European Securities and Markets Authority

Reply form for the ESMA MiFID II/MiFIR Discussion Paper

22 May 2014

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2.3. Best execution - publication of data related to the quality of execution by trading venues for each financial instrument traded

Q10: Should the data publication obligation apply to every financial instrument traded on the execution venue? Alternatively, should there be a minimum threshold of activity and, if so, how should it be defined (for example, frequency of trades, number of trades, turnover etc.)?

The obligation should not apply to every financial instrument traded on the venue. It is more difficult to measure execution quality in illiquid stocks. If an instrument is illiquid then the data cannot be considered representative of its behaviour and any report provided could also be misleading.

New venues (or new segments) will not have consistent data so there should be thresholds in terms of market maturity – for example where the average daily volume for 6 months is over a certain threshold. The approach adopted in other jurisdictions which specify a minimum number of transactions per day could also be considered.

Q11: How often should all execution data be published by trading venues? Is the minimum requirement specified in MiFID II sufficient, or should this frequency be increased? Is it reasonable or beneficial to require publication on a monthly basis and is it possible to reliably estimate the marginal cost of increased frequency?

Producing data on a monthly basis will not provide any additional benefit compared to annual publication and will create a significant additional burden. An exemption for smaller trading venues could be considered to reduce the potential barriers to entry the proposals may create.

Q13: Do you agree that trading venues should publish the data relating to the quality of execution with regard to a uniform reference period, with a minimum of specific reporting details and in a compatible format of data based on a homogeneous calculation method? If not, please state why.

We agree.

Q15: The venue execution quality reporting obligation is intended to apply to all MiFID instruments. Is this feasible and what differences in approach will be required for different instrument types?

We do not think it is feasible to apply this obligation to illiquid instruments.

Q21: What would be the most appropriate way to measure the speed of execution in order to get useful data?

The round trip time should be taken into account (not inbound only).

Q23: Is data on orders cancelled useful and if so, on what time basis should it be computed (e.g. within a single trading day)?

If venues have order to trade ratios in place then excessive cancellations will be discouraged so this information is unlikely to be useful.

Q25: What additional measures are required to define or capture the above data and relevant additional information (e.g. depth weighted spreads, book depths, or others) How should the data be presented: on an average basis such as daily, weekly or monthly for each financial instrument (or on more than one basis)? Do you think that the metrics captured in the Annex to this chapter are relevant to European markets trading in the full range of MiFID instruments? What alternative could you propose?

These metrics are only really useful when analysed in the context of a particular trade or event. The most useful information that venues could provide is raw data (volume, spreads, volatility etc) available in a downloadable format to enable firms to run their own analysis – this would also be simpler, cheaper and easier for venues to produce.

2.4. Best execution - publication of data by investment firms

Q29: Do you agree that in order to allow clients to evaluate the quality of a firm's execution, any proposed standards should oblige the firm to give an appropriate picture of the venues and the different ways they execute an order?

We agree. However, it should be possible for information to be disclosed on the firm's website, or directly to customers on request.

Q31: Do you think that the data provided should be different in cases when the firm directly executes the orders to when the firm transmits the orders to a third-party for execution? If yes, please indicate what the differences should be, and explain why.

The data should be the same.

Q32: Do you consider that information on both directed and non-directed orders is useful? Should the data be aggregated so that both types of order are shown together or separated? Should there be a similar approach to disclosure of information on market orders versus limit orders? Do you think that another categorisation of client orders could be useful?

We agree that directed and non-directed orders should be provided separately. Information on directed flow is not useful as it reflects individual client instructions and does not provide any information on the broker.

Q33: Do you think that the reporting data should separate retail clients from other types of clients? Do you think that this data should be publicly disclosed or only provided to the NCA (e.g. when requested to assess whether there is unfair discrimination between retail clients and other categories)? Is there a more useful way to categorise clients for these purposes?

Data should be provided to clients and NCAs but not necessarily made public.

Q34: Do you agree that the investment firms should publish the data relating to their execution of orders with regard to a uniform reference period, with a minimum of specific reporting details and in a compatible format of data based on a homogeneous calculation method? If not, please state why.

Report structures should be based on existing FIX standards.

Q35: What would be an acceptable delay for publication to provide the clients with useful data?

As suggested by ESMA, annual publication of the data should be sufficient for the majority of clients.

Q37: Do you agree that it is proportionate to require investment firms to publish on an annual basis a summary based on their internal execution quality monitoring of their top five execution venues in terms of trading volumes, subject to certain minimum standards?

We are not against the proposal, however would note that it is not clear how one would assess execution quality on this basis. We agree with ESMA's statement in paragraph 16 that the difficulty of knowing clients trading intentions and the summary nature of the reporting obligation means that it is not appropriate to specify measures of execution quality for investment firms.

Q41: Do you agree that ESMA should try to limit the number of definitions of classes of instruments and provide a classification that can be used for the different reports established by MiFID and MiFIR?

The proposal in paragraph 41 of this section, which proposes that the subdivision of instrument class only be imposed on large investment firms, may not achieve the stated objectives of MiFID II. In some cases, smaller brokers who may route only to the primary market would be the exact group where increased obligations around demonstrating best execution may be beneficial.

3. Transparency

3.1. Pre-trade transparency - Equities

Q45: What in your view would be the minimum content of information that would make an indication of interest actionable? Please provide arguments with your answer.

Traditional IOIs consist of stock, price, size, direction (buy or sell). Actionable IOIs include an indication that the IOI is firm and may be electronically traded against. It is this "Actionable" indication that is key to designating IOIs as actionable.

The use of traditional IOIs should not be restricted unnecessarily. They perform a valuable function in markets by enabling participants to discover large sized matches to their orders and reduce market impact of otherwise challenging orders.

Q46: Do you agree with ESMA's opinion that Table 1 of Annex II of Regulation 1287/2006 is still valid for shares traded on regulated markets and MTFs? Please provide reasons for your answer.

We agree.

Q48: Do you agree with ESMA's view that ADT remains a valid measure for determining when an order is large in scale compared to normal market size? If not, what other measure would you suggest as a substitute or complement to the ADT? Please provide reasons for your answer.

ADT does not remain a valid measure. ESMA should consider replacement of ADT with a measure that operates on a rolling 5 day average which is more reflective of prevailing market liquidity. Implementation of this should be made contingent upon a well functioning consolidated tape.

Q49: Do you agree that ADT should be used as an indicator also for the MiFIR equity-like products (depositary receipts, ETFs and certificates)? Please provide reasons for your answers.

We do not agree that ADT should be used as an indicator for large in scale (LIS), for ordinary equity or for equity like instruments.

For ETFs, there do not need to be different thresholds for LIS according to ADT. We would suggest a waiver based on a notional threshold of €10 million applied to all ETFs.

Q50: Do you think there is merit in creating a new ADT class of 0 to €100,000 with an adequate new large in scale threshold and a new ADT class of €100,000 to €500,000? At what level should the thresholds be set? Please provide reasons for your answer.

Notwithstanding our comments on ADT, if ADT has to be used then a lower band would reduce the negative impact associated with large orders in less liquid stocks.

Q51: Do you think there is merit in creating new ADT classes of €1 to €5m and €5 to €25m? At what level should the thresholds be set? Please provide reasons for your answer.

If it is necessary to use ADT, then greater granularity would marginally reduce the negative impact and would be welcomed.

Q52: Do you think there is merit in creating a new ADT class for 'super-liquid' shares with an ADT in excess of €100m and a new class of €50m to €100m? At what level should the thresholds be set?

No. For the more liquid stocks, the thresholds are too high and have resulted in the LIS waiver being broadly irrelevant in market structure thus far. They should be substantially lower.

Q53: What comments do you have in respect of the new large in scale transparency thresholds for shares proposed by ESMA?

Across the majority of the bands, the large in scale thresholds remain too high and should be reduced so they can become a useful part of the equity market structure.

Q54: Do you agree with the ADT ranges selected? Do you agree with the large in scale thresholds set for each ADT class? Which is your preferred option? Would you calibrate the ADT classes and related large in scale thresholds differently? Please provide reasons for your answers, including describing your own role in the market (e.g. market-maker, issuer etc).

We do not think that there needs to be a range of different thresholds for ETFs. We would suggest that a large-in-scale waiver should be based on a notional threshold of €10million applied to all ETFs. This uniform level of transparency would be suitable for the ETF market.

Q58: Do you agree with ESMA's view that the large in scale thresholds (i.e. the minimum size of orders qualifying as large in scale and the ADT classes) should be subject to a review no earlier than two years after MiFIR and Level 2 apply in practice?

We agree. The mandate to review should contain an obligation to consider impact and viability of moving to a measure that references prevailing liquidity as reflected by the consolidated tape, rather than continuing to use ADT.

Q59: How frequently do you think the calculation per financial instrument should be performed to determine within which large in scale class it falls? Which combination of frequency and period would you recommend?

This should be performed on an annual basis.

Q60: Do you agree with ESMA's opinion that stubs should become transparent once they are a certain percentage below the large in scale thresholds? If yes, at what percentage would you set the transparency threshold for large in scale stubs? Please provide reasons to support your answer.

We do not agree. The significant cost of implementation is in no way reflective of the negligible theoretical improvement in price formation that such a rule would deliver. An unintended impact of this change might be to reduce the usage of the LIS waiver even further which would increase the market impact costs for investors, including long term collective retail investors.

Q61: Do you agree with ESMA's view that the most relevant market in terms of liquidity should be the trading venue with the highest turnover in the relevant financial instrument? Do you agree with an annual review of the most relevant market in terms of liquidity? Please give reasons for your answer.

We recognise that MiFID includes the concept of the most relevant market in terms of liquidity. However, venues utilising the reference price waiver should be able to reference another venue should the price on the reference venue become unavailable. This will ensure that the market can continue transacting in the event of the outage of a reference venue.

Q63: Do you agree that the proposed list of transactions are subject to conditions other than the current market price and do not contribute to the price formation process? Do you think that there are other transactions which are subject to conditions other than the current market price that should be added to the list? Please provide reasons for your answer.

We agree with the proposed list. However, it is possible that in the future other scenarios will arise that require the list to be amended. ESMA should ensure flexibility and make use of Guidelines / Q&A so that the list can be amended over a short time period.

Q64: Do you agree that these are the two main groups of order management facilities ESMA should focus on or are there others?

We agree.

Q65: Do you agree with ESMA's general assessment on how to design future implementing measures for the order management facility waiver? Please provide reasons for your answer.

We agree.

Q67: Do you agree that the minimum size for a stop order should be set at the minimum tradable quantity of shares in the relevant trading venue? Please provide reasons for your answer.

We agree.

Q70: Which minimum sizes and which methods for determining them should be prescribed via implementing measures? To what level of detail should such an implementing measure go and what should be left to the discretion of the individual market to attain an appropriate level of harmonisation?

The same minimum order size as prevails for the rest of the relevant venue or such higher amount as the venue considers appropriate, in consultation with its participants.

Q72: Which methods for determining peaks should be prescribed by implementing measures, for example, should these be purely abstract criteria or a measure expressed in percentages against the overall size of the iceberg order? To what level of details should such an implementing measure go and what should be left to the discretion of the individual market to attain an appropriate level of harmonisation?

The same minimum order size as prevails for the rest of the relevant venue or such higher amount as the venue considers appropriate, in consultation with its participants.

3.2. Post-trade transparency - Equities

Q74: Do you agree that the content of the information currently required under existing MiFID is still valid for shares and applicable to equity-like instruments? Please provide reasons for your answer.

Trade reports should use the FIX market model typology.

Q75: Do you think that any new field(s) should be considered? If yes, which other information should be disclosed?

Trade reports should use the FIX market model typology.

Q76: Do you think that the current post-trade regime should be retained or that the identity of the systematic internaliser is relevant information which should be published? Please provide reasons for your response, distinguishing between liquid shares and illiquid shares.

We do not support the requirement for the identification of the specific SI to be disclosed. Identifying one party to a trade would put the SI at material disadvantage in trying to unwind its risk and therefore reduce the incentive to commit capital, particularly in less liquid stocks.

This is inconsistent with the logic of post trade deferrals and waivers, and would translate to wider spreads and thus worse prices for the collective retail funds that wish to trade via this mechanism. The logic of this notion would be to require RMs and MTFs to include the identity of the parties to a trade in their reports which would not be desirable.

Q77: Do you agree with the proposed list of identifiers? Please provide reasons for your answer.

ESMA should endorse the market model typology (MMT) initiative. The governance process that is in place for MMT and the ability to update it easily will ensure that it remains relevant to the market. A static list published in the regulation risks becoming out of date and will not be able to be updated quickly.

Q78: Do you think that specific flags for equity-like instruments should be envisaged? Please justify your answer.

We have not identified any but this is the type of question that is best answered in practice by the MMT initiative.

Q79: Do you support the proposal to introduce a flag for trades that benefit from the large in scale deferral? Please provide reasons for your response.

Yes, however the exact implementation should be considered by the group of experts that govern the MMT and not in isolation.

Q80: What is your view on requiring post-trade reports to identify the market mechanism, the trading mode and the publication mode in addition to the flags for the different types of transactions proposed in the table above? Please provide reasons for your answer.

We support this. It is part of MMT and its practical implementation should be governed by mandating the adherence to that typology.

Q81: For which transactions captured by Article 20(1) would you consider specifying additional flags as foreseen by Article 20(3)(b) as useful?

This should be guided by the MMT typology.

Q82: Do you agree with the definition of "normal trading hours" given above?

We agree.

Q83: Do you agree with the proposed shortening of the maximum permissible delay to 1 minute? Do you see any reason to have a different maximum permissible deferral of publication for any equity-like instrument? Please provide reasons for your answer

We do not agree with shortening the maximum permissible delay.

The three minute permitted delay is justifiable and necessary in some situations - it allows market participants to continue to participate in unusually active markets despite the impact that high volumes have on reporting speed.

The current obligation to publicise as soon as possible should be enforced. Shortening the maximum delay to 1 minute to prevent some participants routinely publishing at 2 minutes and 59 seconds, amounts to an endorsement of 59 seconds as the default which would be a significant backward steps for the vast majority of published reports.

Q85: Which of the two options do you prefer in relation to the deferral periods for large in scale transactions (or do you prefer another option that has not been proposed)? Please provide reasons for your answer

We prefer another option that has not been proposed. None of the options presented address the shortcomings of the current regime.

The primary objective of the deferred publication regime is to deliver the net benefits of appropriate protection from the market impact of undertaking a large order to offset risk, whilst also maintaining an appropriate level of transparency.

The deferred publication regime should not seek to maximise the delay in publication for a large trade but to permit an appropriate level of delay to balance transparency with market impact.

Market impact is a function of available liquidity - for a given size of trade, greater liquidity will result in less market impact. Liquidity is a dynamic function of supply and demand and can also be significantly influenced by external factors such as relevant news or macroeconomic events.

Ideally, the deferred publication regime should be based on prevailing market conditions and we would reiterate our concerns highlighted at response to question 48 as to the validity of ADT as the correct measure, as it is likely to be a poor approximation for prevailing liquidity. Taking into account ESMA's own data on the current size and direction of trade sizes, logic follows that the bands and thresholds as proposed are highly unlikely to be reflective of market impact. The absolute size of a trade is absent any context of liquidity. Delays that are determined on the basis of absolute size of trade bear no meaningful relationship to the ability to execute such a trade; and are therefore entirely arbitrary in nature.

The absolute size of trade is the only measure assessed for the stocks that are least liquid - where the appropriateness (or otherwise) of the deferred publication regime has potentially the greatest consequences.

