Article 1

Package orders for which there is a liquid market as a whole

A package order shall be considered to have a liquid market as a whole where one of the following conditions is satisfied:

(a) the package order is composed of derivatives where at least one component belongs to a class of derivatives that has been declared subject to the trading obligation for derivatives in accordance with the procedure described under Article 32 of Regulation (EU) No 600/2014 and where the remaining components belong to a class of derivatives that has been declared subject to the clearing obligation for derivatives in accordance with the procedure described under Article 5 of Regulation (EU) No 648/2012;

(b) the package order meets the general criteria under Article 2 and the asset-class specific criteria under Article 3.

Article 2

General criteria for identifying package orders for which there is a liquid market as a whole

1. All of the components of a package order shall meet the following general criteria:

   (a) they are admitted to trading or traded on a trading venue;

   ~~(b) they have standardised contractual terms.~~[1]

2. The derivative components of a package order shall be available for clearing through a central counterparty.

3. At least one of the components of a package order shall not be large in scale compared with normal market size.[2]

Article 3

Asset-class specific criteria for identifying package orders for which there is a liquid market as a whole

1. A package order where all derivatives components are interest rate derivatives shall meet the following criteria:

---

[1] This criteria risks introducing a level of subjectivity into the analysis that would make it difficult for market participants to determine the packages that are in-scope. The separate requirement for the components of a package to be admitted to trading or traded on a trading venue objectively indicates that the package has standardised contractual terms (as does the availability of clearing for the derivatives components).

[2] Intended to provide an LIS waiver that is consistent with the "Quick Fix"- if *all* components are above LIS, then the package is not liquid as a whole.

~~(a) the package order has no more than three components;[3]~~

~~(b)~~(a) the notional currency of the derivative components is in EUR, USD or GBP;

~~(c)~~(b) for package orders that do not contain interest rate futures,[4] the derivative components of the package order have a tenor of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 15, 20, 25[5] or 30 years.

(c) for package orders only containing interest rate futures: [ ][6]

(d) for package orders containing interest rate futures and other interest rate derivatives: [7]

(i) the package order contains a swap component with a maturity date that matches the maturity date of a bond eligible for delivery under the futures contract; and

(ii) the futures components of the package order reference bonds issued by a sovereign issuer that are denominated in EUR, USD, or GBP.

(e) for package orders containing interest rate derivatives and components that are not derivatives, each non-derivative component is a bond (i) issued by a sovereign issuer, (ii) denominated in EUR, USD or GBP, and (iii) determined to have a liquid market.[8]

2. A package order where all derivatives components are equity derivatives shall meet the following criteria:

(a) the package order has no more than four components;

(b) the notional currency of the derivative components is in EUR, USD or GBP.

3. A package order where all derivatives components are credit derivatives shall meet the following criteria:

(a) all the derivative components of the package order have the same underlying index;

(b) the notional currency of the derivative components is in EUR, or USD ~~or GBP~~;

---

[3] There are liquid and standardised packages containing interest rate derivatives that have more than 3 components, such as “packs” (including 4 interest rate futures with different maturity dates) and “bundles” (including 8-20 interest rate futures with different maturity dates). *See, e.g.*, http://www.eurexchange.com/blob/1337448/d14bad005b03f2b5d838fc86db4d9a61/data/factsheet_eurex_packs_bundles_strips.pdf.

[4] Interest rate futures have standardised expiry dates, rather than standardised benchmark tenors as calculated by comparing the trade date and expiry date.

[5] These additional tenors are liquid and are traded as part of packages, and therefore should be included in the list.

[6] ESMA to add criteria for packages containing only interest rate futures.

[7] These criteria are intended to capture liquid “invoice spread” packages that contain a future and an interest rate swap.

[8] These criteria are intended to capture liquid “spread over” packages that contain a sovereign bond and an interest rate swap.

(c) the package order moves from the latest off-the-run index series into the current on-the-run index series.

(d) package orders containing credit derivatives and components that are not derivatives shall not be considered to have a liquid market as a whole.[9]

4. A package order where all derivatives components are commodity derivatives shall meet the following criteria:

   (a) the package order has two components;

   (b) the notional currency of the derivative components is in EUR, USD or GBP;

   (c) The package order moves from a contract with a specified maturity data into another contract with a different maturity date.

5. A package order that includes derivative components outside those classes of derivatives specified in paragraph 1 to 4 shall not be considered to have a liquid market as a whole.

6. A package order that contains two or more of the classes of derivatives specified in paragraph 1 to 4 shall not be considered to have a liquid market as a whole.[10]

7. A package order where all components are not derivatives shall meet the following: [ ][11]

~~6.~~8.For the purpose of paragraph 1(b~~c~~), a derivative shall be ~~deemed~~ determined to have a tenor of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 15, 20, 25 or 30 years if the number of years between the effective date and the termination date equals one of these values, plus or minus 5 days ~~where the termination date of the derivative falls within the time period commencing five days before and ending five days after the specified maturities~~.[12]

Article 4

Entry into force and application

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 3 January 2018.

---

[9] We believe it is reasonable for ESMA to initially adopt a cautious approach for package orders with credit derivatives and non-derivatives.

[10] We believe it is reasonable for ESMA to initially adopt a cautious approach for package orders containing derivatives from more than one asset class.

[11] ESMA to add criteria for packages containing only non-derivatives.

[12] This reflects industry standard practice for calculating tenors. It will also enable packages containing benchmark transactions in forward-starting IMMs and MACs (e.g. rolls) to be eligible under Article 3(1).