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| 10 November 2016 |

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| Reply form for the Consultation Paper on draft RTS on package orders for which there is a liquid market |
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| Date: 10 November 2016 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Discussion Paper on the trading obligation for derivatives under MiFIR, published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type <ESMA\_ QUESTION\_MIFID\_PO\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

* if they respond to the question stated;
* contain a clear rationale, including on any related costs and benefits; and
* describe any alternatives that ESMA should consider.

**Naming protocol**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_MiFID\_PO\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA\_MiFID\_PO\_ESMA\_REPLYFORM or

ESMA\_MiFID\_PO\_ESMA\_ANNEX1

***Deadline***

Responses must reach us by **3 January 2017.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings ‘Legal notice’ and ‘Data protection’.

# Introduction

Please make your introductory comments below, if any:

< ESMA\_COMMENT\_MIFID\_PO\_0>

The Wholesale Markets Brokers’ Association (WMBA) and the London Energy Brokers’ Association (LEBA) (jointly referred to in this document as the ‘WMBA’) are the European industry associations for the wholesale intermediation of ‘Venue Traded’ (MTF and OTF) and ‘Over-the-Counter’ (OTC) markets in financial, energy, commodity and emission markets and their traded derivatives. Our members, in addition to operating some twenty MTFs and eight SEFs, will almost all apply to have OTF permissions and act solely as intermediaries in wholesale financial markets and do not undertake any proprietary trading. As a result, they are classified in the UK as Limited Activity and Limited Licence Firms in respect of the current Financial Conduct Authority classification. The WMBA originated in 1963 from market oversight in central banking, but is an independent industry body.

The WMBA welcomes the opportunity to respond to this ESMA consultation paper because, broadly put, our members arrange upwards of two-thirds of their business, either by trade count or by value or volume in the form of ‘packages of trades’ into single transactions. This applies whether the products are cash or derivatives; interest rates or foreign exchange; and even commodities. It is also important to emphasise that many packages are cross currency and involve counterparties outside the EU, therefore any treatment specific to packages, perhaps more than other transaction types, needs to be equivalent and simply deferent to third country rules. This is most especially important with respect to US dollar transactions and requirements for US persons under Title Seven of CEA Dodd-Frank.

One general remark that should be made in the outset is the very high level and superficial approach to packages made in both the ‘quick fix’ and throughout the Level 2 ESMA CP 1562. In particular, this treats packages as occurring on a single entity between two counterparties. In actual fact, the multilateral venue driven transactions will be the main locus for MiFIR and the mechanics of these where packages are disassembled and reassembled between many counterparties as required transaction sizes are built and liquidity is compiled should be given adequate and appropriate consideration in the simple appointment of waivers and venue reporting simplicity.

As ever, venues are keen to engage with the level 2 RTS process and we would particularly point out the CFTC staff comments at the recent December ISDA conference on cross border harmonisation, whereby explicit acknowledgement was set out that with the venues themselves setting-out the rulesets for SEFs then they could never have become workable. In the vein, the WMBA continues to offer all and any cooperation to ESMA for the effective date of MiFIR to be successful.

TYPE YOUR TEXT HERE

< ESMA\_COMMENT\_MIFID\_PO\_0>

1. Do you agree with ESMA’s proposal to apply the SI obligations at the package order level where the investment firm is an SI in at least one component instrument of the package order? If not, please explain why and propose an alternative.

<ESMA\_QUESTION\_MIFID\_PO\_1>

Yes, the WMBA does agree and supports the ESMA proposal as they apply to SI’s.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_1>

1. Do you agree with the proposed methodology based on qualitative criteria? Do you consider an alternative methodology as better suited for identifying liquid package orders as a whole?

<ESMA\_QUESTION\_MIFID\_PO\_2>

Yes, the WMBA does support the proposed methodology put forward by ESMA. However, we do highlight some of the necessary details concerning in particular a requirement for the RTS to set out that waivers should be available where the package component is executed on either on a single venue or across multiple venues, which is frequently or normally the case. For example, a very common package is a ‘basis trade,’ where the cash leg would be executed on an OTF and the derivative futures leg is assigned as a block trade on an RM (‘exchange’). In this case, any appropriate waiver should be applied to both or all the legs which are executed across multiple venues.