The use of ADT, or the absolute size of trade, can result in permitted delays that bear little relationship to prevailing conditions and the ability to undertake offsetting trades, leading to one of two likely outcomes:

- excessive delays in times of low market impact - when liquidity is high and/or volatility is low - such that trades are published too late, resulting in a lack of transparency, or
- insufficient delays in times of high market impact - when liquidity is low and/or volatility is high - such that trades are published too soon, resulting in damage to the price achieved by retail investors accessing the markets through collective investments.

If the above concerns cannot be addressed by a different approach then of the three options, we would favour the first which is to maintain the current regime. Alternatively, between Option A and Option B, Option B is preferred as it allows deferred publication of the largest transactions from late in the day (15:00 or later) to noon of the next trading day, instead of prior to the next trading day.

Q86: Do you see merit in adding more ADT classes and adjusting the large in scale thresholds as proposed? Please provide alternatives if you disagree with ESMA's proposal

Please see question 85 for comments on the merits of the current and proposed approaches. The proposed approach does not result in any consistency in the thresholds across the bandings, and a particularly detrimental impact at the lower end, which risks deterring capital commitment for the smallest stocks that need it most.

If the proposed approach is to remain then thresholds should be harmonised relative to the ADT bands and further allowance be made at the lower levels in order that SME stocks are not disproportionately disadvantaged.

Q87: Do you consider the thresholds proposed as appropriate for SME shares?

No. The greatest delays are appropriate in the least liquid stocks where market impact is greatest. The structure of the proposed deferred publication regime does not reflect this at present.

Q88: How frequently should the large in scale table be reviewed? Please provide reasons for your answer

It should be reviewed annually, given the concerns above.

Q89: Do you have concerns regarding deferred publication occurring at the end of the trading day, during the closing auction period?

Yes. New information entering the market at this time would be un-necessarily disruptive and would favour more automated trading strategies able to machine read, analyse and respond to the information over traditional wholesale trading approaches.

Q90: Do you agree with ESMA's preliminary view of applying the same ADT classes to the pre-trade and post-trade transparency regimes for ETFs? Please provide reasons for your answer.

We do not agree with ESMA preliminary view of applying the same ADT classes to the pre-trade and post-trade transparency regimes for ETFs. As set out above, we do not think that ADT is a useful measure of liquidity in ETF markets.

If one were to follow the proposed ESMA approach for post trade transparency, the vast majority of trades by volume would be delayed. Post trade transparency in the ETF market is likely to be a less effective tool for price discovery if reporting is delayed for the majority of traded volume. In the US by contrast, all ETF trades are reported in real time.

The following would represent a suitable outcome for the ETF market:

- Real time reporting up to €5mn
- 120 mins delay for trades of €5m - €25mn
- End of day for trades above €25mn

These numbers should be recalibrated at frequent intervals to ensure they remain correct.

3.3. Systematic Internaliser Regime - Equities

Q91: Do you support maintaining the existing definition of quotes reflecting prevailing market conditions? Please provide reasons for your answer.

Yes.

Q92: Do you support maintaining the existing table for the calculation of the standard market size? If not, which of the above options do you believe provides the best trade-off between maintaining a sufficient level of transparency and ensuring that obligations for systematic internalisers remain reasonable and proportionate? Please provide reasons for your answer.

We recognise the competing demands of meeting the legislators objective of increasing transparency whilst ensuring thresholds reflect market developments.

Ideally, new bands should be introduced to provide for more granularity at the lower end of trading sizes. Our preference is for Option A but the maintenance of the current thresholds under the MiFID implementing rules would also be acceptable.

Q93: Do you agree with the proposal to set the standard market size for depositary receipts at the same level as for shares? Please provide reasons for your answer.

We agree.

3.4. Trading obligation for shares (Article 23, MiFIR)

Q96: Do you agree with the list of examples of trades that do not contribute to the price discovery process? In case of an exhaustive list_would you add any other type of transaction? Would you exclude any of them? Please, provide reasons for your response.

We would add an additional exemption to this list. Provision should also be made to allow for the ongoing maintenance of this list separate from a full legislative cycle.

Currently electronic trading brokers (DMA providers) executing orders on behalf of a client on a RM or MTF deliver shares in a principal capacity to clients via an aggregate (net) OTC transaction. This transaction is a transfer of beneficial ownership of the shares and is not an addressable transaction. It is important that this activity is included as a permissible OTC transaction and therefore out of scope of the trading obligation.

- There is no mechanism in the cleared equity market to give up transactions (as opposed to the listed derivative markets).
- Clients often prefer to have one settlement per side per instrument which is not possible using a RM /MTF (cleared) vs systemic internaliser.
- Costs would increase for the client since the equity market only has limited interoperability so a “cleared client” could have both multiple settlements and collateral calls from different CCP’s. The current process of the OTC transaction consolidates the settlements into a single buy and sell per ISIN and generally does not require collateral from the client which substantially reduces complexity and cost.
- Equity instruments under CSDR will settle T+2 so the risk of a default of a principal OTC transaction is generally limited to these 2 days.

Clarity is also required around give-up trades. Give up trades are included in the list of non-addressable liquidity trades, but paragraph 11 in the preceding analysis says that it will be the criteria for "Trades determined by factor other than the current valuation of the share" that represents non-contribution to price formation, and give-up trades do not feature here.

Q97: Do you consider it appropriate to include benchmark and/or portfolio trades in the list of those transactions determined by factors other than the current valuation of the share? If not, please provide an explanation with your response.

Yes.

3.5. Introduction to the non-equity section and scope of non-equity financial instruments

Q100: Do you agree with the proposed explanation for the various types of transferable securities that should be treated as derivatives for pre-trade and post trade transparency? If not, please provide arguments and suggestions for an alternative.

We agree.

Q101: Do you agree with ESMA's proposal that for transparency purposes market operators and investment firms operating a trading venue should assume responsibility for determining to which MiFIR category the non-equity financial instruments which they intend to introduce on their trading venue belong and for providing their competent authorities and the market with this information before trading begins?

We do not agree. Either this process should be centrally managed by ESMA, or venues, as part of their authorisation for admitting products for trading, should be required to seek approval from their competent authority that they have correctly classified the instrument and should be required to consult with market participants beforehand.

In the absence of this there is a risk that the same product would be inconsistently categorised on different venues.

3.6. Liquid market definition for non-equity financial instruments

Q103: Do you agree with the proposed approach? If you do not agree please provide reasons for your answers. Could you provide for an alternative approach?

We agree.

Q104: Do you agree with the proposed approach? If you do not agree please provide reasons. Could you provide an alternative approach?

In general, we prefer average daily turnover, however in some cases average trade value may be more relevant for a particular trade distribution. Therefore both average trade value (notional) AND average daily turnover should be considered, however only one of either would ever need to be a binding criteria.

Q105: Do you agree with the proposed approach? If you do not agree please provide reasons. Could you provide an alternative approach?

We agree. However, in some markets the presence of liquidity providers (option 2) may be a better indicator. This is the case in some listed derivatives markets.

Q106: Do you agree with the proposed approach? If you do not agree please provide reasons. Could you provide an alternative approach?

We would welcome their use and ESMA's approach to only use publically available spreads. However, those spreads should only be used where it is clear they are generated from actual transactions (as opposed to indicative or composite measures).

Q107: Should different thresholds be applied for different (classes of) financial instruments? Please provide proposals and reasons.

Yes. A single proposal in terms of calibration is unlikely to be suitable for every asset class given the variance of sizes and trading approaches. However, the methodology for deriving the thresholds should be the same.

Q110: Do you agree with the proposed approach? If you do not agree please provide reasons for your answer. Could you provide an alternative approach?

We agree. At a minimum, the first two criteria (frequency and size) and at least one of the second two (participants and spreads) would need to be met for a product to be considered liquid.

Q111: Overall, could you think of an alternative approach on how to assess whether a market is liquid bearing in mind the various elements of the liquid market definition in MiFIR?

We generally support the approach proposed, subject to the comments in questions 103 – 109.

Q112: Which is your preferred scenario or which combination of thresholds would you propose for defining a liquid market for bonds or for a sub-category of bonds (sovereign, corporate, covered, convertible, etc.)? Please provide reasons for your answer.

The proposals contained in the analysis of bonds on page 127 are generally too low both in terms of size (average daily volume) and frequency of trading. In the majority of scenarios given, a bond is deemed liquid if it trades around two times per day. We would argue that for the purposes of the pre and post trade transparency requirements, corporate bonds, for example, may need to be traded at least 4-5 times per day every other day of the year to be considered liquid, with average daily volumes at higher average daily volumes than in most of the scenarios envisaged. A bond that trades two times per day may represent simply one transfer of risk – with a market maker in the middle and two opposing interests either side.

The percentage of bonds by number caught as liquid is unsurprisingly small given a large number of bonds did not trade at all during the sample period. Consequently, whilst the percentage of volume/trades captured as liquid is indeed significant, we believe it is too high for the purposes of the pre and post trade transparency obligations as we understand them. Such a broad coverage would necessitate a lower calibration of thresholds (e.g. SSI, LIS) to ensure risk can be managed.

Q113: Should the concept of liquid market be applied to financial instruments (IBIA) or to classes of financial instruments (COFIA)? Would be appropriate to apply IBIA for certain asset classes and COFIA to other asset classes? Please provide reasons for your answers

For cash bonds and structured finance products, we strongly support following an instrument by instrument approach. Given the fact that bonds tend to fluctuate between liquid and illiquid over time, any approach to group bonds will inevitably lead to some products being incorrectly classified either way and damaging liquidity. Particularly for structured finance products, even within the product sub categories, liquidity could vary quite substantially within the same class.

The IBIA for bonds and structured finance products would of course mean that new issues risk not being captured. We would support cautious ex ante criteria which could ensure only truly liquid new issues are classified as liquid.

For derivatives, we welcome the 'classes of instruments' approach but have comments on the exact groupings/criteria, covered in our responses to other questions.

Q114: Do you have any (alternative) proposals how to take the 'range of market conditions and the life-cycle' of (classes of) financial instruments into account - other than the periodic reviews described in the sections periodic review of the liquidity threshold and periodic assessment of the liquidity of the instrument class, above?

The liquidity thresholds should be reviewed (but not necessarily changed) on an annual basis. The assessment of whether a class or instrument is/remains liquid/not liquid should be quarterly.

For certain derivatives, other factors that could be taken into account include corporate actions and index changes relating to the underlying.

Q115: Do you have any proposals on how to form homogenous and relevant classes of financial instruments? Which specifics do you consider relevant for that purpose? Please distinguish between bonds, SFPs and (different types of) derivatives and across qualitative criteria (please refer to Annex 3.6.1).

We agree with the majority of the product groups that have been proposed in Annex 3.6.1. with the exception of:

In interest rate derivatives, a distinction is needed between in the money and out of the money swaptions, so this should be added as an additional possible sub category.

For commodity derivatives, some of the product types need to have more sub product types under them. For example 'softs' needs to be broken down further into specific commodities such as coffee, cocoa, sugar and orange juice.

For equity derivatives, the categorisation is appropriate, however it is important that all the sub categories are used otherwise the groupings will be too crude.

Throughout, we would welcome clarity on the treatment of packaged transactions which has proven complex in the US. Issues are created when one instrument in a trade is liquid or subject to the derivatives trading obligation, and another instrument is not.

Q116: Do you think that, in the context of the liquidity thresholds to be calculated under MiFID II, the classification in Annex 3.6.1 is relevant? Which product types or sub-product types would you be inclined to create or merge? Please provide reasons for your answers

We agree with the proposed classification of different types of non equity products, with the exception of:

In interest rate derivatives a distinction is needed between in the money and out of the money swaptions, so this should be added as an additional possible sub category.

For commodity derivatives, some of the product types need to have more sub product types under them. For example 'softs' needs to be broken down further into specific commodities such as coffee, cocoa, sugar and orange juice.

For equity derivatives, the categorisation is appropriate, however it is important that all the sub categories are used otherwise the groupings will be too crude.

Throughout, we would welcome clarity on the treatment of packaged transactions which has proven complex in the US. Issues are created when one instrument in a trade is liquid or subject to the derivatives trading obligation, and another instrument is not.

Q117: Do you agree with the proposed approach? If not, please provide rationales and alternatives.

The proposed approach should take into account an additional parameter of major observable events which impact on liquidity such as a credit downgrade, issuer entering insolvency proceedings or delistings. These events will almost always lead to a substantial drop in liquidity and when they occur should result in a temporary suspension of transparency requirements.

When the temporary suspension is invoked, this needs to be clearly and promptly disseminated.

Q118: Do you agree with the proposed thresholds? If not, please provide rationales and alternatives.

ADT is not a good criteria for temporary suspension. Price or other factors (such as whether an issuing entity has defaulted or is in liquidation) are often in many cases more relevant. However, if ADT is intended to be used, the current ADT should be measured over a period less than the last 20 trading days. It should be 5 or 10 days maximum. The thresholds should be the same for both liquid and non liquid instruments.

3.7. Pre-trade transparency requirements for non-equity instruments

Q119: Do you agree with the description of request-for-quote system? If not, how would you describe a request-for-quote system? Please give reasons to support your answer.

The description of the system should make clear that transactions can only be concluded provided the quote was flagged as firm.

Q120: Do you agree with the inclusion of request-for-stream systems in the definition of request-for-quote system? Please give reasons to support your answer.

We agree that request for stream could be covered by the definition of request for quote system. However, we would not support explicit inclusion of *all* RFS within the definition.

A key difference is that request for stream quotes are generally not always firm whereas quotes provided to a client in a RFQ system are usually firm. It is not possible to ensure all streamed quotes in all products are accurate at all times to a level to commit to being firm in them.

Q122: Do you agree with the description of voice trading system? If not, how would you describe a voice trading system?

We agree – however it should be clear that this is in the context of multilateral activities on a venue. It is unclear how transparency is workable in practice without mandating all clients to use electronic systems for trades below a certain size. Some retail clients may not have access to electronic systems and prefer to trade via voice, so the impact of this proposal may be to exclude retail participants.

Q123: Do you agree with the proposed table setting out different types of trading systems for non-equity instruments?

We agree.

Q124: Do you think that the information to be made public for each type of trading system provides adequate transparency for each trading system?

In a RFQ system the identity of the responding dealer should not be disclosed (price and volume offered will be) and other participants that respond to the RFQ should not be able to see quotes of other market makers sent in response.

Actionable Indications of Interest (IOIs) should include a flag that the price is firm to be treated in the same way as bid / offers or firm quotes. The flag would effectively inform the client/requestor that no further information is needed to transact on the quote (e.g. last look is not needed). The use of traditional IOIs should not be restricted unnecessarily. They perform a valuable function in markets by enabling participants to discover large sized matches to their orders and reduce market impact of otherwise challenging orders.

Q125: Besides the trading systems mentioned above, are there additional trading models that need to be considered for pre-trade transparency requirements in the non-equity market space?

No.

Q129: Do you agree with ESMA's approach in relation to the content, method and timing of pre-trade information being made available to the wider public?

In a RFQ system the identity of the responding dealer should not be disclosed (price and volume offered will be) and other participants that respond to the RFQ should not be able to see quotes of other market makers sent in response.

Indications of Interest (IOIs) should include a flag that the price is firm and therefore to be treated in the same way as bid / offers or firm quotes. The flag would effectively inform the client/requestor that no further information is needed to transact on the quote (e.g. last look is not needed).

The proposals for voice trading need to be reconsidered, as per Q.122. It is not realistic to require all clients (especially retail clients) to make use of electronic systems for viewing quotes.

3.8. Post-trade transparency requirements for non-equity instruments

Q132: Do you agree with the proposed content of post-trade public information? If not, please provide arguments and suggestions for an alternative.

