared to the current situation post-MiFID. The benefit of multiple arrangements would be competition and therefore containment of costs.

31. Do you believe that MiFID provisions regarding cost of market data need to be amended?

Yes, we believe that the provisions need to be amended and support the proposals detailed in paragraph 96.

32. In your view, should publication arrangements be required to make pre- and post-trade information available separately (and not make the purchase of one conditional upon the purchase of the other)? Please provide reasons for your response.

Yes, we think that publication arrangements should be required to make pre- and post-trade information available separately and the cost should reflect this. Some firms use Transaction Cost Analysis (TCA) post-trade data to benchmark best execution and some firms do not. This depends on their policy and therefore, firms should be able to choose what data they require depending on their process.

33. In your view, should publication arrangements be required to make post-trade transparency information available free of charge after a delay of 15 minutes? Please provide reasons for your response.

We agree that publication arrangements should require post-trade transparency information to be available free after a delay of 15 minutes as this information can be used to inform and improve execution decisions. However, we note that such data will not include large trades where reporting is delayed to end of day. We think it is beneficial for firms to be able to pay for data to be received promptly where this is wanted and free for all market participants after a delay.

We have concerns, however, that if providers must make trade reports available for free after a fixed delay, then the providers will recoup this loss of revenue through increasing the price for trade reports made available within prior to that delay.

34. Do you support the proposal to require RMs, MTFs and OTC reporting arrangements (i.e. APAs) to provide information to competent authorities to allow them to prepare MiFID transparency calculations?

Yes, we support the proposal.

34. Do you support the proposed approach to a European mandatory consolidated tape?

Yes, we support the proposed approach.

35. If not, what changes would you suggest to the proposed approach?

We have no specific comments to make.

36. In your view, what would be the benefits of a consolidated tape compared to the current situation post-MiFID and compared to multiple approved publication arrangements?

In our view, benefits include improved data for execution analysis and therefore better execution, compared to the current situation post-MiFID. A consolidated tape would make it simpler to access and disseminate information than would be the case with multiple approved publication arrangements alone.

37. In your view, would providing trade reports to a MCT lead to additional costs? If so, please specify and where possible please provide quantitative estimates of one-off and ongoing costs.

We have no specific comments to make.

38. Do you agree with this proposal? If not, please explain.

Yes, we agree with this proposal.

39. Do you consider that it would help addressing potential unlevel playing field across RMs and MTFs? Please elaborate.

Yes, we consider that it would help addressing a potential unlevel playing field. However, it should be noted that there are different operating models of MTFs and it is important only to compare similar venues i.e. lit with lit.

40. In your view, what would be the benefits of the proposals with respect to organisational requirements for investment firms and market operators operating an MTF?

We have no specific comments to make.

41. In your view, do the proposals lead to additional costs for investment firms and market operators operating an MTF? If so, please specify and where possible please provide quantitative estimates of one-off and ongoing costs.

We have no specific comments to make.

42. Do you agree to introduce the definition of broker internal crossing process used for the fact finding into MiFID in order to attach additional requirements to crossing processes? If not what should be captured, and how should that be defined?

Yes, we agree with introducing the definition.

43. Do you agree with the proposed bespoke requirements? If not, what alternative requirements or methods would you suggest?

Yes, we agree with the proposed bespoke requirements.

44. Do you agree with setting a limit on the amount of client business that can be executed by investment firms' crossing systems/processes before requiring investment firms to establish an MTF for the execution of client orders ('crossing systems/processes becoming an MTF)?

- a) What should be the basis for determining the threshold above which an investment firm's crossing system/process would be required to become an MTF? For example, should the threshold be expressed as a percentage of total European trading or other measures? Please articulate rationale for your response.
- b) In your view, should linkages with other investment firms' broker crossing systems/processes be taken into account in determining whether an investment firm has reached the threshold above which the crossing system/process would need to become an MTF? If so, please provide a rationale, also on linking methods which should be taken into account.

We agree broadly with the idea of setting a limit but we are concerned about the viability of this in practice in that it could be possible to circumvent a specific limit by using synthetic products to keep below the percentage. In respect of (b) we do not think that linkages should be taken into account.

45. In your view, do the proposed requirements for investment firms operating crossing systems/processes lead to additional costs? If so, please specify and where possible please provide quantitative estimates of one-off and ongoing costs.

We have no specific comments to make.

46. Do you think that replacing the waivers with legal exemptions (automatically applicable across Europe) would provide benefits or drawbacks? Please elaborate.