Further, we underline that a pre-trade waiver is required to be explicitly made available for packages where all the respective components are large in scale [above ‘LIS’]. The analysis provided in the CP suggests that the waiver is not possible under Article 9 1 e (ii);

*‘at least one of the component is large in scale compared with the normal market size, unless there is a liquid market for the package order as a whole’.*

We rather commend to ESMA that the RTS should allow competent authorities to grant a waiver for all of the components irrespective of the liquidity size of the components. For example, a common and straightforward package comprising a duration weighted bond against a swap where both the components individually have a liquid market under RTS2. We underline that if they are above LIS, then they should be able to benefit from the pre-trade waiver notwithstanding the fact as components they are liquid.

The WMBA also requests that ESMA make it clear that 9 1 a);

*‘orders that are LIS compared to NMS and orders held in the management facility of the trading venue pending disclosure*’,

also applies to level of the package and at the level of the component also benefit from the LIS waiver. It is not until 9.e) that references to packages are specified.

ESMA also makes it clear 9 1 e (i);

*‘at least one of its components is a financial instrument for which there is not a liquid market, unless there is a liquid market for the package order as a whole*,’

also takes into consideration package orders may not be defined as having a liquid market if all the respective components do not themselves have a liquid market.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_2>

1. Do you agree with the general criteria for identifying package orders that may be eligible for being liquid as a whole? Do you consider necessary to add further criteria or to remove any of the criteria proposed? Please explain.

<ESMA\_QUESTION\_MIFID\_PO\_3>

No, the WMBA does not agree with the general criteria for identifying package orders that may be eligible for being liquid as a whole. Firstly, Article 2 1 (a) of the draft RTS needs to be clarified such that it is not just those instruments admitted to trading on venue or traded on a trading venue but also applies to those derivatives subject to the trading obligation and or clearing obligation as well.

Secondly. Article 2.1 b) fails to propose how to assess the contractual terms of the package are standardised and therefore needs to provide some guidance either through references to an agreement via a regulated SRO or recognised industry body.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_3>

1. Do you consider it necessary to further specify the first criterion on the standardisation of components? If yes, which characteristics should be considered to specify the standardised components of packages?

<ESMA\_QUESTION\_MIFID\_PO\_4>

The WMBA has no comments.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_4>

1. Do you agree with the proposed interest rate derivatives specific criteria? If not, please explain why and present your preferred approach. Do you consider it necessary to add further criteria? If yes, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_5>

Yes, the WMBA does agree with the proposed interest rate derivatives specific criteria. However, we suggest further criterion to be considered:

* that the tenor should be calculated using the maturity date and the effective date.
* for futures which are liquid (for example, and predominantly in EU markets these are front month Bund; Bobl; and Schatz) but would not fall within the unbroken tenor listed.
* We urge ESMA to refine the criterion in Article 3(1)(c) of the draft RTS to take account of the different liquidity properties of spot-starting and forward-starting swaps. As currently written, the criterion would bring packages including forward starting swaps into scope (e.g. a 5-year EUR swap starting in 5 years’ time, or a 1-year EUR swap starting in 9 years’ time, which both have unbroken tenors of 10 years). In our view, these would not be components of standardised, liquid packages. ESMA should restrict this condition to, “*interest rate derivatives whose effective date is between trade date and 5 days after trade date.*”
* Euribor futures, which despite being the most liquid instruments within the interest rate derivatives, yet are not almost completely transacted as packages.

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<ESMA\_QUESTION\_MIFID\_PO\_5>

1. Do you consider that derivative components in other currencies (e.g. other EEA currencies, JPY) should be included? If yes, which ones?

<ESMA\_QUESTION\_MIFID\_PO\_6>

No, the WMBA does not consider that derivative components in other currencies should be included. Clearly prima-pares in this consideration are USD denominated derivatives since these frequently form parts of packages traded in the EU. Given the scope and approach of CEA Dodd Frank Title 7, in our view the only way to approach third country currency derivatives would be via a deference and recognition approach, any alternate approach involving cross border reach being both extraordinarily difficult and divisive.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_6>

1. Do you agree that only packages with derivative components with the above mentioned benchmark dates should be considered liquid? If not, please explain. Which other or additional benchmark dates do you suggest?