We agree. The price notation format (and indeed all others) should be standardised across similar instruments so that data can be easily compared and post-trade systems do not have to be calibrated to deal with discrepancies.

Q133: Do you think that the current post-trade regime for shares on the systematic internaliser's identity should be extended to non-equity instruments or that the systematic internaliser's identity is relevant information which should be published without exception?

The identity of the SI should not be published. Publishing the name of the SI would undermine the liquidity providers ability to provide liquidity and the protections of the SSI threshold. Such an approach would also be exacerbated if only very short volume deferrals were available as suggested in the paper.

Alternatively, aggregated data on market share could be published on a delayed basis, to give market participants an adequate sense of where liquidity is in the market. If this is the case, the data should be published with a 3 month delay after the end of Q4. Publication of Q4 data within one month is too soon and exposes participants to risk.

Q134: Is there any other information that would be relevant to the market for the above mentioned asset classes?

No.

Q136: Do you support the use of flags to identify trades which have benefitted from the use of deferrals? Should separate flags be used for each type of deferral (e.g. large in scale deferral, size specific to the instrument deferral)? Please provide reasons for your answer.

Flags for deferrals would need to be published at the same time the deferred data is published, otherwise this may undermine the benefit of the waiver. This in turn may mean it is not worthwhile or useful to include them.

Q137: Do you think a flag related to coupon payments (ex/cum) should be introduced? If yes, please describe the cases where such flags would be warranted and which information should be captured.

We do not support a flag for coupon payments. Instruments that are ex/cum are priced as such so the cost to implement this is not worthwhile, and it is not clear what policy objective this would achieve.

Q138: Do you think that give-up/give-in trades (identified with a flag) should be included in post-trade reports or not made public? Please provide reasons for your answers.

We would caution against making give up / give in trades public. Transparency requirements for these types of transactions generally lead to out of date information being published to the market. This is because the give up is usually auctioned at the end of the day resulting in reporting taking place at EOD or the day after the trade took place.

If ESMA does decide to include them, they should be clearly flagged as such so that analysis can easily exclude them.

Q139: Do you agree that securities financing transactions should be exempted from the post-trade transparency regime?

Yes, for the reasons outlined in the discussion paper.

Q140: Do you agree that for the initial application of the new transparency regime the information should be made public within five minutes after the relevant non-equity transaction? Please provide reasons for your answer.

The requirement should be publication as soon as is technically feasible, but no later than 5-30 minutes, depending on whether the trade is conducted on a venue or OTC and the type of trading (i.e. electronic / voice). In some scenarios, such as voice trades conducted with retail clients, it is unlikely to be technically feasible to publish within 5 minutes. This would have the benefit of aligning with other regimes and allow for flexibility for publication times to reduce over time as market practice develops.

Where it is possible to publish before the end of the backstop period (for example trades conducted on a trading venue) then this should be enforced.

Q141: Do you agree with the proposed text or would you propose an alternative option? Please provide reasons for your answer.

We do not agree. Given the broad scope of the MiFID/MiFIR requirements, and the proposal to publish exact volume after the deferral period, the delays proposed are too short to protect liquidity providers against risks.

The current proposals require significant revision to ensure detrimental market impact is avoided. The lack of volume omission is inconsistent with other jurisdictions thereby undermining international consistency which will be to the detriment of investors in Europe. This will also make mutual recognition decisions more difficult and distort the location of trading. Volume omission/long deferrals would permit other details of the trade (such as price) to be published much sooner (within 15 - 30 minutes). If volume omission is not included then delays should be significantly longer both for liquid and illiquid instruments (in some cases a number of months would more be appropriate).

ESMA should consider re-assessing the publication delays for both liquid and illiquid instruments to better align with other jurisdictions. The possibility to provide a capped, masked or banded volume should be considered alongside an extended deferral for actual volumes. In some cases multiple months would be appropriate for the most illiquid products.

Q142: Do you agree that the intra-day deferral periods should range between 60 minutes and 120 minutes?

A single deferral period would be sufficient and simpler to implement, somewhere between 60 and 120 minutes.

Q143: Do you agree that the maximum deferral period, reserved for the largest transactions, should not exceed end of day or, for transactions executed after 15.00, the opening of the following trading day? If not, could you provide alternative proposals? Please provide reasons for your answer.

For the most liquid products, given that some markets operate globally, 24 hours would be more appropriate for the longest time delay.

Q144: Do you consider there are reasons for applying different deferral periods to different asset classes, e.g. fixing specific deferral periods for sovereign bonds? Please provide arguments to support your answer.

If deferral periods were set at reasonable lengths, we would not propose differing those periods by asset class. However, if they remain as short as they are proposed to be in the discussion paper, differentiation may be necessary for those transactions/products which are particularly large or illiquid.

Q145: Do you support the proposal that the deferral for non-equity instruments which do not have a liquid market should be until the end of day + 1? Please provide reasons for your answer.

No. Given the broad scope of MiFID/MiFIR, the proposal to publish exact volumes EOD+1 for the most illiquid products is too short to ensure liquidity providers can adequately hedge their risks.

The current proposals require significant revision to ensure detrimental market impact is avoided. The lack of volume omission is inconsistent with other jurisdictions thereby undermining international consistency which will be to the detriment of investors in Europe. This will also make mutual recognition decisions more difficult and distort the location of trading. Volume omission/long deferrals would permit other details of the trade (such as price) to be published much sooner (within 15 - 30 minutes). If volume omission is not included then delays should be significantly longer both for liquid and illiquid instruments (in some cases a number of months would more be appropriate).

ESMA should consider re-assessing the publication delays for both liquid and illiquid instruments to better align with other jurisdictions. The possibility to provide a capped, masked or banded volume should be considered alongside an extended deferral for actual volumes. In some cases multiple months would be appropriate for the most illiquid products.

	Non equity instruments for which there is a liquid market	Non equity instruments for which there is not a liquid market
Up to SSI	Real time (5 – 30 minutes, depending on venue/OTC and trading type – electronic / voice)	
SSI - LIS	A single delay between 60-120 minutes	~ 1-3 months minimum, depending on the product
Above LIS	24 hours – T+3, depending on the product	
If a competent authority were to request all other details of the transaction (except volume) as close to real time as technically possible, this should in practice be 5 – 30 minutes, depending on venue/OTC and trading type – electronic / voice.		

Q146: Do you think that one universal deferral period is appropriate for all non-equity instruments which do not have a liquid market or that the deferrals should be set at a more granular level, depending on asset class and even sub asset class. Please provide reasons for your answer.

If deferral periods were set at reasonable lengths, we would not propose differing those periods by asset class. However, if they remain as they are proposed to be today, differentiation may be necessary for those transactions which are particularly large or illiquid.

Q147: Do you agree with the proposal that during the deferred period for non-equity instruments which do not have a liquid market, the volume of the transaction should be omitted but all the other details of individual transactions must be published? Please provide reasons for your answer.

No. In many markets, price is just as sensitive an indicator as volume, and may impact the ability to hedge a transaction/provide liquidity. Additionally, the publication of price without a volume may at a minimum, not be useful information and in a worst case, encourage unhelpful speculation. For liquid products it may be more feasible to publish price before volume at least at certain sizes.

Q150: In your view, could those transactions determined by other factors than the valuation of the instrument be authorised for deferred publication to the end of day? Please provide reasons for your answer.

Yes, since these transactions do not contribute to price formation they could even be subject to much longer delays.

3.9. The transparency regime of non-equity large in scale orders and transactions

Q151: Do you agree with the proposed option? Which option would be more suitable for the calibration of the large in scale requirements within an asset class?

Yes - if the grouping of products into sub classes is sufficiently granular and delays are sensibly long, further categorisation would not be needed.

Q152: Do you consider there are reasons for opting for different options for different asset classes? Please provide arguments.

Not if the grouping of products into sub classes is sufficiently granular and delays are sensibly long.

Q153: Do you agree that the choice between the two options should be consistent with the approach adopted for the assessment of liquidity? If not, please provide arguments.

We agree.

Q154: Do you agree with the proposed approach? If no, which indicator would you consider more appropriate for the determination of large in scale thresholds for orders and transactions?

Both average trade value (notional) AND average daily turnover should be used. The base measure could be ADT, but given the limitations set out in the DP, ESMA should also consider verifying the calibration using a second proxy to ensure the LIS threshold is appropriate for the market in question.

Q155: Do you agree that the proxy used for the determining the large in scale thresholds should be the same as the one used to assess the average size of transactions in the context of the definition of liquid markets? Please provide arguments.

Yes.

Q156: In your view, which option would be more suitable for the determination of the large in scale thresholds? Please provide arguments.

We prefer option 2 - an approach based on a coverage ratio that would aim for a certain percentage of transactions by trade count to be transparent within a certain period.

Q158: In your view, should large in scale thresholds for orders differ from the large in scale thresholds for transactions? If yes, which thresholds should be higher: pre-trade or post-trade? Please provide reasons to support your answer.

Yes, depending on where LIS levels are set there is a case for pre trade LIS levels to be lower than post trade because the risk to market makers is higher.

Q159: Do you agree that the large in scale thresholds should be computed only on the basis of transactions carried out on trading venues following the implementation of MiFID II? Please, provide reasons for the answer.

We agree.

Q161: Do you agree that the large in scale regime should be reviewed no earlier than two years after application of MiFIR in practice?

Yes.

3.10. Size specific to the instrument

Q162: Do you agree with the above description of the applicability of the size specific to the instrument? If not please provide reasons for your answer.

We agree.

Q163: Do you agree with the proposal that the size specific to the instrument should be set as a percentage of the large in scale size? Please provide reasons for you answer.

The size specific to the instrument should be different for both pre and post trade transparency thresholds. If set as a percentage of the LIS, it would always need to be a low single digit percentage, but this depends on the calibration of the liquidity parameters and the size of LIS in practice (i.e. there is no theoretical or principled way of determining a percentage figure).

Given the uncertainties involved, we would recommend that using median trade size as a potential approach is not discarded, until an approach to LIS has been finalised.

Q164: In your view, what methodologies would be most appropriate for measuring the undue risk in order to set the size specific threshold?

It will be primarily a qualitative judgement, dependent on specific factors within the market at any given time. Therefore it should be calibrated cautiously.

Q166: Do you agree with ESMA's description of how the size specific to the instrument waiver would interact with the large in scale waiver? Please provide reasons for your answer.

We agree.

Q167: Do you agree with ESMA's description of how the size specific to the instrument deferrals would interact with the large in scale deferrals? In particular, do you agree that the deferral periods for the size specific to the instrument and the large in scale should differ and have any specific proposals on how the deferral periods should be calibrated? Please provide reasons for your answer.

We agree.

3.11. The Trading Obligation for Derivatives

Q168: Do you agree that there should be consistent categories of derivatives contracts throughout MiFIR/EMIR?

We agree.

Q169: Do you agree with this approach to the treatment of third countries?

We agree.

Q170: Do you agree with the proposed criteria based anti-avoidance procedure?

We agree.

Q171: Do you think it would be reasonable for ESMA to consult venues with regard to which classes of derivatives contracts are traded on venue? Do you think venues would be well placed to undertake this task?

ESMA should consult all market participants equally, including venues.

Q172: The discussion in section 3.6 on the liquid market for non-equity instruments around 'average frequency', 'average size', 'number and type of active market participants' and average size of spreads is also relevant to this chapter and we would welcome respondent's views on any differences in how the trading obligation procedure should approach the following:

A similar approach to the liquidity test should be used. However, the thresholds may need to be higher in the sense that the obligation is for contracts to only be multilaterally traded, so contracts should have sufficient liquidity to support multilateral trading on an ongoing basis.

Average frequency should be taken to mean both the number of trades over a given time period and the number of days on which trading occurred during that period.

Average size should be based on the notional and number of trading days.

We would strongly support proposals from ESMA to take into account the co-legislators desire to set thresholds based on size for certain products when determining the derivatives trading obligation, this would ensure alignment with the US regime but is currently missing from the discussion paper.

Q173: Do you have a view on how ESMA should approach data gathering about a product's life cycle, and how a dynamic calibration across that life cycle might work? How frequently should ESMA revisit its assumptions? What factors might lead the reduction of the liquidity of a contract currently traded on venue? Are you able to share with ESMA any analysis related to product lifecycles?

As long as a sufficiently long time period is looked at (e.g. one year) then the right products should be scoped into the trading obligation.

Q175: Do you have any other comments on our overall approach?

We would strongly support proposals from ESMA to take into account the co-legislators desire to set thresholds based on size for certain products when determining the derivatives trading obligation. (Article 32.3 of MiFIR states that ESMA shall determine whether a class of derivatives is only sufficiently liquid below a certain size.) This would ensure alignment with the US regime but is currently missing from the discussion paper.

3.12. Transparency Requirements for the Members of ESCB

Q176: Do you agree that the above identifies the types of operations that can be undertaken by a member of the ESCB for the purpose of monetary, foreign exchange and financial stability policy and that are within the MiFID scope? Please give reasons to support your answer.

We agree

3.13. Article 22, MiFIR: Providing information for the purposes of transparency and other calculations

Q179: Do you have proposals on how NCAs could collect specific information on the number and type of market participants in a product?

NCAs should be able to extract this information from transaction reports.

Q180: Do you consider the frequency of data requests proposed as appropriate?

Yes. For shares the request could be annual but for non equity instruments it would need to be more frequent. We would support a quarterly recalibration.

Q181: How often should data be requested in respect of newly issued instruments in order to classify them correctly based on their actual liquidity?

Some new issues (for example bonds above a certain issuance size) could automatically be considered liquid for a certain number of weeks (4 or 5), however, typically liquidity falls very quickly thereafter. While transparency may be useful for those products following issuance, a mechanism would need to be in place to avoid liquidity falling even more quickly due to the reduced ability to hedge.

For instruments where there is price stabilisation, data should only be collected once the instrument is no longer underwritten. Six months might be a minimum appropriate period to look at.

Q182: What is your view of ESMA's initial assessment of the format of data requests and do you have any proposals for making requests cost-efficient and useful for all parties involved?

Templates are of course necessary but the data requested should be in as raw form as possible to ensure as few inconsistencies as possible between data sets.

Q183: Do you consider a maximum period of two weeks appropriate for responding to data requests?

In some cases this will be sufficient, however depending on the nature and the format of the request, in many cases longer may be required – the requirements should allow flexibility where this is necessary and justified. At certain times of the year, up to 3 weeks may be needed.

Q184: Do you consider a storage time for relevant data of two years appropriate?

Yes.

4. Microstructural issues

4.1. Microstructural issues: common elements for Articles 17, 48 and 49 MiFID II

Q185: Is there any element that has not been considered and/or needs to be further clarified in the ESMA Guidelines that should be addressed in the RTS relating to Articles 17, 48 and 49 of MiFID II?

No.

Q186: Do you agree with the definition of 'trading systems' for trading venues?

We agree.

Q187: Do you agree that the requirements under Articles 48 and 49 of MiFID II are only relevant for continuous auction order book systems and quote-driven trading systems and not for the other systems mentioned above?

We agree.

Q189: Do you agree with the definition of "trading system" for investment firms?

We agree.

Q190: Do you agree with the definition of 'real time' in relation to market monitoring of algorithmic trading activity by investment firms?

There are some cases where less than 5 seconds would be optimal, however there will also be other cases where less than 5 seconds is not necessary and would be disproportionate to implement. We would propose that real time should be defined proportionally, using 5 seconds as a benchmark, with a requirement to be faster where necessary and longer where justified.

Q191: Is the requirement that real time monitoring should take place with a delay of maximum 5 seconds appropriate for the risks inherent to algorithmic trading and from an operational perspective? Should the time frame be longer or shorter? Please state your reasons.

