|  |
| --- |
| Reply form for the  Consultation Paper on MiFID II / MiFIR |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on MiFID II / MiFIR (reference ESMA/2014/1570), published on the ESMA website.

Instructions

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

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

Responses are most helpful:

1. if they respond to the question stated;
2. contain a clear rationale, and
3. describe any alternatives that ESMA should consider.

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010.

Naming protocol:

In order to facilitate the handling of stakeholders responses please save your document using the following format: ESMA\_CP\_MIFID\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

**E.g.** if the respondent were ESMA, the name of the reply form would be ESMA\_CP\_MIFID \_ESMA\_REPLYFORM or ESMA\_CP\_MIFID\_ESMA\_ANNEX1

Deadline

Responses must reach us by **2 March 2015**.

All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your in-put/Consultations’.

Publication of responses

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

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings ’Legal notice’ and ‘Data protection’.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | EFAMA |
| Confidential[[1]](#footnote-1) |  |
| Activity: | Investment Services |
| Are you representing an association? |  |
| Country/Region | Belgium |

# Introduction

Please make your introductory comments below, if any:

< ESMA\_COMMENT\_CP\_MIFID\_1>

TYPE YOUR TEXT HERE

< ESMA\_COMMENT\_CP\_MIFID\_1>

1. Investor protection
2. Do you agree with the list of information set out in draft RTS to be provided to the competent authority of the home Member State? If not, what other information should ESMA consider?

<ESMA\_QUESTION\_CP\_MIFID\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_1>

1. Do you agree with the conditions, set out in this CP, under which a firm that is a natural person or a legal person managed by a single natural person can be authorised? If no, which criteria should be added or deleted?

<ESMA\_QUESTION\_CP\_MIFID\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_2>

1. Do you agree with the criteria proposed by ESMA on the topic of the requirements applicable to shareholders and members with qualifying holdings? If no, which criteria should be added or deleted?

<ESMA\_QUESTION\_CP\_MIFID\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_3>

1. Do you agree with the approach proposed by ESMA on the topic of obstacles which may prevent effective exercise of the supervisory functions of the competent authority?

<ESMA\_QUESTION\_CP\_MIFID\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_4>

1. Do you consider that the format set out in the ITS allow for a correct transmission of the information requested from the applicant to the competent authority? If no, what modification do you propose?

<ESMA\_QUESTION\_CP\_MIFID\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_5>

1. Do you agree consider that the sending of an acknowledgement of receipt is useful, and do you agree with the proposed content of this document? If no, what changes do you proposed to this process?

<ESMA\_QUESTION\_CP\_MIFID\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_6>

1. Do you have any comment on the authorisation procedure proposed in the ITS included in Annex B?

<ESMA\_QUESTION\_CP\_MIFID\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_7>

1. Do you agree with the information required when an investment firm intends to provide investment services or activities within the territory of another Member State under the right of freedom to provide investment services or activities? Do you consider that additional information is required?

<ESMA\_QUESTION\_CP\_MIFID\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_8>

1. Do you agree with the content of information to be notified when an investment firm or credit institution intends to provide investment services or activities through the use of a tied agent located in the home Member State?

<ESMA\_QUESTION\_CP\_MIFID\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_9>

1. Do you consider useful to request additional information when an investment firm or market operator operating an MTF or an OTF intends to provide arrangements to another Member State as to facilitate access to and trading on the markets that it operates by remote users, members or participants established in their territory? If not which type of information do you consider useful to be notified?

<ESMA\_QUESTION\_CP\_MIFID\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_10>

1. Do you agree with the content of information to be provided on a branch passport notification?

<ESMA\_QUESTION\_CP\_MIFID\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_11>

1. Do you find it useful that a separate passport notification to be submitted for each tied agent the branch intends to use?

<ESMA\_QUESTION\_CP\_MIFID\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_12>

1. Do you agree with the proposal to have same provisions on the information required for tied agents established in another Member State irrespective of the establishment or not of a branch?

<ESMA\_QUESTION\_CP\_MIFID\_13>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_13>

1. Do you agree that any changes in the contact details of the investment firm that provides investment services under the right of establishment shall be notified as a change in the particulars of the branch passport notification or as a change of the tied agent passport notification under the right of establishment?