<ESMA\_QUESTION\_MIFID\_PO\_7>

Yes, the WMBA broadly agrees with this approach. We would suggest that interest rate derivatives with unbroken tenors of 15 and 20 years should also be considered as liquid.

Notwithstanding this view however, we do not agree with the +/- 5-day envelope around the tenors as these are simply not liquid, and forward starting derivatives with those tenors are also rarely liquid. interest rate derivatives with unbroken tenors of 12, 15 and 20 years should also be considered as liquid.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_7>

1. Do you consider that for certain types of packages derivative components that have broken dates (e.g. invoice spreads) or which are traded on IMM and MAC dates (e.g. rolls) have a liquid market?

<ESMA\_QUESTION\_MIFID\_PO\_8>

Yes, the WMBA broadly agrees with this approach. We would suggest that both IMM and MAC trades are liquid.

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<ESMA\_QUESTION\_MIFID\_PO\_8>

1. Do you consider it necessary to specify criteria for non-derivative components of packages? If yes, which criteria would you suggest and why?

<ESMA\_QUESTION\_MIFID\_PO\_9>

Yes, the WMBA does consider that there should be developed some specific criteria for non-derivatives components of packages because packages arranging derivatives against cash transactions are so very common and we note that there is no current guidance on packages where this situation arises. The basis that liquidity of a package should depend on whether or not it has a derivative element

For instance, a common basis trade package comprising of an interest rate derivative against a bond could be considered liquid where the bond is admitted to trading or traded on a trading venue, subject to standardised settlement and SFTR compliant. The derivatives would be required to meet the liquidity categorisation.

We also believe that where a package involves a cash equity leg, then that package should be able to be arranged and executed on an OTF and we would welcome an ESMA FAQ to set out that such packages be considered derivatives as a whole.

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<ESMA\_QUESTION\_MIFID\_PO\_9>

1. Do you agree with the proposed equity derivatives specific criteria? If not, please explain why and present your preferred approach. Do you consider it necessary to add further criteria? If yes, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_10>

Whilst the WMBA broadly agrees with the ESMA proposals, most particularly the perimeter of no more than 4 legs, we again note that to regulate non-EU currency derivatives, i.e. USD, may be particularly difficult and of limited benefit.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_10>

1. Do you consider that derivative components in other currencies (e.g. other EEA currencies, JPY) should be included? If yes, which ones?

<ESMA\_QUESTION\_MIFID\_PO\_11>

No, the WMBA does not consider that derivative components in other currencies should be included. To attempt to make package regulation extra-territorial would likely add cost and complexity which could be to the detriment of both deferential substituted compliance and to competitiveness.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_11>

1. Do you consider it necessary to specify that all components of the package order should have the same underlying? If yes, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_12>

Whilst the WMBA broadly agrees with the ESMA proposals, most particularly that the Credit Derivative package needs to have the same underlying index to be liquid; we would suggest that ESMA also consider clearing and trading obligations to be added as some further criteria.

However, we again note that to regulate non-EU currency derivatives, i.e. USD, may be particularly difficult and of limited benefit.

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<ESMA\_QUESTION\_MIFID\_PO\_12>

1. Do you agree with the proposed credit derivatives specific criteria? If not, please explain why and present your preferred approach. Do you consider it necessary to add further criteria? If yes, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_13>

Whilst the WMBA broadly agrees with the ESMA proposals, most particularly that the Credit Derivative package needs to have the same underlying index to be liquid; that it needs to move to the current vintage on-the-run series, and that the perimeter of no more than 2 legs.

Those Credit Derivative packages that involve different underlying indices could likely have different trading obligation and clearing requirements. Therefore, we would suggest that ESMA also consider clearing and trading obligations to be added as some further criteria.

However, we again note that to regulate non-EU currency derivatives, i.e. USD, may be particularly difficult and of limited benefit.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_13>

1. Do you agree that derivative components in USD, EUR or GBP should be considered sufficiently liquid for the purpose of this RTS? Do you consider that derivative components in other currencies (e.g. other EEA currencies, JPY) should be included? If yes, which ones?