There are some cases where less than 5 seconds would be optimal; however there will also be other cases where less than 5 seconds is not necessary and would be disproportionate to implement. We would propose that real time should be defined proportionally, using 5 seconds as a benchmark, with a requirement to be faster where necessary and longer where justified.

Q192: Do you agree with the definition of 't+1' in relation to market monitoring of algorithmic trading activity by investment firms?

In general, the T+1 requirement for market monitoring is acceptable. However, there may be some products, systems and scenarios where longer is justified to conduct effective market monitoring.

Q193: Do you agree with the parameters to be considered to define situations of 'severe market stress' and 'disorderly trading conditions'?

We agree.

Q194: Do you agree with the above approach?

We agree.

Q195: Is there any element that should be added to/removed from the periodic self-assessment?

No.

Q196: Would the MiFID II organisational requirements for investment firms undertaking algorithmic trading fit all the types of investment firms you are aware of? Please elaborate.

Yes.

Q197: Do you agree with the approach described above regarding the application of the proportionality principle by investment firms? Please elaborate.

Self-assessment twice yearly is likely to be too frequent. Annually would be more appropriate.

The concept of proportionality should also be able to be applied on an activity by activity basis. Some activities may require a high degree of organisational oversight, but others less so depending on the risks involved.

Q198: Are there any additional elements that for the purpose of clarity should be added to/removed from the non-exhaustive list contained in the RTS? Please elaborate.

No.

4.2. Organisational requirements for investment firms (Article 17 MiFID II)

Q199: Do you agree with a restricted deployment of algorithms in a live environment? Please elaborate

We agree.

Q200: Do you agree with the parameters outlined for initial restriction? Please elaborate.

If this question is referring to the controlled roll out of algorithms, then we agree. However, the specific parameters that are restricted will vary depending on the specific market and instruments in question and firms should be obligated to select the most appropriate parameters.

Q201: Do you agree with the proposed testing scenarios outlined above? Would you propose any alternative or additional testing scenarios? Please elaborate.

We partially agree. Annual testing would be more appropriate, with a requirement to test significant changes.

Capacity testing should distinguish between operational / throughput capacity which results in systems slowdown, and failure capacity whereby systems would stop functioning.

Q202: Do you agree with ESMA's approach regarding the conditions under which investment firms should make use of non-live trading venue testing environments? Please elaborate.

Yes, assuming the trading venue provides the adequate non-live testing environment. If no environment is provided, the investment firm would not be able to meet this obligation. It should also be possible to rely on the results from non-live testing in other venues if the environment is very similar.

Q203: Do you consider that ESMA should specify more in detail what should be the minimum functionality or the types of testing that should be carried out in non-live trading venue testing environments, and if so, which?

No, this should be principles based, as different markets, strategies and instruments traded will have different testing requirements.

Q204: Do you consider that the requirements around change management are appropriately laid down, especially with regard to testing? Please elaborate.

Yes, in general. We agree that the investment firm should decide the depth of the review that is needed according to the magnitude of the proposed change. For example, minor configuration changes, such as parameterisation changes may not need to go through a formal review and sign off process as they may already be covered by the previous sign off process.

Q205: Do you agree with the proposed monitoring and review approach? Is a twice yearly review, as a minimum, appropriate?

Annually would be a more proportionate approach.

We disagree that monitoring should be undertaken wholly independently. Alone, independent personnel will have no context to the trade. Risk limits and controls should be set independently by the Risk function but ultimately trading desks should be responsible for ensuring that their behaviour does not contribute to disorderly trading.

Q206: To what extent do you agree with the usage of drop copies in the context of monitoring? Which sources of drop copies would be most important?

We agree that firms should maintain real time and accurate trade and account information and that reconciliation should be a regulatory requirement but specifying a particular solution is not appropriate. Equity trading involves multiple reconciliation points. Reconciliation should be undertaken at a frequency proportional to the type of trading. Sponsored Access uses drop copies, whereas Direct Market Access tends to use other solutions.

Q207: Do you agree with the proposed approach?

Not fully. Entering into a code escrow agreement is generally viable, but access to code on an ongoing basis is generally not. Such an approach would require changes to legal agreements in vendor relationships which in many cases will not be viable, particularly for vendors for whom the European financial services industry is a small part of their business. These vendors may however offer the best in class software and it would therefore be damaging to prevent their use in the EU by this requirement. Firms should ensure their legal agreements provide them with sufficient and necessary access in light of the specific risks posed to discharge their responsibilities.

Q208: Is the proposed list of pre trade controls adequate? Are there any you would add to or remove from the list?

We broadly agree. However, the specification of the pre trade controls should not include any further calibration (i.e. quantitative thresholds) as these could create more instability than they remove.

Additionally, some metrics such as points (iv) and (v) are more suited to being managed on a near real time (post trade) basis as they may require consolidation of data across several systems.

Q209: To what extent do you consider it appropriate to request having all the pre-trade controls in place? In which cases would it not be appropriate? Please elaborate.

It would not be appropriate. For example, for sponsored access flows the venue would need to implement some of these pre-trade controls, which may not be viable. Some market marker structures do not support "last look" on execution requests, preventing the ability to validate quotes before execution. Setting a maximum order value for futures does not make sense.

Q210: Do you agree with the record keeping approach outlined above?

The record keeping requirement should not apply to non binding RFQs where there has been no market interaction.

Regarding point 73 (pg 226), the record keeping requirements should not apply to any orders resulting from a clients' algorithm as this is proprietary client information.

Q211: In particular, what are your views regarding the storage of the parameters used to calibrate the trading algorithms and the market data messages on which the algorithm's decision is based?

There should not be a requirement to store parameters (point 71(i), pg 226) but there should be a requirement to store functional changes / significant changes.

Full market data storage is not always technically feasible give the high market data rates in certain markets.

Q213: Trade reconciliation – should a more prescriptive deadline be set for reconciling trade and account information?

A more prescriptive deadline will be of little benefit and therefore is not necessary.

Q214: Periodic reviews – would a minimum requirement of undertaking reviews on a half-yearly basis seem reasonable for investment firms engaged in algorithmic trading activity, and if not, what would be an appropriate minimum interval for undertaking such reviews? Should a more prescriptive rule be set as to when more frequent reviews need be taken?

Twice yearly review is too onerous. Annual review and whenever there is a major change would be more appropriate.

Q215: Are there any elements that have not been considered and / or need to be further clarified here?

It should be further clarified what 'assessing training and competency' means. It is not always practical to require investment firms to assess the training and competency of clients. Firms can be expected to offer training but not assess competency.

The due diligence assessment of changes to staffing should apply to personnel in key positions, such as Head of Trading / Head of Desk.

Paragraph 95 should not imply an obligation on DEA providers to request and review source code of clients algorithms. This information is proprietary to the client.

Q216: What is your opinion of the elements that the DEA provider should take into account when performing the due diligence assessment? In your opinion, should any elements be added or removed? If so, which?

Further elaboration is required as to what level of due diligence is expected to ensure a proper assessment and review of the suitability of clients. It is highly unlikely that clients will release source code which could put EU firms at a competitive disadvantage and it is unclear reviewing the source code itself would improve risk outcomes.

Q217: Do you agree that for assessing the adequacy of the systems and controls of a prospective DEA user, the DEA provider should use the systems and controls requirements applied by trading venues for members as a benchmark?

We agree.

Q218: Do you agree that a long term prior relationship (in other areas of service than DEA) between the investment firm and a client facilitates the due diligence process for providing DEA and, thus, additional precautions and diligence are needed when allowing a new client (to whom the investment firm has never provided any other services previously) to use DEA? If yes, to what extent does a long term relationship between the investment firm and a client facilitate the due diligence process of the DEA provider? Please elaborate.

We agree. Being authorised and subject to EU or equivalent regulation should also be taken into account.

Q219: Do you agree with the above approach? Please elaborate.

We would suggest the following amendments:

- Paragraph 100 should refer to the ability to cancel an order, rather than a trade
- Paragraph 105 (i) –DEA providers can only implement this on the information they have available

Q220: Do you agree with the above approach, specifically with regard to the granular identification of DEA user order flow as separate from the firm's other order flow? Please elaborate.

It unclear how the DEA provider could 'demonstrate' to its NCA that DEA users have undertaken the processes set out in paragraph 114. It would be more appropriate to require that DEA providers ensure that clients undertake such processes as part of the user agreement.

Q221: Are there any criteria other than those listed above against which clearing firms should be assessing their potential clients?

The criteria listed are generally sufficient.

Q222: Should clearing firms disclose their criteria (some or all of them) in order to help potential clients to assess their ability to become clients of clearing firms (either publicly or on request from prospective clients)?

Given it is a commercial decision of the clearing firm to accept or not accept a client even if the latter meets a disclosed set of requirements, firms should not be required to disclose criteria in more detail than is listed on pages 236-237 of the DP. A clearing firm can disclose the applicable criteria in the client agreement when assessing a client's application; however, it is not practical for a clearing firm to disclose all of its criteria (including any future criteria) in the written agreement as the criteria are subject to change (e.g. in times of stress where a firm may seek to reduce its exposures to a client and the market).

Q223: How often should clearing firms review their clients' ongoing performance against these criteria?

Clearing firms should review performance at least on an annual basis.

Q224: Should clearing firms have any arrangement(s) other than position limits and margins to limit their risk exposure to clients (counterparty, liquidity, operational and any other risks)? For example, should clearing firms stress-test clients' positions that could pose material risk to the clearing firms, test their own ability to meet initial margin and variation margin requirements, test their own ability to liquidate their clients' positions in an orderly manner and estimate the cost of the liquidation, test their own credit lines?

We agree. Clearing firms should be in a position to stress test portfolios, consider wrong way risk and portfolio concentration risk.

Q225: How regularly should clearing firms monitor their clients' compliance with such limits and margin requirements (e.g. intra-day, overnight) and any other tests, as applicable?

Clearing firms should monitor compliance with such limits on an intraday (but not necessarily real time) and overnight basis. In order to comply with this rule CCPs should be obliged to publish the method by which they calculate margin requirements.

Q226: Should clearing firms have a real-time view on their clients' positions?

Generally yes - where a real time feed is accessible and where the client activity demands this type of monitoring. Smaller clients that execute few trades do not need to be monitored in this fashion since the costs of such feeds would be too costly for the client. Larger accounts with higher volume bring higher risks and therefore a clearing firm should make every effort to monitor these clients on a near to real time basis. It would also be beneficial if CCPs applied limits to clients and clearing firms to automatically limit exposures of the clients to the clearing firms.

Q227: How should clearing firms manage their risks in relation to orders from managers on behalf of multiple clients for execution as a block and post-trade allocation to individual accounts for clearing?

Brokers executing on behalf of clients currently clear equity trades to their own book and realign to the end client using an OTC trade for the purpose of post trade processing. This accommodates the post trade allocation process and allows the broker to settle the trades to the individual fund (via a global custodian). The current clearing infrastructure for equities does not allow for other processes. Brokers are obliged to clear their equity trades to a CCP either being direct to the CCP or using the services of a clearing firm. There is no mechanism offered by a CCP to then reallocate this trade to the end client (fund). If such a mechanism were developed by CCPs, the process would be costly and inefficient since there are many CCPs for the same equity instrument each often settling independently due to lack of interoperability. Clients would also be obliged to place collateral as opposed to the current process further increasing costs for the client for a very limited risk (equity trades will settle T+2 as per CSDR).

Q228: Which type(s) of automated systems would enable clearing members to monitor their risks (including clients' compliance with limits)? Which criteria should apply to any such automated systems (e.g. should they enable clearing firms to screen clients' orders for compliance with the relevant limits etc.)?

We believe the CCP and exchanges should apply limits to clients and clients of clearing firms to automatically limit exposures of the clients to the clearing firms.

4.3. Organisational requirements for trading venues (Article 48 MiFID II)

Q229: Do you agree with requiring trading venues to perform due diligence on all types of entities willing to become members/participants of a trading venue which permits algorithmic trading through its systems?

We agree – however where the investment firm is subject to the systems and controls requirements within MiFID II, it will already have met a number of the requirements directly. The trading venue should be able to rely on representations to this effect.

Q230: Do you agree with the list of minimum requirements that in all cases trading venues should assess prior to granting and while maintaining membership? Should the requirements for entities not authorised as credit institutions or not registered as investment firms be more stringent than for those who are qualified as such?

We agree with the list of minimum requirements. The minimum requirements should be consistent for all firms – there should be no differentiation.

Q233: Regarding the periodic review of the systems, is there any element that has not been considered and/or needs to be further clarified in the ESMA Guidelines that should be included?

The trading venue should have clear protocol for communicating with clients during outages. This should include when a material number of members become disconnected from the venue.

Q234: Do you agree with the above approach?

We agree.

Q235: Do you think ESMA should determine minimum standards in terms of latency or is it preferable to consider as a benchmark of performance the principle "no order lost, no transaction lost"?

We agree.

Q236: Do you agree with requiring trading venues to be able to accommodate at least twice the historical peak of messages?

We agree. The requirement should also ensure there is capacity to accommodate twice the cumulative amount of messages over a day, which is different to the peak rates identified in para 23.

Q237: Do you agree with the list of abilities that trading venues should have to ensure the resilience of the market?

Throttle limits should be set sufficiently high and be appropriate for the expected activity – they should also not impact cancellations. Trading venues should not be able to amend orders only cancel them.

Venues should also have clear policies on dealing with erroneous orders and also the communication process between the venue and members during an outage (this is partially covered in para 34(vi)).

Q238: Do you agree with the publication of the general framework by the trading venues? Where would it be necessary to have more/less granularity?

We agree.

Q239: Which in your opinion is the degree of discretion that trading venues should have when deciding to cancel, vary or correct orders and transactions?

Trading venues should have some discretion, but only if proper notification procedures are in place. A venue's policy on the treatment of erroneous orders and application of throttles should state when and how the venue will cancel an order. Not every event can be accounted for but when the venue has to depart from its policies it should be prepared to justify how it contributed to restoring an orderly market. Trading venues should not amend orders.

Q240: Do you agree with the above principles for halting or constraining trading?

We agree.

Q241: Do you agree that trading venues should make the operating mode of their trading halts public?

We agree.

Q242: Should trading venues also make the actual thresholds in place public? In your view, would this publication offer market participants the necessary predictability and certainty, or would it entail risks? Please elaborate.

We agree the thresholds should be made public.

Q243: Do you agree with the proposal above?

Paragraph 38 would require investment firms to have access to a testing environment provided by the trading venue. This is currently not the case for all asset classes which can be traded on a venue. Testing environments need to be provided because most venue rule books correctly prohibit orders that do not have a commercial purpose from being entered into the live trading environment.

Q244: Should trading venues have the ability to impose the process, content and timing of conformance tests? If yes, should they charge for this service separately?

No, trading venues should supply the means to enable investment firms to fulfil their regulatory obligations without prohibitive charging. Conformance testing should not represent an opportunity to create a revenue stream.

Q245: Should alternative means of conformance testing be permitted?

Investment firms should be given discretion as to what conformance testing is permitted e.g. through third party vendors, or the possibility to test in the live environment with test symbols.

Q246: Could alternative means of testing substitute testing scenarios provided by trading venues to avoid disorderly trading conditions? Do you consider that a certificate from an external IT audit would be also sufficient for these purposes?

Yes. Alternative means of testing could substitute if the environment and interfaces are sufficiently equivalent to that of the trading venue.

Q247: What are the minimum capabilities that testing environments should meet to avoid disorderly trading conditions?

Testing environments should be provided for all asset classes, replicate functionality that is present in the live environment and be accessible by all market participants, particularly with the wider scope of MiFID applying to more firms.