<ESMA\_QUESTION\_CP\_MIFID\_14>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_14>

1. Do you agree that credit institutions needs to notify any changes in the particulars of the passport notifications already communicated?

<ESMA\_QUESTION\_CP\_MIFID\_15>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_15>

1. Is there any other information which should be requested as part of the notification process either under the freedom to provide investment services or activities or the right of establishment, or any information that is unnecessary, overly burdensome or duplicative?

<ESMA\_QUESTION\_CP\_MIFID\_16>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_16>

1. Do you agree that common templates should be used in the passport notifications?

<ESMA\_QUESTION\_CP\_MIFID\_17>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_17>

1. Do you agree that common procedures and templates to be followed by both investment firms and credit institutions when changes in the particulars of passport notifications occur?

<ESMA\_QUESTION\_CP\_MIFID\_18>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_18>

1. Do you agree that the deadline to forward to the competent authority of the host Member State the passport notification can commence only when the competent authority of the home Member States receives all the necessary information?

<ESMA\_QUESTION\_CP\_MIFID\_19>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_19>

1. Do you agree with proposed means of transmission?

<ESMA\_QUESTION\_CP\_MIFID\_20>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_20>

1. Do you find it useful that the competent authority of the host Member State acknowledge receipt of the branch passport notification and the tied agent passport notification under the right of establishment both to the competent authority and the investment firm?

<ESMA\_QUESTION\_CP\_MIFID\_21>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_21>

1. Do you agree with the proposal that a separate passport notification shall be submitted for each tied agent established in another Member State?

<ESMA\_QUESTION\_CP\_MIFID\_22>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_22>

1. Do you find it useful the investment firm to provide a separate passport notification for each tied agent its branch intends to use in accordance with Article 35(2)(c) of MiFID II? Changes in the particulars of passport notification

<ESMA\_QUESTION\_CP\_MIFID\_23>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_23>

1. Do you agree to notify changes in the particulars of the initial passport notification using the same form, as the one of the initial notification, completing the new information only in the relevant fields to be amended?

<ESMA\_QUESTION\_CP\_MIFID\_24>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_24>

1. Do you agree that all activities and financial instruments (current and intended) should be completed in the form, when changes in the investment services, activities, ancillary services or financial instruments are to be notified?

<ESMA\_QUESTION\_CP\_MIFID\_25>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_25>

1. Do you agree to notify changes in the particulars of the initial notification for the provision of arrangements to facilitate access to an MTF or OTF?

<ESMA\_QUESTION\_CP\_MIFID\_26>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_26>

1. Do you agree with the use of a separate form for the communication of the information on the termination of the operations of a branch or the cessation of the use of a tied agent established in another Member State?

<ESMA\_QUESTION\_CP\_MIFID\_27>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_27>

1. Do you agree with the list of information to be requested by ESMA to apply to third country firms? If no, which items should be added or deleted. Please provide details on your answer.

<ESMA\_QUESTION\_CP\_MIFID\_28>

Yes. It would, however, be useful if Article 1(1)(l) of RTS5 were extended to require the third country firm to state not just the investment services it intends to provide, but specifics of the member states in which it intends to operate.

<ESMA\_QUESTION\_CP\_MIFID\_28>

1. Do you agree with ESMA’s proposal on the form of the information to provide to clients? Please provide details on your answer.

<ESMA\_QUESTION\_CP\_MIFID\_29>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_29>

1. Do you agree with the approach taken by ESMA? Would a different period of measurement be more useful for the published reports?

<ESMA\_QUESTION\_CP\_MIFID\_30>

We agree with ESMA’s proposal that, where portfolio managers place deals with brokers (market makers or other liquidity providers) who may in turn fill the orders from a regulated market, MTF or OTF, then the portfolio manager should include the broker as their execution venue for inclusion as a venue in the list of top five venues, where relevant.

Where portfolio managers are placing orders with brokers for them to execute, it is essential that they receive the information produced under RTS 6, in order that they are able to comply with RTS7.

While one could envisage to restrict the reporting to liquid financial instrument, in order to make it more useful and less onerous, generally speaking, EFAMA believes that the granularity of the classification should be reduced. Even reporting on the higher level of type of financial instrument (e.g. equity, bond etc.) would still leave 15 different classes of instrument, and would be less overwhelming for investors than the current proposal.