<ESMA\_QUESTION\_MIFID\_PO\_14>

No, the WMBA does not consider that derivative components in other currencies should be included at this point in time. Clearly deferential venue recognition by third country regulators may change this over time, but this should additionally involve an approach which takes closely into account the CCP Clearing obligations and the venue trading obligations arising therefrom.

Consequently, currently all liquid Credit Derivative packages not subject to any third country regulations (notably CEA Dodd Frank regulation of the liquid USD CDX Series) are denominated in EUR. To attempt to make package regulation extra-territorial would likely add cost and complexity which could be to the detriment of both deferential substituted compliance and to competitiveness

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<ESMA\_QUESTION\_MIFID\_PO\_14>

1. Do you consider it necessary to further specify the indices that are eligible? If yes, please specify which specific indices should be included. Do you consider it necessary to specify the maturity dates of the underlying indices?

<ESMA\_QUESTION\_MIFID\_PO\_15>

No, the WMBA does not consider that further indices are specifically eligible. Broadly put, the trading obligation specifies those likely indices, and therefore these themselves will be identified via the EU clearing obligations or those clearing obligations in third countries to which the EU defers.

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<ESMA\_QUESTION\_MIFID\_PO\_15>

1. Do you agree with the proposed commodity derivatives specific criteria? If not, please explain why and present your preferred approach. Do you consider it necessary to add further criteria? If yes, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_16>

Whilst the WMBA broadly agrees with the ESMA proposals, we note the increased complexity for many commodity derivative related packages because of the much reduced role of CCP Clearing and the complexities arising from specified carve outs involving both C6 Gas and Power and the deferred introduction of Oil and Coal.

Given that so many of the market participants in the commodity derivatives packages market are not likely to be MiFID entities, being either exempted through RTS20 or third country firms, WMBA would suggest an open approach to this market segment and a more thorough review after 2020.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_16>

1. Do you consider that derivative components in other currencies (e.g. other EEA currencies, JPY) should be included? If yes, which ones.

<ESMA\_QUESTION\_MIFID\_PO\_17>

No, the WMBA does not consider that derivative components in other currencies should be included. To attempt to make package regulation extra-territorial would likely add cost and complexity which could be to the detriment of both deferential substituted compliance and to competitiveness.

Clearly in the case of commodity derivatives, perhaps very differently from other asset classes for two broad reasons:

* the predominance of the USD in transaction pricing is far more widespread. This is reflected in the CCP Clearing of commodity derivatives in the EEA, perhaps most notably in the oil complex.
* the predominance of the notional amount of the commodity in non-currency terms as the contract specification. That is that Electricity is traded in *TWttHours*, Natural Gas in *Therms*, Coal in *Tonnes* and Oil in *Barrels*.

Therefore, we would support the incorporation of USD in addition to EUR for liquid packages of commodity derivatives, but see no case for this to extend beyond these two currencies. The relative liquidity shifts over the last three years between EUR denominated TTF Natural Gas and GBP denominated NBP denominated Natural Gas serves to illustrate this point (notwithstanding that most of these contracts are C6 exempt).

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_17>

1. In which types of contracts do package orders in commodity derivatives mostly occur? Do you consider it necessary to provide for asset class specific criteria that take option and future/forward contracts into account? If yes, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_18>

Yes, the WMBA does agree and it follows from earlier answers that most or all commodities trade as packages, commonly between derivatives and deliverable forwards. We therefore do agree that it is necessary to provide for assets class specific criteria, yet underline that issues are more complex for commodities because of:

* the sheer variety of products and venues under consideration;
* the specific treatments available under Perimeter Guidance;
* the nature of most of the market participants not being MiFID entities;
* the much reduced role of CCP Clearing;
* the complexities arising from specified carve outs involving both C6 Gas and Power;
* the deferred introduction of Oil and Coal;
* the fact that energy trades in deliverable unit amounts separate to any particular currency, although the USD is very often used to monetise those deliverable units.