Q248: Do you agree with the proposed approach?

We are unclear what ESMA requires re point (viii) - market impact assessment.

Q249: In particular, should trading venues require any other pre-trade controls?

We believe the list is sufficient.

Q250: Do you agree that for the purposes of Article 48(5) the relevant market in terms of liquidity should be determined according to the approach described above? If, not, please state your reasons.

There can be more than one relevant market which will be the case where any market has a material market share.

The decision to halt trading on other venues should only be taken in extreme circumstances because trading on other venues can help to restore an orderly market and efficient price formation and in some cases the halt may be due to a venue specific issue which is not mirrored in other venues.

Q251: Are there any other markets that should be considered material in terms of liquidity for a particular instrument? Please elaborate.

There can be more than one relevant market which will be the case where any venue has a material market share.

Q252: Which of the above mentioned approaches is the most adequate to fulfil the goals of Article 48? Please elaborate

Option A would be our preferred approach. Conflicts of interest could be created by option B.

Q253: Do you envisage any other approach to this matter?

Option A seems like a sensible approach.

Q254: Do you agree with the list of elements that should be published by trading venues to permit the provision of DEA to its members or participants?

We agree.

Q255: Do you agree with the list of systems and effective controls that at least DEA providers should have in place?

We agree.

Q256: Do you consider it is necessary to clarify anything in relation to the description of the responsibility regime?

No.

Q257: Do you consider necessary for trading venues to have any other additional power with respect of the provision of DEA?

No. We do not agree with point iv which gives trading venues the ability to review a users (i.e. DEA clients) internal risk control systems. The trading venue should have a direct relationship with its direct members and not with indirect members accessing markets via DEA. This could otherwise create a duplication of controls.

4.4. Market making strategies, market making agreements and market making schemes

Q258: Do you agree with the previous assessment? If not, please elaborate.

We broadly agree.

However the breach of a market making agreement by an investment firm should be deemed a contractual breach vis a vis the exchange rather than a breach of regulatory requirements.

Q259: Do you agree with the preliminary assessments above? What practical consequences would it have if firms would also be captured by Article 17(4) MiFID II when posting only one-way quotes, but doing so in different trading venues on different sides of the order book (i.e. posting buy quotes in venue A and sell quotes in venue B for the same instrument)?

The requirements should be applied on a per strategy basis to strategies which post two way quotes on a single trading venue. It should not capture strategies which post one way quotes on different venues. The consequence of capturing strategies that are quoting on different venues could be to inadvertently (and incorrectly) capture strategies that are not operating with the intent of market making. If this were to be the case it is not clear how market making agreements could be enforced across different venues.

We would highlight that the definition described in Article 17(4) is distinct to the definition under the short selling regulation which includes fulfilling orders initiated by clients as well as any resulting hedging activity. This activity should not be considered in scope for the market making obligation.

Q260: For how long should the performance of a certain strategy be monitored to determine whether it meets the requirements of Article 17(4) of MiFID II?

Three months would be sufficient.

Q261: What percentage of the observation period should a strategy meet with regard to the requirements of Article 17(4) of MiFID II so as to consider that it should be captured by the obligation to enter into a market making agreement?

The percentage should be comparable to existing contractual market making arrangements (~80/90%).

In addition, a firm needs the ability to decide that it no longer wishes to operate a market making strategy and therefore provide notice of this to the trading venue. There should be some procedures / standards specified for a firm that wishes to do this.

Q262: Do you agree with the above assessment?

We agree.

Q263: Do you agree with this interpretation?

We agree. It should only capture strategies which operate simultaneous two way quoting on a single venue.

Q264: Do you agree with the above assessment? If not, please elaborate.

We agree. The definition should only capture two way quoting on a single trading venue.

Q265: Do you agree with the above interpretation?

We agree.

Q266: Do you agree with the above proposal?

We agree.

Q267: Do you agree with the above proposal?

We agree.

Q268: Do you agree with the approach described (non-exhaustive list of quoting parameters)?

Trading venues should be permitted discretion to tailor quoting parameters according to their business model and the liquidity characteristics of the instrument in question. The parameters also need to be able to evolve over time so we would caution against stipulating these in the technical standards.

Q269: What should be the parameters to assess whether the market making schemes under Article 48 of MiFID II have effectively contributed to more orderly markets?

The legislation seeks to ensure that liquidity provision is regular and predictable – this is different to contributing to more orderly markets.

Regular liquidity provision should be the outcome of firms signing market making agreements where they do not do so already.

Q270: Do you agree with the list of requirements set out above? Is there any requirement that should be added / removed and if so why?

We agree with the proposed requirements.

Q271: Please provide views, with reasons, on what would be an adequate presence of market making strategies during trading hours?

Being present for 80% of the trading time would be adequate. There would be significant operational challenges should this be any higher. This should be calculated on a rolling average so that firms participating in an agreement have enough flexibility to adjust their algorithm in response to short term changes (e.g. change in firm's risk or liquidity) without immediately breaching their percentage presence threshold.

Q272: Do you consider that the average presence time under a market making strategy should be the same as the presence time required under a market making agreement?

Yes, it should be the same.

Q273: Should the presence of market making strategies during trading hours be the same across instruments and trading models? If you think it should not, please indicate how this requirement should be specified by different products or market models?

It should be the same across instruments and trading models but should apply to continuous trading only - otherwise it could be very complex to implement and monitor.

Q274: Article 48(3) of MiFID II states that the market making agreement should reflect "where applicable any other obligation arising from participation in the scheme". What in your opinion are the additional areas that that agreement should cover?

We do not consider there are any additional areas the agreements need to cover.

Q275: Do you disagree with any of the events that would qualify as 'exceptional circumstances'? Please elaborate.

We do not disagree with any of the stated events. Internal risk management is very important and market makers will set internal thresholds to adhere to.

Q276: Are there any additional 'exceptional circumstances' (e.g. reporting events or new fundamental information becoming available) that should be considered by ESMA? Please elaborate.

It may also be worth considering the inclusion of restricted lists; market disclosure levels for corporate takeovers and short selling bans.

Q277: What type of events might be considered under the definition of political and macroeconomic issues?

Trading venues will generally have a list of scenarios that would be significant enough for them to close the market. The list of scenarios that would be applicable to market maker scheme participants should be a similar but a less severe version of these. It may not be possible to construct an exhaustive list, so some discretion should be permitted for an investment firm to cease market making during events that have a major impact on financial markets.

Q278: What is an appropriate timeframe for determining whether exceptional circumstances no longer apply?

This should be for trading venues to determine.

Q279: What would be an appropriate procedure to restart normal trading activities (e.g. auction periods, notifications, timeframe)?

A market maker scheme participant should notify the trading venue of their intent to restart and then do so.

Q280: Do you agree with this approach? If not, please elaborate.

We agree.

Q281: Would further clarification be necessary regarding what is "fair and non-discriminatory"? In particular, are there any cases of discriminatory access that should be specifically addressed?

Further clarification is not necessary.

Q282: Would it be acceptable setting out any type of technological or informational advantages for participants in market making schemes for liquid instruments? If yes, please elaborate.

No.

Q283: In which cases should a market operator be entitled to close the number of firms taking part in a market making scheme?

Market operators should not be able to do this. The number of firms taking part in a market making scheme should not be limited. They should be devised to allow for a reasonable number of participants (that is reflective of demand) to become market makers. Venues should not be able to limit the benefits and raise the obligations for a limited number of available market making roles.

Q284: Do you agree that the market making requirements in Articles 17 and 48 of MiFID II are mostly relevant for liquid instruments? If not, please elaborate how you would apply the requirements in Articles 17 and 48 of MiFID II on market making schemes/agreements/strategies to illiquid instruments.

We agree – market making obligations should apply to liquid instruments only.

Q285: Would you support any other assessment of liquidity different to the one under Article 2(1)(17) of MiFIR? Please elaborate.

No, we do not see this as necessary.

Q286: What should be deemed as a sufficient number of investment firms participating in a market making agreement?

Venues should be responsible for ensuring that there is sufficient liquidity on their venue – they are not homogenous and therefore have different requirements. Venues should ensure that they are not overly reliant on a single type of market maker.

Q287: What would be an appropriate market share for those firms participating in a market making agreement?

This should be determined bilaterally between the venue and the participant as this will need to take into account the profile of the participant and also the type of market making that they are signing up for.

Q288: Do you agree that market making schemes are not required when trading in the market via a market making agreement exceeds this market share?

Where venues have sufficient numbers of market making agreements, market making schemes should be able to be entered into voluntarily but not on a mandated basis.

Q289: In which cases should a market operator be entitled to close the number of firms taking part in a market making scheme?

It is unclear why a limit to the number of market makers participating in a market making scheme is necessary or beneficial.

4.5. Order-to-transaction ratio (Article 48 of MiFID II)

Q290: Do you agree with the types of messages to be taken into account by any OTR?

Orders that do not rest on the order book (immediate or cancel - IOCs, market orders) should be out of scope as these will not contribute to the number of unexecuted orders on the order book.

At present, IOCs would count twice (order and cancellation message).

Q291: What is your view in taking into account the value and/or volume of orders in the OTRs calculations? Please provide:

We agree with the need to take into account the relative weight of orders by volume and value. There may be a justification for taking a tailored approach depending on the asset class in question. For example, weight in terms of value would be most appropriate for the cash equity market, whilst volume would be a suitable metric for derivatives markets, should derivatives be included.

Using a measure based on the relative weight of the orders will penalise algorithms that send very large sized orders (those seeking an execution and to interact with resting liquidity on the order book). To mitigate this impact, immediate execution orders, such as 'fill or kill' or 'immediate or cancel' orders should be excluded from the limit.

These types of orders are justified for a number of reasons:

- There can be more quantity at a price level than is currently displayed. This could be because of hidden orders on the exchange.

- Many algorithms have 'would' or 'would if I could' functionality – i.e. the algorithm will complete some or all of the order if a current price is available in the market. If this instruction is in place a very large quantity is sent as an order even though only a small amount is displayed.

The reason the algorithms do this is because an 'immediate or cancel' (IOC) order will not display the quantity to the market unless it gets an execution.

The proposal would also have a high impact on orders trading in opening or closing auctions that are limited away from the final close price. These are often a large portion of VWAP and other such orders. If the client specifies a low limit on their order, it must be submitted to the closing auction at this price. Given the large notional value that goes through the auctions a share or notional weighted average fill rate would be brought down by these.

If a notional weighted OTR was used it should therefore also exclude auction orders.

Q293: Do you agree with the proposed scope of the OTR regime under MiFID II (liquid cash instruments traded on electronic trading systems)?

We agree. ETFs should not be in scope for OTR thresholds.

Q294: Do you consider that financial instruments which reference a cash instrument(s) as underlying could be excluded from the scope of the OTR regime?

Yes.

Q295: Would you make any distinction between instruments which have a single instrument as underlying and those that have as underlying a basket of instruments? Please elaborate.

No. Both should be excluded from the scope.

Q296: Do you agree with considering within the scope of a future OTR regime only trading venues which have been operational for a sufficient period in the market?

Time should not be the only criteria - it should be the period that it takes the venue to establish a threshold of market share in the instruments they trade.

Q297: If yes, what would be the sufficient period for these purposes?

A threshold of perhaps 1% on average could be considered across all instruments or 5% in any single instrument maintained for 4 weeks.

Q298: What is your view regarding an activity floor under which the OTR regime would not apply and where could this floor be established?

Ideally this should be left to the discretion of the trading venue. A number of venues currently have floors in place which are all applied pragmatically.

Q299: Do you agree with the proposal above as regards the method of determining the OTR threshold?

We disagree. The proposal outlined in paragraph 16 implies that the OTR threshold will only ever get smaller.

Q303: What is your view with respect to the time intervals/frequency for the assessment and review of the OTR threshold (annually, twice a year, other)?

The thresholds should be reviewed annually.

Q304: What are your views in this regard? Please explain.

Para 20 (ii) is the only viable option. Market makers should be exempt from OTR given their role in liquidity provision, which sometimes creates many orders for few trades.

4.6. Co-location (Article 48(8) of MiFID II)

Q305: What factors should ESMA be considering in ensuring that co-location services are provided in a 'transparent', 'fair' and 'non-discriminatory' manner?

Co-location should be offered (and priced) as a service on its own.

4.7. Fee structures (Article 48 (9) of MiFID II)

Q306: Do you agree with the approach described above?

We agree.

Q307: Can you identify any practice that would need regulatory action in terms of transparency or predictability of trading fees?

Tariffs should not be unnecessarily complicated.

Q308: Can you identify any specific difficulties in obtaining adequate information in relation to fees and rebates that would need regulatory action?

Tariffs should be publically accessible.

Q310: Are there other incentives and disincentives that should be considered?

We do not think there are any other incentives or disincentives to be considered. We understand the reference to liquidity that 'does not reflect genuine interest to trade' is referring to resting or passive orders or quotes supplied by market makers / liquidity providers, as opposed to proactive liquidity where business is actively trying to be completed. It may not be the case that saying there is 'no genuine interest to trade' is an accurate way of describing this.

Q311: Do any of the parameters referred to above contribute to increasing the probability of trading behaviour that may lead to disorderly and unfair trading conditions?

We would not support 'cliff edge' structures. This should also apply to other services provided by venues.

Participants should not be disincentivised from trading in the phase most suitable for their order. For example, trading may often be most suited to the closing auction, but the cost of doing so according to the venue fee structure may potentially disincentivise this.

Q313: Do you agree that any fee structure where, upon reaching a certain threshold of trading by a trader, a discount is applied on all his trades (including those already done) as opposed to just the marginal trade executed subsequent to reaching the threshold should be banned?

We agree. Fee structures with these types of features (i.e. cliff edges) should not be allowed.

Q318: Should conformance testing be charged?

No. We are concerned that the charge could act to discourage some participants from testing comprehensively.

Q319: Should testing of algorithms in relation to the creation or contribution of disorderly markets be charged?

No.

Q320: Do you envisage any scenario where charging for conformance testing and/or testing in relation to disorderly trading conditions might discourage firms from investing sufficiently in testing their algorithms?

Conformance testing should not be charged. The charge could act to discourage some participants from testing comprehensively.

Q321: Do you agree with the approach described above?

We do not agree that trading venues should have to ensure a minimum number of firms are engaged in market making agreements. The wording of the directive should be interpreted such that market makers should be required when there is not sufficient liquidity already created by natural buying and selling interests.

Q323: Do you agree that and OTR must be complemented with a penalty fee?

We agree that an OTR should be complemented by a penalty fee. This is consistent with current market practice, where many trading venues already have policies for controlling excessive message rates.

Traditional market makers, including those with a continuous quoting obligation under Article 17(3) MiFID II should be exempted from the scope of the mandatory OTR regime.

Q324: In terms of the approach to determine the penalty fee for breaching the OTR, which approach would you prefer? If neither of them are satisfactory for you, please elaborate what alternative you would envisage.

We prefer Option A.

It is difficult to standardise these types of policies across trading venues because trading systems and products vary substantially. Trading venues should be given the flexibility to configure their messaging policies.

Q325: Do you agree that the observation period should be the same as the billing period?

We agree.

Q327: Do you consider that market makers should have a less stringent approach in terms of penalties for breaching the OTR?

Market makers should be exempted from OTR thresholds.

4.8. Tick sizes (Article 48(6) and Article 49 of MiFID II)

Q330: Do you agree with the general approach ESMA has suggested?

We agree with the general approach but more emphasis should be given to the ongoing maintenance of the tick size regime. It is unrealistic to assume that a perfect calibration can be done in the abstract without the need for further and ongoing refinement. A governance process which is able to collate input from a range of stakeholders will be essential and must not be dominated by any single stakeholder group.