<ESMA\_QUESTION\_CP\_MIFID\_30>

1. Do you agree that it is reasonable to split trades into ranges according to the nature of different classes of financial instruments? If not, why?

<ESMA\_QUESTION\_CP\_MIFID\_31>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_31>

1. Are there other metrics that would be useful for measuring likelihood of execution?

<ESMA\_QUESTION\_CP\_MIFID\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_32>

1. Are those metrics meaningful or are there any additional data or metrics that ESMA should consider?

<ESMA\_QUESTION\_CP\_MIFID\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_33>

1. Do you agree with the proposed approach? If not, what other information should ESMA consider?

<ESMA\_QUESTION\_CP\_MIFID\_34>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_34>

1. Do you agree with the proposed approach? If not, what other information should ESMA consider?

<ESMA\_QUESTION\_CP\_MIFID\_35>

We are generally concerned that ESMA’s current proposals, as set out in RTS 7, will create massive amounts of data that, due to the enormous amount of information provided, might not beneficial for an investor to assess the quality of an execution venue. EFAMA is therefore wondering whether it is feasible to narrow down the number of data fields per class of instrument while still keeping with the intention of the Level 1 text.

Furthermore, we see alsoa misalignment in the deadlines for publishing this information. The requirement that the data must be published within one month of the previous year end may prove problematic. Article 8 of RTS 6 states that each execution venue should publish its information within one month at each quarter end. Investment firms will, therefore, have to publish their information, which is based on that from the execution venues, on the same day that the execution venues publish these which gives them no additional time to conduct the analysis required by Article 6 of RTS 7. Given that firms need a reasonable time to make use of the execution venue information, EFAMA would suggest that the deadline for investment firms to publish their information be set to one month after that for the execution venues.

An additional point relates to third country execution venues. Article 2(1) is clear that investment firms must include, within their definition of execution venues, entities performing functions similar to execution venues which are based in third countries. As such they are required to include any such third country execution venues in their top five execution venues as necessary, and include them in their analysis of execution quality under Article 6 of RTS 7. There is no requirement equivalent to RTS 6 applying to third country execution venues. As such, it may prove difficult to get some of the required information from these venues. It is important, therefore, to include some level of proportionality, requiring investment firms to make reasonable efforts to get the relevant information, but to provide the best possible quality of information to customers where this proves impracticable. <ESMA\_QUESTION\_CP\_MIFID\_35>

1. Do you agree with the proposed approach? If not, what other information should ESMA consider?

<ESMA\_QUESTION\_CP\_MIFID\_36>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_36>

1. Transparency
2. Do you agree with the proposal to add to the current table a definition of request for quote trading systems and to establish precise pre-trade transparency requirements for trading venues operating those systems? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_37>

Yes, we agree with the proposed regime

Even if the proposed regime of pre-trade transparency is not a particularly meaningful measure for ETFs (all ETFs are created to be liquid but the real liquidity of an ETF is based on the underlying liquidity of the ETF) and have a displayed price at which they are expected to trade, we support the proposal to develop precise pre-trade trade transparency requirements for trading venues providing RFQ for ETFs.

<ESMA\_QUESTION\_CP\_MIFID\_37>

1. Do you agree with the proposal to determine on an annual basis the most relevant market in terms of liquidity as the trading venue with the highest turnover in the relevant financial instrument by excluding transactions executed under some pre-trade transparency waivers? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_38>

Yes, we agree. We believe that the trading venue with the highest turnover should be considered as the most relevant market in terms of liquidity for the application of the reference price waivers.

To improve the quality of the reporting, we believe that the transactions executed under the pre-trade transparency waivers should also be included in the calculation.

However by making one venue the point at which that market will use for applying the Reference Price Waiver (RPW) then we would suggest there needs to be a check that the market does provide continuous quotes and does not have the highest turnover simply due to a large number of blocks being reported on it but no other material trading.

<ESMA\_QUESTION\_CP\_MIFID\_38>

1. Do you agree with the proposed exhaustive list of negotiated transactions not contributing to the price formation process? What is your view on including non-standard or special settlement trades in the list? Would you support including non-standard settlement transactions only for managing settlement failures? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_39>

We agree with this proposal and with the proposed exhaustive list of transactions not contributing to the price discovery process.