WMBA would suggest an open approach to this market segment and a more thorough review after 2020.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_18>

1. Do you consider it necessary to develop criteria at a more granular level (e.g. energy derivatives, agricultural derivatives) to better reflect the particularities of package orders in the different sub-asset classes? If yes, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_19>

Yes, the WMBA does agree and it follows from earlier answers that most or all commodities trade as packages, commonly between commodity derivatives and deliverable forwards. We therefore do agree that it is necessary to provide for assets class specific criteria, yet underline that issues are more complex for commodities because of:

* the sheer variety of products and venues under consideration;
* the specific treatments available under Perimeter Guidance;
* the nature of most of the market participants not being MiFID entities;
* the much reduced role of CCP Clearing;
* the complexities arising from specified carve outs involving both C6 Gas and Power;
* the deferred introduction of Oil and Coal;
* the fact that energy trades in deliverable unit amounts separate to any particular currency, although the USD is very often used to monetise those deliverable units.

WMBA would suggest an open approach to this market segment and a more thorough review after 2020.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_19>

1. Do you consider it necessary to specify that all components of the package order should have the same underlying? If yes, please explain at which level this concept of “same underlying” should apply (e.g. same asset class, same sub-asset class, same sub-class – as per Annex III of RTS 2 – or at or more granular level).

<ESMA\_QUESTION\_MIFID\_PO\_20>

No, the WMBA disagrees that common and liquid packages within commodity derivatives and between deliverable forwards have the same underlying. Rather, the sheer variety of products and venues under consideration lead to a variety of liquid packages, most particularly in the oil complex and the energy complex. For instance, “Dark Spreads,” “Spark Spreads” in Energy and “Dated Brent” in oil all involve different underlying deliverable contracts and indices.

WMBA would suggest an open approach to this market segment and a more thorough review after 2020.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_20>

1. Are there package orders in other derivative asset classes that are in your view standardised and frequently traded and which should be eligible for having a liquid market as a whole? If yes, what asset class specific criteria do you suggest for those?

<ESMA\_QUESTION\_MIFID\_PO\_21>

No, the WMBA does not immediately consider that common and liquid packages occur in further asset classes, and we note and support the approach of ESMA in respect of the broader FX asset class. Additionally, and in passing, we would note both *Inflation* [Perg C10] and *Correlation* as broad areas, if not asset classes themselves, where derivative packages are commonplace.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_21>

1. Do you agree with the approach proposed for FX derivatives or do you consider it necessary to include an asset-class specific approach for FX derivatives?

<ESMA\_QUESTION\_MIFID\_PO\_22>

Yes, the WMBA does broadly agree and support the approach of ESMA in respect of the broader FX asset class. We add that WMBA members arrange the vast bulk of global FX derivative trades, clearly very commonly in packages since these are the market normal approach for both FX Forwards [deliverable and NDF] and FX Options, consequently we would be happy to assist and commend an industry lead specific approach to FX derivatives because of the essentially global and cross border nature of the asset class.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_22>

1. How should ESMA deal with cross-asset class package orders? Should ESMA develop cross-asset class specific criteria? If yes, please specify those. Alternatively, should cross-asset class package orders be allocated to only one asset class? If yes, how?

<ESMA\_QUESTION\_MIFID\_PO\_23>

Yes, the WMBA does broadly agree and support the specific criteria approach for cross asset class packages by ESMA. Since these would necessarily be broad and diverse across the asset classes and perimeter boundaries, we understand this would be a more detailed annex than this consultation is aimed at. WMBA would however set out some of the criteria below:

* Whether one asset class is usually dominant in trade terms or sourcing liquidity
  + Especially if one asset class are listed futures
* Whether the trade sizes of the components are fixed or variable
* Treatment under other regulations:
  + Clearing obligation
  + Trading obligation
  + SFTR scope
  + REMIT scope
  + Third Country scope and classification
* Venue admission and volume
* Average trade size and frequency of the package
* Nature and location of the counterparties

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<ESMA\_QUESTION\_MIFID\_PO\_23>

1. Do you agree that package orders where all components are subject to the trading obligation for derivatives should be considered to have a liquid market as a whole? If not, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_24>

No, the WMBA does not consider that packages may be deemed liquid only because all components are subject to the trading obligation for derivatives. Whilst this is indeed superficially appealing, in actual fact the components on their own have little relevance to the liquidity of the package and the converse is indeed also equally the case.

One example here would be the time of day or month, especially for venues which arrange for 24 hours as most MTFs and OTFs do operate. It may be that US or Japan related third party venues introduce liquidity only at certain times, or that liquidity dries up due to physical or credit factors at certain points in the month, delivery cycle, economic calendar or financial reporting calendar.