Q331: Do you agree with adopting the average number of daily trades as an indicator for liquidity to satisfy the liquidity requirement of Article 49 of MiFID II? Are there any other methods/liquidity proxies that allow comparable granularity and that should be considered?

We agree that the average number of daily trades is an adequate proxy for liquidity in this context.

Other methods might include the aggregated daily nominal value of the transactions in an instrument. We do not share ESMA's concern about the 'redundancy' of having share price as a factor in both the x and y axis of the matrix. This is because investors decide upon the number of shares to buy or sell on the basis of the nominal value and the number of shares is a resultant calculation driven by the price.

Q332: In your view, what granularity should be used to determine the liquidity profile of financial instruments? As a result, what would be a proper number of liquidity bands?

Four bands seems adequate. However, a review should be conducted after implementation and the bands revised if it is clear this is necessary.

Q333: What is your view on defining the trade-off between constraining the spread without increasing viscosity too much on the basis of a floor-ceiling mechanism?

This is the central purpose of a well implemented tick size regime. The numbers quoted as floor and cap are arbitrary and should remain open to revision. The advantage of Option 1 is that it allows for control testing of the optimisation process.

Q334: What do you think of the proposed spread to tick ratio range?

The proposed ratio range looks reasonable – although we think the floor could go as low as 1.2 instead of 1.4.

We would reiterate again the need for a review shortly after implementation. We would note that whilst we are very much encouraged by the rigour with which Option 1 has been examined as evidenced in the appendix, the tick ratio ranges are essentially set subjectively. ESMA should make use of its consultative working groups or ensure that all important users of trading venues are consulted on the ongoing appropriateness of the tick size regime.

Q335: In your view, for the tick size regime to be efficient and appropriate, should it rely on the spread to tick ratio range, the evolution of liquidity bands, a combination of the two or none of the above?

Our understanding of Option 1 suggests that the evolution of liquidity bands is a result of targeting tick ratio ranges. To that extent it relies on both but is driven by a target range.

Q336: What is your view regarding the common tick size table proposed under Option 1? Do you consider it easy to read, implement and monitor? Does the proposed two dimensional tick size table (based on both the liquidity profile and price) allow applying a tick size to a homogeneous class of stocks given its clear-cut price and liquidity classes?

The tables are easy to read and we would note that while Option 1 has four sets of tick sizes it has the benefit of having those clearly shown.

This is in contrast to Option 2 which only shows 2 sets of ticks but has many more potential sets as a result of SAF implementation. Additionally, once there are stocks in the liquid set with a SAF of +1 and stocks in illiquid set with a SAF of -1 the two matrices essentially look the same. Under Option 2 if an illiquid stock is given a SAF of +1 it ends up with same tick set as an illiquid stock which seems confusing. This seems to be driven by a desire to use the liquid list that is designed for other purposes but also results in an acknowledgement that it is not fit for this purpose.

Q337: What is your view regarding the determination of the liquidity and price classes?

The price classes look sensible. The liquidity classes seem a reasonable place to start when initiating this approach – but the benefit of option 1 is the fact that these classes can evolve over time.

Q338: Considering that market microstructure may evolve, would you favour a regime that allows further calibration of the tick size on the basis of the observed market microstructure?

Yes.

Q339: In your view, does the tick size regime proposed under Option 1 offer sufficient predictability and certainty to market participants in a context where markets are constantly evolving (notably given its calibration and monitoring mechanisms)?

Yes.

Q340: The common tick size table proposed under Option 1 provides for re-calibration while constantly maintaining a control sample. In your view, what frequency would be appropriate for the revision of the figures (e.g., yearly)?

Initially this should be done frequently on a rolling basis but once the calibration has stabilised the frequency can be decreased; but should be no less often than annually.

Q341: In your view, what is the impact of Option 1 on the activity of market participants, including trading venue operators? To what extent, would it require adjustments?

Conforming to a pan European regime for ticks may require adoption of data feeds for some participants, including venue operators. The adoption effort will be far outweighed by the decrease in maintenance effort required given that current systems generate significant complexity and inefficiencies. Moreover, the increased clarity that market participants will have as to prevailing ticks will improve ease of market access.

Q342: Do you agree that some equity-like instruments require an equivalent regulation of tick sizes as equities so as to ensure the orderly functioning of markets and to avoid the migration of trading across instrument types based on tick size? If not, please outline why this would not be the case.

We agree but we would suggest a staged approach to implementation. Changing equities alone in the first instance would allow an opportunity for the changes and impacts to be considered fully thus allowing other categories of instruments to benefit from an adoption informed by this experience. Specific calibration will then be required for each instrument category.

Q343: Are there any other similar equity-like instruments that should be added / removed from the scope of tick size regulation? Please outline the reasons why such instruments should be added / removed?

We see no reason why all equity like instruments should not be added for inclusion.

Q344: Do you agree that depositary receipts require the same tick size regime as equities'?

We agree.

Q345: If you think that for certain equity-like instruments (e.g. ETFs) the spread-based tick size regime[1] would be more appropriate, please specify your reasons and provide a detailed description of the methodology and technical specifications of this alternative concept.

Given the flexibility and evolutionary nature of Option 1 we see no reason to adopt an alternate approach for equity-like instruments.

Q346: If you generally (also for liquid and illiquid shares as well as other equity-like financial instruments) prefer a spread-based tick size regime2 vis-à-vis the regime as proposed under Option 1 and tested by ESMA, please specify the reasons and provide the following information:

We understand the floor and ceiling limits in Option 1 mean that it represents a "spread-based" regime already.

Q349: Do you agree with assessing the liquidity of a share for the purposes of the tick size regime, using the rule described above? If not, please elaborate what criteria you would apply to distinguish between liquid and illiquid instruments.

We see no benefits in option 2 over option 1. There seems to be minimal value in using the list of liquid and illiquid stocks while acknowledging that more than two sets of ticks are required. To reconcile these two the approach purports to slides stocks up and down a single tick table using the SAF mechanism. This is equivalent to having a separate column.

Q350: Do you agree with the tick sizes proposed under Option 2? In particular, should a different tick size be used for the largest band, taking into account the size of the tick relative to the price? Please elaborate.

We see no benefits in option 2 over option 1.

Q351: Should the tick size be calibrated in a more granular manner to that proposed above, namely by shifting a band which results in a large step-wise change?

We see no benefits in option 2 over option 1.

[1] Please see the description of Option 2 regarding tick sizes below.
[2] Please see the description of Option 2 regarding tick sizes below.

Q352: Do you agree with the above treatment for a newly admitted instrument? Would this affect the subsequent trading in a negative way?

No. Generally new issues are liquid to begin with, becoming less liquid over a subsequent period of weeks.

Q353: Do you agree that a period of six weeks is appropriate for the purpose of initial calibration for all instruments admitted to the pan-European tick size regime under Option 2? If not, what would be the appropriate period for the initial calibration?

For either option it could be reviewed after 6 weeks but excluding the activity of the first two weeks. After this, it could be reviewed after 3 months excluding the first month.

Q354: Do you agree with the proposal of factoring the bid-ask spread into tick size regime through SAF? If not, what would you consider as the appropriate method?

We do not agree. We do not understand the rational for this approach. It seems to only create representational ambiguity and implementation complexity.

Q355: Do you agree with the proposal to take an average bid-ask spread of less than two ticks as being too narrow? If not, what level of spread to ticks would you consider to be too narrow?

2 ticks might result in unnecessarily small ticks so 1.2 might be a more prudent place to start for the stocks that get a SAF of +1. However, a review shortly after implementation will be important to assess this.

Q356: Under the current proposal, it is not considered necessary to set an upper ceiling to the bid-ask spread, as the preliminary view under Option 2 is that under normal conditions the risk of the spread widening indefinitely is limited (and in any event a regulator may amend SAF manually if required). Do you agree with this view? If not, how would you propose to set an upper ceiling applicable across markets in the EU?

Stocks can have ticks that are too small resulting in a spread of too many ticks. Any option adopted should acknowledge this and allow for it. The approach in Option 1 looks like a pragmatic place to start.

Q357: Do you have any concerns of a possible disruption which may materialise in implementing a review cycle as envisioned above?

Annual review is too infrequent while a new approach is being implemented.

Q358: Do you agree that illiquid instruments, excluding illiquid cash equities, should be excluded from the scope of a pan-European tick size regime under Option 2 until such time that definitions for these instruments become available? If not, please explain why. If there are any equity-like instruments per Article 49(3) of MiFID II that you feel should be included in the pan-European tick size regime at the same time as for cash equities, please list these instruments together with a brief reason for doing so.

No. It was a desire to keep the list of standardised stocks short that led to the partial adoption of FESE tables. Application to all European equities should be a minimum criterion for judging any approach as acceptable.

Q359: Do you agree that financial instruments, other than those listed in Article 49(3) of MiFID II should be excluded from the scope of the pan-European tick size regime under Option 2 at least for the time being? If not, please explain why and which specific instruments do you consider necessary to be included in the regime.

We agree with a phased adoption of either option but would make broad applicability an explicit near term goal.

Q360: What views do you have on whether tick sizes should be revised on a dynamic or periodic basis? What role do you perceive for an automated mechanism for doing this versus review by the NCA responsible for the instrument in question? If you prefer periodic review, how frequently should reviews be undertaken (e.g. quarterly, annually)?

As we understand both options, the tick size is adjusted dynamically as price limits are traversed. This is overlaid with "manual" periodic review. This appears to be the correct way to design the system.

5. Data publication and access

5.5. Data disaggregation

Q370: Do you agree that venues should not be required to disaggregate by individual instrument?

We agree. Aggregation to the level of instruments grouped by membership of benchmark indices, capitalisation band, geographic and industry sectors is more proportionate.

Q371: Do you agree that venues should be obliged to disaggregate their pre-trade and post-trade data by asset class?

We agree. In addition, closing price must also be available separately. At the moment, users often have to buy full packages of real time data just to secure the closing price.

Q372: Do you believe the list of asset classes proposed in the previous paragraph is appropriate for this purpose? If not, what would you propose?

We would propose that the first category also be separated out into a) shares, depositary receipts, and b) exchange-traded funds, certificates and other similar financial instruments.

Q373: Do you agree that venues should be under an obligation to disaggregate according to the listed criteria unless they can demonstrate that there is insufficient customer interest?

We agree.

Q374: Are there any other criteria according to which it would be useful for venues to disaggregate their data, and if so do you think there should be a mandatory or comply-or-explain requirement for them to do so?

ESMA should ensure closing prices are available separately and free after 15 minutes as is with other data.

Q375: What impact do you think greater disaggregation will have in practice for overall costs faced by customers?

In itself it will have little impact. It is only when linked to enforced reasonable commercial terms that there will be any benefit.

5.7. Access to CCPs and trading venues (Articles 35-36, MiFIR)

Q377: Do you agree that exceeding the planned capacity of the CCP is grounds to deny access?

We are in favour of access between trading venues and CCPs and vice versa, as long as this results in overall reduced costs and does not introduce additional unnecessary operational complexity and risk.

Exceeding planned capacity is unlikely to generally be a problem in practice for derivatives because most access requests would originate from new platforms with low existing volumes seeking to connect to existing CCPs. It is difficult to see a scenario where a platform with significant volumes in derivatives would be requesting access to a CCP and looking to port significant volume to that CCP.

A prudently managed CCP should have capacity to accommodate fluctuations in its existing business and therefore the incremental volumes created by a new trading venue. Conservative capacity planning should not be used as a tool to avoid competition.

If capacity looks like it may be an issue, then this should not be grounds to permanently refuse access. In the same way a CCP will plan to expand its capacity for its existing business, they should be able to do the same for new business from competing trading platforms. Capacity constraints can be mitigated during the operational phase.

Q380: Do you agree that exceeding the planned capacity of the CCP is grounds to deny access?

In the short term, capacity constraints could be an issue in the context of the requirement to set up segregated accounts per customer under EMIR.

Q383: In what way could granting access to a trading venue expose a CCP to risks associated with a change in the type of users accessing the CCP? Are there any additional risks that could be relevant in this situation?

We agree that it is difficult to identify additional risks that would be created by different types of users accessing a CCP as a result of providing a venue with access to that CCP.

CCP membership is a separate process to allowing a platform to connect. Providing access to a new trading venue would not necessarily result in any new members being provided access to the CCP.

Q384: How would a CCP establish that the anticipated operational risk would exceed its operational risk management design?

The CCP should provide a structured assessment of (i) risk drivers and magnitude, (ii) comparison to other operational risks the business is running and (iii) an assessment of what it would take to mitigate the risk.

Members of the CCP should be consulted and involved in the process of considering an access request.

Q387: To what extent could a lack of harmonization in certain areas of law constitute a relevant risk in the context of granting or denying access?

Different national laws should be taken into account as they could present a relevant risk in terms of granting or denying access. This is the case in a number of areas, not least insolvency laws.

Q389: Are there other risks related to complexity and other factors creating significant undue risks that should be considered? If so, how would such risks arise from the provision of access?

It is possible that other risks may arise. For example, CCPs should not be required to facilitate clearing in new products which they are not clearing already, especially where this relates to a product they may have previously rejected for clearing on risk grounds.

The CCP should be required to identify how the risk can be mitigated through design or controls. Any complexity that introduces material additional operational risk to market participants should be considered.

Q390: Do you agree with the analysis above and the conclusion specified in the previous paragraph?

We agree.

Q397: Do you agree with the conditions set out above? If you do not, please state why not.

The information protected under confidentiality should be as narrow as possible. Given that members of a CCP should ideally be involved in the process for access being provided, any information which would enable them to prepare for the arrival of the new accessing party, or identify new risks, should be available to them.

We agree that termination arrangements should be public and transparent so that all stakeholders can be prepared for this eventuality.

5.8. Non- discriminatory access to and obligation to license benchmarks

Q419: Do you agree that CCPs require the relevant information mentioned above? If not, why?

We agree. As far as possible, the information that is required should be defined functionally as whatever is needed to allow the CCP to calculate the level of the index from its component parts. The risk of specifying a specific list is that some items may be left out which results in the CCP being unable to perform its functions.

Q437: Do you agree with the principles described above? If not, why?

We agree. In terms of scope, the benchmark definition refers to any “rate, index or figure made available to the public or published”. The access obligation should therefore not apply to benchmarks which are not public, such as those which are built on a customary basis for a single client of an investment firm.

7. Commodity derivatives

7.2. Position Limits

Q502: Do you agree that it is preferable to set the position limit on a contract for a fixed (excluding exceptional circumstances) period rather than amending it on a real-time basis? What period do you believe is appropriate, considering in particular the factors of market evolution and operational efficiency?

Position limits should be reset as infrequently as possible - annually at the most. This will avoid limits changing in real time as the deliverable supply or open interest fluctuates. This will also reduce breaches caused by 'user error' which may occur if limits are changed regularly.

Q504: Should positions based on contracts entered into before the revision of position limits be grandfathered and if so how?

We would suggest a 3-month exemption period for grandfathered positions at the date position limit controls commence. Open interest in commodities tends to be weighted towards the front months, so a 1st quarter transition exemption should smooth the introduction of limits.

Q522: Do you agree with this approach for the proposed methodology? If you do not agree, what alternative methodology do you propose, considering the full scope of the requirements of Article 57 MiFID II?

We agree.

Q524: Does the approach to asset classes have the right level of granularity to take into account market characteristics? Are the key characteristics the right ones to take into account? Are the conclusions by asset class appropriate?

The asset class split and key characteristics are acceptable as a summary but actual limits will require greater granularity. The liquidity characteristics of individual products, for example aluminum and tin within base metals, may be very different. Limits for agricultural products will need to be set at a more granular level (e.g. coffee, cocoa, sugar).