Aviva Investors is a strong advocate that European regulation should be truly harmonising, in order to avoid competitive disadvantage and increased costs, and we therefore support removal of member state options from EC regulation and oppose 'gold-plating' of Directives. It is important to note that this does not mean we support, either a lowest or highest, common denominator of existing inconsistencies, but more about getting regulation right in the first place and removing unnecessary differentiation across member states. Therefore, we support any step towards harmonisation as well as appropriate and consistent oversight.

47. Which reasons may necessitate the application of both criteria?

Different trading strategies may necessitate the application of both criteria. Given that large trades are often broken up into smaller trades, the number of transactions is not a sufficient test in isolation. It is necessary to consider turnover (the second criteria) as well.

48. Is a unique definition of liquid share for the purposes of Article 27 necessary?

We believe that a unique definition is necessary for consistency.

49. If CESR were to propose a unique definition of 'liquid share' which of the options do you prefer?

- a) apply condition a) and b) of the existing Article 22(1), or
- b) apply only condition a), or
- c) apply only condition b) of Article 22(1)?

Please elaborate.

We prefer option (a) as we believe it is necessary to apply both criteria since trading strategies which break trades into multiple smaller trades will trigger more shares to be considered liquid unless the second criteria is also applied.

50. Is this discretion (for Member States to decide that investment firms comply with this obligation by transmitting the client limit order to a regulated market and/or an MTF) of any practical relevance? Do you experience difficulties with cross-border business due to a divergent use of this discretion in various Member States?

Our clients give us express instruction not to make public orders that are not immediately executed under prevailing market conditions and therefore, we do not make use of this discretion granted by the UK.

51. Should the discretion granted to Member States in Article 22(2) to establish that the obligation to facilitate the earliest possible execution of an unexecuted limit order could be fulfilled by a transmission of the order to a RM and/or MTF be replaced with a rule?

Notwithstanding our answer to Q50, we support CESR's proposal as it will increase harmonisation of implementation of the Directive.

52. Should the option granted to Member States in Article 36(2) of the MiFID Implementing Regulation be deleted or retained? Please provide reasoning for your view.

We consider that the option should be deleted as we support the removal of unnecessary differentiation across member states. We agree that a RM should satisfy itself that the collective investment undertaking complies with the requirements.

Annex II

1. Do you agree to use ISO standard formats to identify the instrument, price notation and venue? If not, please specify reasons.

Yes, this seems the best method to ensure consistency.

2. Do you agree that the unit price should be provided in the major currency (e.g. Euros) rather than the minor currency (e.g. Euro cents)? If not, please specify reasons.

Yes, this seems the best method to ensure consistency.

3. Do you agree that each of the above types of transactions would need to be identified in a harmonised way in line with table 10? If not, please specify reasons.

Yes, this seems the best method to ensure consistency.

4. Are there other types of non addressable liquidity that should be identified? If so, please provide a description and specify reasons for each type of transaction.

We have no specific comments to make.

5. Would it be useful to have a mechanism to identify transactions which are not pre-trade transparent?

Yes, it would be useful as this will help inform future trading decisions.

6. If you agree, should this information be made public trade-by-trade in real-time in an additional field or on a monthly aggregated basis? Please specify reasons for your position.

Ideally, this should be made public in real-time. This would be challenging and it might affect the cost of execution but we consider that the benefit (of more informed decisions) would make this worthwhile. If real-time is not possible, next day would still be very useful. We do not consider that monthly aggregated data would be of any benefit as it would be an enormous quantity of data to analyse and available too late to be of value to decision making.

7. What would be the best way to address the situation where a transaction is the result of a non-pre-trade transparent order executed against a pre-trade transparent order?

We have no specific comments to make.

8. Do you agree each transaction published should be assigned a unique transaction identifier? If so, do you agree a unique transaction identifier should consist of a unique transaction identifier provided by the party with the publication obligation, a unique transaction identifier provided by the publication arrangement and a code to identify the publication arrangement uniquely? If not, please specify reasons.

Yes, we agree that there should be a unique transaction identifier.

9. Do you agree with CESR's proposal? If not please specify reasons.

Yes, we agree with CESR's proposal.

10. Do you agree with CESR's proposal? If not please specify reasons.

Yes, we agree with CESR's proposal.

11. Do you agree with CESR's proposal? If not please specify reasons.

Yes, we agree with CESR's proposal.

Annex III

1. Do you agree with CESR's proposals? Are there other scenarios where there are difficulties in applying the post-trade transparency requirements?

We have no specific comments to make.