Rather those venues that arrange and execute will be the only entities placed to determine the liquidity of the each of the components on that trading venue.

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<ESMA\_QUESTION\_MIFID\_PO\_24>

1. Do you consider that package orders where at least one component is subject to the trading obligation and all other components are subject to the clearing obligation should be considered to have a liquid market as a whole? If not, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_25>

No, the WMBA does not consider that packages may be deemed liquid only because all components are subject to either the trading obligation for derivatives or the clearing obligation. Whilst this is indeed superficially appealing, in actual fact the components on their own have little relevance to the liquidity of the package and the converse is indeed also equally the case. Such a proposal would also require a more complete cross border equivalence and deference adherence between locations where the derivatives may be traded and where they are cleared.

Rather, the WMBA believes that you need to consider metrics and liquidity across all trading hours and market cycles as another criterion to consider package order where one leg is traded on a venue and the other components are subject to EMIR clearing obligations to be considered liquid market as a whole package. For example, whilst venues are open around the clock to arrange and execute transactions, CCPs are very often not similarly always open to accept trades for clearing across a similar availability.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_25>

1. Do you agree that the categories of packages above should be considered as standardised and frequently traded for the purpose of this RTS empowerment? If not, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_26>

No, the WMBA does not consider that the categories of packages listed in the DP / CP should be considered as standardised and frequently traded for the purpose the RTS. In actual fact the liquidity in types of packages listed vary enormously between actual contracts, between venues and across time (both daily and periodic). There needs to be far more evidential data gathered to populate a more detailed annex, this should likely last for some period after the commencement of MiFIR.

Specifically, we do not believe that USD denominated derivatives in certain asset classes, most especially interest rates and credit are appropriate for EU regulation.

Additionally, and more specifically, we note that ESMA includes Basis Swaps between CCPs. These are only effectively offered on one single WMBA member venue and even on these specific indicative IOI screens, liquidity is scare and periodic.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_26>

1. Are there any categories of packages missing in the above asset classes that should be considered for the purpose of this RTS empowerment? Are there in your view categories of packages in other asset classes that ESMA should consider?

<ESMA\_QUESTION\_MIFID\_PO\_27>

No, the WMBA does not consider that further categories of packages are missing in the listed asset classes and should be considered for the relevant RTS.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_27>

1. Do you agree with the draft RTS in annex IV? If not, please explain.

<ESMA\_QUESTION\_MIFID\_PO\_28>

No, the WMBA does not consider that the draft RTS in annex IV are appropriate due to our responses in this CP not always according to the suggestions in the combined DP / CP. In short clearly the subject matter requires longer and further quantitative study as MiFIR rules become binding.

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_28>

1. CBAQ1: Please identify, per asset class and per currency, the total nominal amount traded (including packages). Please also identify what % of this total trading is executed i) through packages (incl. EFPs) and ii) through packages (with only financial instruments as components), on trading venues and OTC. Reference period: September 2015–September 2016. If you are a trading venue, please fill in the trading venue columns only. If you are an investment firm, please fill in the trading venue and OTC columns as appropriate.

<ESMA\_QUESTION\_MIFID\_PO\_29>

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Total Nominal amount traded, including packages (in euros)**  Sept 2015-Sept 2016 | | **% of packages (including EFPs)** | | **% of packages (with only financial instruments as components)** | |
| Trading venues | OTC | Trading venues | OTC | Trading venues | OTC |
| **Interest rate derivatives** |  |  |  |  |  |  |
| Euro |  |  |  |  |  |  |
| USD |  |  |  |  |  |  |
| GBP |  |  |  |  |  |  |
| Other currencies (please specify) |  |  |  |  |  |  |
| **Equity derivatives** |  |  |  |  |  |  |
| Euro |  |  |  |  |  |  |
| USD |  |  |  |  |  |  |
| GBP |  |  |  |  |  |  |
| Other currencies (please specify) |  |  |  |  |  |  |
| **Credit derivatives** |  |  |  |  |  |  |
| Euro |  |  |  |  |  |  |
| USD |  |  |  |  |  |  |
| GBP |  |  |  |  |  |  |
| Other currencies (please specify) |  |  |  |  |  |  |
| **Commodity derivatives** |  |  |  |  |  |  |
| Euro |  |  |  |  |  |  |
| USD |  |  |  |  |  |  |
| GBP |  |  |  |  |  |  |
| Other currencies (please specify) |  |  |  |  |  |  |