Q526: Do you agree that the RTS should accommodate the flexibility to express position limits in the units appropriate to the individual market? Are there any other alternative measures or mechanisms by which position limits could be expressed?

Our preference would be for limits to be expressed in lots or quantity; limits expressed on a percentage basis could vary on a daily basis and therefore be much harder to comply with.

Q528: Do you agree that limits for option positions should be set on the basis of delta equivalent values? What processes should be put in place to avoid manipulation of the process?

We agree.

7.3. Position Reporting

Q544: Does the proposed set of data fields capture all necessary information to meet the requirements of Article 58(1)(b) MiFID II? If not, do you have any proposals for amendments, deletions or additional data fields to add the list above?

We agree with the proposed data fields required for position reporting.

8. Market data reporting

8.1. Obligation to report transactions

Q546: Do you agree with ESMA's proposal for what constitutes a 'transaction' and 'execution of a transaction' for the purposes of Article 26 of MiFIR? If not, please provide reasons.

We broadly agree with the proposal for what constitutes a 'transaction' and 'execution of a transaction'. We would support wherever possible an alignment in MiFIR with requirements that already exist under EMIR.

The following points require clarification:

- If top ups are reportable transactions - they result in a change of position
- If barrier events (knockouts) are reportable where the whole notional goes to zero (as per EMIR)
- The treatment of credit default events i.e. closing out a position due to a credit event
- The treatment of forward starting derivatives (where the strike is not known until the forward start date)
- Whether the underlying cash transaction that takes place as a result of an exercise has to be reported, or the close out transaction for the option, or both (11.iii)
- If a title transfer collateral arrangement is reportable (i.e. when the title changes from the client to the firm). Repurchase and reverse repurchase agreements should not be included in MiFID transaction reporting, given that this is being considered under the EU Commission proposal for a regulation on securities financing transactions.

The technical standards need to be clear that lifecycle events are managed at the position level (not transaction level) and should therefore be reported as such – as per the approach under EMIR.

In terms of the party responsible for reporting, we also support alignment with EMIR where possible. The technical standards should make clear that in some scenarios the clearing broker (rather than the executing broker) is allowed to and does have the obligation to report because only the clearing broker will have all of the necessary information to make a complete report. In some scenarios this will require some information to be shared between executing brokers and clearing brokers. The example of the algo ID is one such example.

Q547: Do you anticipate any difficulties in identifying when your investment firm has executed a transaction in accordance with the above principles?

As long as the points raised in question 546 are clarified, we do not anticipate major difficulties in identifying an executed transaction. It would be helpful if over time however, ESMA were to build out the list of events that it deems as reportable to ensure consistent implementation across market participants.

Q548: Is there any other activity that should not be reportable under Article 26 of MiFIR?

The Discussion Paper specifies that redemptions and expirations of securities are not subject to the reporting obligation – it would be helpful if it was clarified that the same applies to derivatives transactions.

Transactions between two branches of the same legal entity should not be reportable. It would be helpful to have this clarified under point 15 (vi) to ensure consistency with EMIR.

Securities financing transactions should not be subject to reporting in advance of the EU legislative proposal on this topic being finalised. The risk otherwise is that these transactions would be subject to double reporting. There are also proposals in some individual EU jurisdictions for reporting of these transactions.

Give ups for settlement/clearing (point 15 iv) should be reportable.

Q549: Do you foresee any difficulties with the suggested approach? Please elaborate.

In the first instance, there should be an option for the receiving firm not to report and to communicate this to the transmitting firm. We therefore do not agree with point 23. In the event the receiving firm does wish to report, it should be clear that when details are passed to another firm, the sending firm is "placing a reliance on" the receiving firm to transaction report, rather than the receiving firm reporting on behalf of the transmitting firm. The technical standards need to be very prescriptive on the criteria for determining when an order has been transmitted so that the wording of agreements can be clear.

We would request clarity as to the approach to be taken when the transmitters of orders are located in non-EEA countries.

Q550: We invite your comments on the proposed fields and population of the fields. Please provide specific references to the fields which you are discussing in your response.

We have the following comments on the proposed fields. Overall, it would be helpful to have clarification on which fields are mandatory for specific transactions. For fields that are not applicable for a certain product type (and we would welcome this to be specified), it should be specified whether fields should be left blank or alternative notation included.

<u>Field 1:</u> We agree with the use of the LEI as this ensures consistency with EMIR.

<u>Field 8:</u> As for EMIR, there should also be an 'Action' field that captures where the transaction is not a Buy/Sell (e.g. Just a change in notional).

Field 10: It should be specified how to populate this field for FX forward or swap transactions. We would suggest notional amount of traded contracts.

Field 12: More explanation on how to populate this field for the various products would be helpful.

Field 15: We would appreciate more guidance on the ‘currency 2’ field and the information it should contain.

Field 16/17: More explanation on how to populate this field for various products would be helpful.

Field 18: We would like to understand why it is necessary to introduce two different identifiers for OTC transactions.

Field 20: Both options (LEI of CCP or MIC of market) appear to be feasible, however consistency with EMIR would be suggested.

Field 28/29: In general, the account owner who gives an order is always the investment decision maker. In some cases, a third party may have provided investment advice, but the final decision is usually made by the account owner or another person authorised to operate the account. We would appreciate clarification on which person should be quoted within these fields.

In a situation where a third party decision maker is to be reported who is not a client of the investment firm, such information might not be available to the investment firm and can only be reported if a client advises of the specific information.

Field 37: The identification of natural persons requires more clarification in general, particularly with respect to data protection laws inside and outside of Europe.

Field 56: It needs to be specified which value to report if no ISIN or AII is available for a reportable transaction, e.g. OTC Option, FX Forward or Swap

Field 60 /61: Consistency with EMIR should be considered so the underlying is identified in the same manner for both reporting obligations. We would note it is not practical for firms to report all constituents of the underlying basket or index.

Field 68: For securities, this information is publically available and we would therefore question whether there is value in it being included in transaction reports. It may also be a redundant field until the date occurs. Clarity would be helpful as to the information that should be provided for an American style option - i.e. where the exercise can be done at any time on request.

Field 69 / 70: It would be helpful to clarify if these fields are only applicable for principal trades and if not, what should be provided. Clarity would also be welcome in terms of who the decision maker should be for market maker trades.

Q551: Do you have any comments on the designation to identify the client and the client information and details that are to be included in transaction reports?

Even when leveraging existing national identifiers, the obligation to obtain client identification for natural persons will be challenging.

Data protection restrictions for European as well as non-European jurisdictions need to be taken into account to avoid conflicting regulations competing with each other, i.e. obligation to identify a client versus local data protection laws.

We would question the need for a natural persons address and DOB to be included in transaction reports. The inclusion of the unique national ID number should be sufficient.

Clarity from ESMA should be provided regarding the treatment of block versus allocation trades. In our view, this should be aligned with EMIR and require the reporting of the sub fund as the counterparty. Under MiFID 1 at present the asset manager is identified.

Q552: What are your views on the general approach to determining the relevant trader to be identified?

We would welcome more clarity on the identification of the person responsible for the investment decision – at what level of the organisation should this be - e.g. board member, division head, desk head, trading book manager or other? In some circumstances there may be multiple people involved in both the investment decision and its execution – how this scenario should be treated is not clear.

For the trader ID, rather than referring to the same information for natural persons, it would be preferable to rely on any trader registration numbers which have been granted or allocated by the relevant regulatory authorities in that jurisdiction.

Clarity would be helpful in respect of a situation where there is a chain of linked transactions or for give up / give in trades.

It is also unclear how to treat market making transactions in terms of the decision maker.

Q553: In particular, do you agree with ESMA's proposed approach to assigning a trader ID designation for committee decisions? If not, what do you think is the best way for NCAs to obtain accurate information about committee decisions?

This should be required only where it is clear that these decisions are within the remit/objective of the committee.

Q554: Do you have any views on how to identify the relevant trader in the cases of Direct Market Access and Sponsored Access?

The entity would be identifiable by the User Access Code but firms generally do not have information on the individual natural person traders.

Q555: Do you believe that the approach outlined above is appropriate for identifying the 'computer algorithm within the investment firm responsible for the investment decision and the execution of the transaction'? If not, what difficulties do you see with the approach and what do you believe should be an alternative approach?

In some circumstances, there may be more than one algorithm involved in a chain of transactions. In this scenario, the last algorithm used should be the one that is reported. If the regulation is requiring reporting of clients algorithms, where an investment firm is given an order directly from a client, there would need to be an obligation on the client to pass on the details as to the algorithm used. Clients would therefore be responsible for communicating accurate flags to the reporting party.

As far as permissible by the regulation, a simpler solution would be to require firms to report when they have executed an order algorithmically and require each firm to maintain a database that documents the parent order, the algo(s) and the subsequent child orders. This will be easier for regulators than rebuilding this from transaction reports which would be extremely complex.

Flagging of algorithms in transaction reports is not a simple exercise because it will require information to be shared between systems / brokers where trades are 'given up' between an executing broker and a clearing broker.

Q556: Do you foresee any problem with identifying the specific waiver(s) under which the trade took place in a transaction report? If so, please provide details.

Connecting the order and relevant waiver to the resulting transaction will require a matching mechanism to be established so the information can be linked to the transaction reporting record. This presents a challenge as information will have to be sourced from front office systems. To date, transaction reporting has been able to be conducted primarily from back office systems.

Q557: Do you agree with ESMA's proposed approach to adopt a simple short sale flagging approach for transaction reports? If not, what other approaches do you believe ESMA should consider and why?

Adopting a consistently accurate regime for short sale flagging will be challenging – please see our response to question 558.

Q558: Which option do you believe is most appropriate for flagging short sales? Alternatively, what other approaches do you think ESMA should consider and why?

Neither option will result in accurate short sale flagging within transaction reports.

Option 1 (relies on voluntary disclosure by the client) is problematic because professional clients typically execute through a DEA arrangement where there is limited dialogue with the broker around the specific trade. It is not possible to ask every client for every sell of sovereign bonds or equities whether the transaction is a short sell or will result in a short position. Where transactions are undertaken via voice, it is highly unlikely that a client will voluntarily disclose the fact that they are about to be entering into a short sale. As noted in the ESMA Discussion Paper, this is confidential information about their position.

Under option 2, there are a number of reasons why the investment firm will not be able to accurately disclose whether their client is selling short.

- Where securities have been purchased but not yet fully settled and are therefore not in the clients account, the client may appear to be selling short but this may not be the case.
- Where an investment firm is either not the custodian, or the client executes in the same shares with multiple brokers, there is always a risk that the reporting will be inaccurate.

The section seems to suggest that under either option, ESMA / NCAs would be satisfied with the fact they may receive inaccurate information from investment firms about their clients activity. In general, we would not support a requirement where market participants cannot comply with their obligations properly.

Q559: What are your views regarding the two options above?

We support option 1: investment firms should not be required to report a short sale flag when purchasing a share in a principal capacity.

Q560: Do you agree with ESMA's proposed approach in relation to reporting aggregated transactions? If not, what other alternative approaches do you think ESMA should consider and why?

In line with the answers given under Q557 – Q559, in the case of aggregated transactions it is even more difficult to determine if a sale was a prohibited short sale.

Q561: Are there any other particular issues or trading scenarios that ESMA should consider in light of the short selling flag?

It should be clarified that the short sale position calculation is applied on an entity level (in line with the short selling regulation).

Q562: Do you agree with ESMA's proposed approach for reporting financial instruments over baskets? If not, what other approaches do you believe ESMA should consider and why?

We would strongly favour ESMA maintaining a golden source of instruments that should be subject to reporting.

In the absence of this, we would appreciate more guidance on the products deemed in scope of the reporting obligation. We would welcome the opportunity to discuss this topic in more detail with ESMA in order to find an industry solution.

In respect of fields 60 and 61, we welcome additional clarity – it is not practical for firms to report all constituents of the underlying basket or index.

Q563: Which option is preferable for reporting financial instruments over indices? Would you have any difficulty in applying any of the three approaches, such as determining the weighting of the index or determining whether the index is the underlying in another financial instrument? Alternatively, are there any other approaches which you believe ESMA should consider?

Our preference is for option 2 however interaction with the EU benchmarks regulation will be important. The current regime for benchmark methodology disclosure will not include the constituents of all benchmarks, but could do in future, depending on the scope and requirements of the future regulation. These need to be aligned as far as possible.

Q564: Do you think the current MiFID approach to branch reporting should be maintained?

The suggested approach (to consolidate branch reporting with the home NCA) would create a single uniform process that would be consistent with EMIR.

However, it should not be underestimated that it will be a resource intensive exercise to get to this point. Assuming some trade repositories under EMIR can register as Approved Reporting Mechanisms (ARMs) under MiFID and the data can be used twice for both purposes, this will be simplest for derivatives, but more difficult for securities. If it is decided to mandate this, ESMA should not be prescriptive regarding the technical solutions to achieve it and allow NCAs to discuss with their markets and with each other as to the best way to achieve such an outcome.

Q565: Do you anticipate any difficulties in implementing the branch reporting requirement proposed above?

It should not be underestimated that it will be a resource intensive exercise to get to this point. Assuming some trade repositories under EMIR can register as Approved Reporting Mechanisms (ARMs) under MiFID and the data can be used twice for both purposes, this will be simplest for derivatives, but more difficult for securities. If it is decided to mandate this, ESMA should not be prescriptive regarding the technical solutions to achieve this and allow NCAs to discuss with their markets and with each other as to the best way to achieve such an outcome.

Q567: Which format, not limited to the ones above, do you think is most suitable for the purposes of transaction reporting under Article 26 of MiFIR? Please provide a detailed explanation including cost-benefit considerations.

We believe making use of already established reporting formats such as those implemented under EMIR would be a sensible approach.

8.2. Obligation to supply financial instrument reference data

Q582: Do you foresee any difficulties maintaining records of the Client IDs related with the orders submitted by their members/participants? If so, please elaborate.

ESMA should specify the format of this data otherwise it will be impossible to compare data sets.

8.4. Requirement to maintain records of orders for firms engaging in high-frequency algorithmic trading techniques (Art. 17(7) of MIFID II)[3]

Q600: Do you foresee any difficulties with the elements of data to be stored proposed in the above paragraph? If so, please elaborate.

Yes. The timestamping proposed is far too granular. It should be to the nearest 100 microseconds. This is consistent with our comments on the synchronisation of business clocks.

Q601: Do you foresee any difficulties in complying with the proposed timeframe?

We do not foresee any difficulties.

[3] Please note that this section has to be read in conjunction with the section on the "Record keeping and co-operation with national competent authorities" in this DP.

8.5. Synchronisation of business clocks

Q602: Would you prefer a synchronisation at a national or at a pan-European level? Please elaborate. If you would prefer synchronisation to a single source, please indicate which would be the reference clock for those purposes.

The synchronisation should take place at a pan European level. All clocks could be synced to a time from the network of GPS satellites.

Q603: Do you agree with the requirement to synchronise clocks to the microsecond level?

Synchronising clocks to the microsecond level is excessive. Clocks should be synced to the nearest 100 microseconds. This could be reduced to the nearest 10 microseconds in the future.

Q604: Which would be the maximum divergence that should be permitted with respect to the reference clock? How often should any divergence be corrected?

GPS clocks auto resynchronise at a frequency optimised for anticipated slippage, so there should not in theory be any need to specify a maximum permitted divergence. The auto resync would ensure clocks are kept up to date and synced with a minimal level of divergence.

9. Post-trading issues

9.1. Obligation to clear derivatives traded on regulated markets and timing of acceptance for clearing (STP)

Q605: What are your views generally on (1) the systems, procedures, arrangements supporting the flow of information to the CCP, (2) the operational process that should be in place to perform the transfer of margins, (3) the relevant parties involved these processes and the time required for each of the steps?