<ESMA\_QUESTION\_MIFID\_PO\_29>

1. CBAQ2: Based on ESMA draft RTS, out of the package orders (comprised only of financial instruments) that you trade, which percentage of the volume traded do you expect to be considered as having a liquid market as a whole? Please confirm which category the package orders you trade fall under:

1= less than 10% of the volume of package orders traded;

2= from 10% to 25% of the volume of package orders traded;

3= from 25% to 50% of the volume of package orders traded;

4= from 50% to 75% of the volume of package orders traded; or,

5= more than 75% of the of the volume of package orders traded.

<ESMA\_QUESTION\_MIFID\_PO\_30>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_30>

1. CBAQ3: In which area do you anticipate the costs of complying with ESMA’ draft RTS to stem from (e.g. IT, training)?

<ESMA\_QUESTION\_MIFID\_PO\_31>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_31>

1. CBAQ4: Could you provide an indication of the expected implementation costs of ESMA’ draft RTS (in euros) differentiating between (i) one-off costs and (ii) recurring costs (on an annual basis)?

<ESMA\_QUESTION\_MIFID\_PO\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_32>

1. CBAQ5: In relation to the size of your business, do you expect those costs to be:

very low;

low;

medium; or,

high.

<ESMA\_QUESTION\_MIFID\_PO\_33>

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1. CBAQ6: Do you expect any impact from ESMA’s draft RTS on your business model/activity? If so, please explain the drivers and the expected changes to your business model/activity.

<ESMA\_QUESTION\_MIFID\_PO

<ESMA\_QUESTION\_MIFID\_PO\_34>

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1. CBAQ7: Do you expect you expect broader market changes from the draft RTS in the short or medium term TO?

<ESMA\_QUESTION\_MIFID\_PO\_35>

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1. CBAQ8: If so, please explain

<ESMA\_QUESTION\_MIFID\_PO\_36>

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| --- | --- | --- | --- |
| **Expected Impact on** | **Yes/No/NA** | **Positive Impact** | **Negative impact** |
| **Market structure (changes in trading models, in trading strategies…)** |  |  |  |
| **Liquidity**  **(please explain how you measure liquidity)** |  |  |  |
| **End users** |  |  |  |
| **Other (specify)** |  |  |  |

<ESMA\_QUESTION\_MIFID\_PO\_36>

1. CBAQ9: Are their specific concerns regarding ESMA’s draft RTS you would wish to highlight? Please be as specific as possible in your answer.

<ESMA\_QUESTION\_MIFID\_PO\_37>

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<ESMA\_QUESTION\_MIFID\_PO\_37>

1. CBAQ10; Are there specific benefits arising from ESMA’s draft RTS you would wish to mention?

<ESMA\_QUESTION\_MIFID\_PO\_38>

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<ESMA\_QUESTION\_MIFID\_PO\_38>

**For trading venues only**

1. CBAQ11: Do you offer trading in packages?

<ESMA\_QUESTION\_MIFID\_PO\_39>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_PO\_39>

1. CBAQ12: If so, please describe, per asset class, the categories of packages for which pre-trade transparency is currently provided. Please also state whether you consider those packages as liquid and the criteria taken into consideration (e.g. spreads, volume traded, number of transactions, number of market participants). If no sufficient space is available to respond, please provide the information in an annex.

<ESMA\_QUESTION\_MIFID\_PO\_40>

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| --- | --- | --- | --- | --- | --- |
| **Package Categories with pre-trade transparency** | **Currency** | **Tenor** | **Reference index** | **Other characteristics (please identify)** | **Liquidity assessment (Y/N) and underlying criteria** |
| **Interest rate derivatives** |  |  |  |  |  |
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| **Equity derivatives** |  |  |  |  |  |
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| **Credit derivatives** |  |  |  |  |  |
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| **Commodity derivatives** |  |  |  |  |  |
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| **Others (please specify)** |  |  |  |  |  |
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<ESMA\_QUESTION\_MIFID\_PO\_40>