The systems, procedures and arrangements supporting the flow of ETD information to the CCP are developed, mature and efficient. They facilitate efficient and timely clearing of ETD transactions. Similarly, the operational processes that support the transfer of margins are well established and efficient for ETD. Clearing Members (CMs) have well developed and efficient processes for the transfer of margins between themselves and their clients.

All of the relevant parties (trading venues, exchanges, CCPs, CMs and their clients) are incentivised to clear ETDs in the most timely manner possible, as doing so ensures that the risk is represented as quickly as possible for margining purposes. Therefore, changes are not needed for ETD.

One key difference between the ETD and OTC operational and information flows is the separation of execution and clearing venues. For OTC products execution is often agreed outside of the CCP infrastructure and then separately communicated to the CCP for novation. This necessitates industry-wide support for a number of different flows between the point of execution and novation, including but not limited to trades executed and matched through an intermediary such as a MTF or SEF, trades executed bilaterally and matched through middleware providers such as MarkitSERV or ICE Link or even trades executed at the CCP itself. The benefits of ensuring that there is flexibility in the model will be that all relevant data will be accessible to the relevant parties regardless of how trades are physically processed. Today, each CCP and middleware provider appear to have bespoke flows making processing costly and increasing the cost of developing automation.

The operational process supporting the transfer of margin between CCPs and CMs is efficient and consistent for all CCPs supporting the clearing of OTC products. However, as most CCPs do not provide support for holding excess variation margin (VM) on account at the CCP and do not provide for VM payments to be debited from excess balances held for individual client segregated accounts, a large number of unnecessary physical cash settlements take place. Allowing flexibility in these processes, based upon client and/or CM preference, reduces the number of unnecessary cash settlements by allowing CMs to manage the payment flows. In this context, it is important to consider new account structures under development by CCPs which link the margin transfer process directly with the client. It is imperative that any such account structure offered to clients by a CCP should be flexible enough to take account of client preferences to reduce unnecessary cash settlements, provide real time visibility to CMs so they can ensure that margin requirements have been met, allow clearing certainty and support a clear delineation of services between the parties to manage any conflicts of interest which may arise.

Q606: In particular, who are currently responsible, in the ETD and OTC context, for obtaining the information required for clearing and for submitting the transaction to a CCP for clearing? Do you consider that anything should be changed in this respect? What are the current timeframes, in the ETD and OTC context, between the conclusion of the contract and the exchange of information required for clearing on one hand and on the other hand between the exchange of information and the submission of the transaction to the CCP?

The process by which transactions are submitted for clearing differs between markets and between ETD and OTC products.

Certain ETD markets operate such that the execution and clearing of a transaction happens simultaneously (open offer), whereas others operate so that a transaction is first executed on the market and then registered/transferred for clearing (novation). For example, a transaction executed on a regulated market may be viewed as "matched" on the regulated market/exchange and then presented to the clearing house for registration. The presentation for registration will contain the details of the CM in whose name the transaction should be registered. This presentation with the CM's details will be deemed to be confirmation by the CM to register the transaction (pursuant to the rules).

In the ETD example, it is the executing broker that initiates the information flow for clearing. The executing broker will submit an order to a trading venue that will specify the executing brokers trading mnemonic, along with a determination flag for client or house trade. If the trade is to be 'given up', there is a further step where the executing broker will enrich the trade with the clearing broker mnemonic and associated references.

If an entity executes and clears then the exchange trades transfer into the CCP clearing system and are picked up by the CM automatically (based on exchange and CCP rules). This may then involve a post trade allocation step to give up the trade to a third party clearer for example. Pre-trade give up to identify a third party clearer is also possible but is generally not a core flow.

In the case of non-clearing member (NCM) arrangements, the NCM executes a transaction on the exchange and based on NCM clearing agreements being in place (between the exchange, CCP, CM, etc.) the trade will flow into the CM's cleared account relevant for that NCM or be allocated to an account designated to the NCM.

For open outcry markets the process is very similar, where the executing broker is again responsible for ensuring that the trade is enriched and 'given up' (if applicable) to the appropriate CM with correct client referencing.

For cleared OTC transactions, the method for transferring into clearing might be a "submission" to the clearing house via an execution venue or middleware platform (which would also include any matching/affirmation platforms within the CCP infrastructure). This submission might result in automatic acceptance if the transaction is in line with limits etc and the submission is by the CM itself (or CM details and CM's consent are confirmed in advance) or may involve manual acceptance by the CM (particularly if submitted by a party other than the CM) and require the provision of margin before acceptance can take place.

For OTC transactions, the key aim for all parties is to try and achieve "certainty of clearing". Currently, the various independent processes involved in executing and then clearing an OTC transaction mean that "certainty of clearing" is difficult to achieve. Imposing a rigid timeframe for the clearing process will not achieve this certainty by itself because there needs to be sufficient time for a CM to conduct credit limit checks if these are not available on the execution platform.

In addition, a transaction may exceed the size necessary to execute on a MTF/OTF or, the execution venue or middleware platform may not provide all the information required to clear the trade, so depending on which information is missing in the process or what steps need to be completed, the client, CM and/or CCP will need to enrich the trade before it can be accepted for clearing. The timeliness of obtaining additional information required before a contract can be submitted for clearing will depend upon which party is required to enrich the trade and the automation of that party's own processing.

For example, if a client is required to manually submit their CM and allocation details to a middleware platform, this is likely to take more time than a CM that has direct connectivity to a CCP and has automated their credit limit checking process. Once all the required information has been obtained, submission of the transaction to the CCP should be as soon as technologically possible.

As covered in Q605, the process flow and the method for the provision of information required to submit a trade for clearing needs to be flexible enough to allow trades to be submitted directly to a CCP, via middleware or through a MTF/OTF. This will facilitate the flow of information between parties and will allow CMs, executing brokers, CCPs and clients to create an optimal solution based on their own preferences. Moving to a single, standardised flow which is too dependent on one particular IT solution could create a systemic weakness in the process and lead to single providers monopolising the market.

Given the above, imposing a rigid timeframe for acceptance of clearing would be achievable only where 'certainty of clearing' can be determined at the point of trade execution. Where no such certainty exists, the timeframe between execution and exchange of information required for clearing will largely depend on which parties are required to enrich the trade. Once all the required information has been provided, submission of the transaction to the CCP should take place as soon as technologically possible in any event, as it is in the interests of the parties to represent the risk as quickly as possible.

Q607: What are your views on the balance of these risks against the benefits of STP for the derivatives market and on the manner to mitigate such risks at the different levels of the clearing chain?

The current ETD margin model functions efficiently today. CMs have established timely and efficient margin models with their clients.

Although pre-trade margining may mitigate risk, it is difficult to see how this could function effectively outside of full-service markets for ETD. In a full-service arrangement, an entity acts as executing broker and CM. However, if a CM is responsible for "clearing" an ETD transaction until it is transferred to another CM (if a transaction is executed as a give-up), then CMs would have to have enough margin with a CCP to cover all of their executions, and potentially be called intra-day for margin on transactions such CM is not intended to ultimately clear. Imposing pre-margin requirements on ETD may reduce the choice available to clients regarding who they use for execution services.

Pre-margining also makes the common practice of position transfers problematic, as clients would need to post margin for positions at a new CM, before margin had been released on the current positions.

As referenced in Q605/606, for OTC transactions mitigating these risks to the extent possible and obtaining the benefits of STP is achievable where 'certainty of clearing' has been determined at the point of trade execution. All parties to the contract (client, executing broker and CM) and the CCP must provide the information required for the trade to be submitted for clearing at the point of execution. The execution venue or middleware platform is then responsible for submitting this trade to the CCP as soon as technologically possible so that any timeframe, for which this trade is valid for clearing, is not surpassed.

A single standardised process flow which has no flexibility could create an over-reliance on particular IT providers, IT systems or services and the risk of non-compliance moves from being owned by the participants to the process (i.e. executing brokers, CMs, CCPs, clients) to external providers (middleware providers, IT system providers, credit check providers). Support for multiple flows with configurability gives the market more flexibility and reduces the reliance on any single party.

Q608: When does the CM assume the responsibility of the transactions? At the time when the CCP accepts the transaction or at a different moment in time?

A CM assumes responsibility for a transaction at the point in time the transaction is registered for clearing in the CM's account at the CCP in accordance with the CCP's rulebook.

One criticism of this model is the potential for the CCP to reject the CM as a party to the trade based on credit checks. This needs to be addressed to ensure that, at the point of trade execution, all credit requirements (both CM and CCP) are passed, so that once the trade is submitted to the CCP it is automatically processed and accepted.

Q609: What are your views on how practicable it would be for CM to validate the transaction before their submission to the CCP? What would the CM require for this purpose and the timeframe required? How would this validation process fit with STP?

Given the process flows described above for ETD, it would not be practicable for CMs to validate a transaction before submission to a CCP especially on "open offer" markets. Clearing is inherent in ETD transactions so a CM will hold the transaction, even if it is only intra-day because it is not the ultimate clearer for that transaction. As a result, it would not be practicable for ETD CMs to have to validate transactions before submission to the CCP as this would delay transactions clearing and create additional risks and uncertainty in the ETD market.

Pre-margining may go some way to facilitating such a validation, but as described above pre-margining itself does not seem practicable for ETD.

As detailed in previous answers, CMs and, where appropriate, CCP validation should ideally be undertaken at the point of execution to ensure clearing certainty. However, sufficient time needs to be made available to allow such validation to take place for the reasons previously explained given the processes involved in clearing OTC transactions. There needs to be flexibility in the model to allow direct clearing with a CCP, processing through middleware and processing through electronic execution platforms and associated credit aggregators.

Q610: What are your views on the manner to determine the timeframe for (1) the exchange of information required for clearing, (2) the submission of a transaction to the CCP, and the constraints and requirements to consider for parties involved in both the ETD and OTC contexts?

For standard ETD contracts the timeliness of the clearing process is driven by the requirement to have the risk reflected correctly down the chain. All parties are incentivised to perform their steps in the clearing chain as quickly as possible. The way in which ETD contracts clear (especially when transacted on "open offer" markets) ensures that clearing happens almost instantly.

Most ETD business is executed electronically which means that exchange of information happens very quickly. For off exchange transactions (OTC block trading for example) the existing exchange rules on timelines for submission of information are developed and adequate.

In our view, the timelines do not need to change for ETD.

In relation to OTC transactions, the sooner all the information required to clear a trade is obtained the sooner clearing certainty is achieved. Although a trade should be submitted to the CCP as soon as technologically possible, the time taken is secondary to obtaining clearing certainty. With clearing certainty achieved, submitting the trade to the CCP becomes the point when the trade is cleared rather than whether the trade is cleared.

The process needs to be flexible enough to allow multiple methods of processing transactions. In order to achieve this it does not make sense to enforce an unnecessarily rigid approach. There are a number of reasons behind this, including that it is in all participants' best interests to novate trades as quickly as possible and client trades are submitted in no particular order, so risk reducing trades could come in after risk increasing trades leading to unnecessary rejections. CMs will automatically reject transactions that get close to any enforced timeframe for no reason other than avoiding a breach. Good procedures and timely transfer of information should result in trades that are accepted but such transactions may get rejected because of automated timeouts if rigid timeframes are imposed.

Q611: What are your views on the systems, procedures, arrangements and timeframe for (1) the submission of a transaction to the CCP and (2) the acceptance or rejection of a transaction by the CCP in view of the operational process required for a strong product validation in the context of ETD and OTC? How should it compare with the current process and timeframe? Does the current practice envisage a product validation?

The current ETD practice does not envisage a product validation, and does not need to change. ETD transactions do not generally get rejected by CCPs today.

For OTC, product validation is an important process that needs to be performed as early in the process as possible as not all OTC products are eligible to be cleared or, indeed, are even clearable at a CCP. It is important that this validation is performed as early as possible in the process to provide greater clearing certainty, particularly as pricing of OTC products has a dependency on whether the trade is to be cleared or not and the choice of CCP the trade is to be cleared at may impact any such validation.

Product validation should extend to the full eligibility criteria of a product such as product type, e.g. non-deliverable forward, currencies, tenor, etc.

Q612: What should be the degree of flexibility for CM, its timeframe, and the characteristics of the systems, procedures and arrangements required to supporting that flexibility? How should it compare to the current practices and timeframe?

The flexibility that exists today does not need to change. For OTC and ETD transactions, flexibility is a key requirement which has been described in previous answers.

Q613: What are your views on the treatment of rejected transactions for transactions subject to the clearing requirement and those cleared on a voluntary basis? Do you agree that the framework should be set in advance?

Give up agreements/OTC execution agreements that exist in the market today specify the actions that can be taken should a transaction be rejected for clearing. This includes (1) closing out the transaction and requiring any balance resulting from such close out to be settled between executing broker and customer; (2) transferring the transaction to another clearing broker as instructed by customer; or (3) allowing the executing broker to clear the transactions itself, if applicable.

These agreements adequately provide for what happens in the event that a transaction is rejected for clearing and allow the parties to agree in advance whether a party can recover costs or changes in the market value of the transaction incurred as a result of the transaction not being cleared. Most importantly, the current arrangements mean that a transaction rejected from clearing is not declared void and a party suffering a loss or costs as a result of such rejection can seek to recover those costs on the basis of the give up/execution agreement. A party is therefore not penalised for mark to market movements in relation to a transaction which is rejected for clearing, potentially through no fault of its own.

Rejections in ETD are rare to the point of being non-existent. Any rigid timeframes imposed on the clearing process may increase the number of rejected transactions and therefore such arrangements as described here would become increasingly important.

9.2. Indirect Clearing Arrangements

Q614: Is there any reason for ESMA to adopt a different approach (1) from the one under EMIR, (2) for OTC and ETD? If so, please explain your reasons.

Yes, there are several reasons for ESMA to adopt a different approach from the one under EMIR and for OTC and ETD. Under the EMIR RTS, indirect clearing means that the role of the CCP shifts down a level, so that the CM is expected to deliver the same level of record-keeping, segregation, porting, as a CCP would for direct clients of a CM. This has proven to be problematic to implement in relation to OTC transactions for a number of reasons, particularly because indirect clearing arrangements usually involve more than one jurisdiction requiring consideration of each relevant insolvency regime and CMs, unlike CCPs, do not generally benefit from protections regarding actions taken to port assets and positions in the event of a default. It has not been possible to design any fully compliant structure which is scalable to meet the requirements of the EMIR RTS.

The use of intermediate brokers, which might be described as indirect clearing, is a market standard model for ETD business. Under this model, a client can contract with a single entity and obtain access to markets worldwide, allowing the client to benefit from margin and operational efficiencies. Many non-EU markets require their members to be locally regulated or licensed entities and therefore indirect clearing may be the main way to access such a market.

Q615: In your view, how should it compare with current practice?

Current practice which permits a client facing CM to use its affiliates or non-affiliated brokers to access ETD markets globally should be allowed to continue and the EMIR RTS arrangements in their current form should not apply to these existing structures. If ESMA wishes to apply standards to ETD similar to those under the EMIR RTS, we would suggest that certain critical amendments are made to the EMIR RTS to address the difficulties which have precluded the development of indirect clearing arrangements for OTC.

We would support a review of the existing EMIR RTS on indirect clearing as part of the review of EMIR scheduled for 2015. This should be done with the purpose of designing indirect clearing models that are scalable for both ETD and OTC and provide a choice of protections for clients and choice of offerings for CMs as well as reflecting the differences between OTC and ETD markets and enabling existing arrangements to continue to support access to global markets.