We welcome the shortening of the list as it no longer explicitly includes a reference to “securities financing transactions” as they are by nature directly negotiated between counterparties..

We would however recommend ESMA to include some language in order to avoid some ambiguities (especially in the notion of agent or the differences between “acting for account of” or “on behalf of”).

Please below the following proposed amendments:

1. *dealing on own account with another member or participant who acts for the account of* ***or as agent for or on behalf of*** *a client;*
2. *dealing with another member or participant where both are executing orders on own account;*
3. *acting for the account of* ***or as agent for or on behalf of*** *both buyer and seller;*
4. *acting for the account of* ***or as agent for or on behalf of*** *the buyer where another member or participant acts for the account of* ***or as agent for or on behalf of*** *the seller; and*
5. *trading for own account against a client order.*

<ESMA\_QUESTION\_CP\_MIFID\_39>

1. Do you agree with ESMA’s definition of the key characteristics of orders held on order management facilities? Do you agree with the proposed minimum sizes? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_40>

We see no objection to set a 10 000€ minimum size for stop orders and iceberg orders to benefit from the pre-trade transparency waiver.

<ESMA\_QUESTION\_CP\_MIFID\_40>

1. Do you agree with the classes, thresholds and frequency of calculation proposed by ESMA for shares and depositary receipts? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_41>

We agree with ESMA’s definition and welcome the expansion of the waiver to all orders held in an order management facility

We welcome ESMA’s recognition that ADT may not provide the best metric on which to establish the large in scale threshold in all circumstances but we regret to notice ESMA did not take the opportunity to use more the alternative approaches proposed by market participants.

<ESMA\_QUESTION\_CP\_MIFID\_41>

1. Do you agree with the classes, thresholds and frequency of calculation proposed by ESMA for ETFs? Would you support an alternative approach based on a single large in scale threshold of €1 million to apply to all ETFs regardless of their liquidity? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_42>

As expressed above and in our reply to the DP, we believe that ADT is not sufficient to measure the ETF liquidity and market impact due to the fact that the criteria do not take into consideration the liquidity of the underlying financial instruments (e.g. equities, bonds). The calibration of the liquidity threshold for the underlying financial instruments might be difficult to implement as some instruments are not liquid over the whole life cycle (e.g. bonds). The definition of ETF liquidity should also incorporate the liquidity provided by market makers as proposed by ESMA in the Consultation Paper related to the definition of securitized derivatives (p. 113).

The implementation at IT and accounting levels of the proposed large in scale thresholds by the market makers may be very complex and increases costs without benefits (as the different classes needs to be included in the IT/accounting systems).

We therefore supports the alternative approach based on a single Large in Scale (LIS) threshold. This would result in a simpler market structure and a level playing field for all ETFs with little or no market impact.

As expressed in our reply to the question Q50 of the DP, most of EFAMA members believe that the most appropriate way to calculate ADT for ETFs could be:

|  |  |  |  |
| --- | --- | --- | --- |
| **ETFs** | **Free Float (Number of units issued for trading)** | **Average daily number of transactions** | **Average daily turnover** |
| 100 | 20 | 500,000 |

**Or (for Equity ETFs)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Underlying basket of stocks for Equity ETFs** | **Free Float** | **Average daily number of transactions** | **Average daily turnover** |
| EUR 100,000,000 | 250 | EUR 1,000,000 |

With

Free Float = ∑\_(i=1)^n▒〖w\_i 〖ff〗\_i 〗 where w\_i is the weight of stock i in the underlying basket and 〖ff〗\_i is the Free Float of stock i

ADNT = ∑\_(i=1)^n▒〖w\_i 〖ADNT〗\_i 〗 where w\_i is the weight of stock i in the underlying basket and 〖ADNT〗\_i is the Average daily number of transactions of stock i

ADV = ∑\_(i=1)^n▒〖w\_i 〖ADV〗\_i 〗 where w\_i is the weight of stock i in the underlying basket and 〖ADV〗\_i is the Average daily turnover of stock i

As a fallback solution, we support the alternative approach to implement a single threshold of EUR 1 million which should apply to all ETFs regardless of their liquidity. The introduction of the single large in scale threshold is much easier to implement than the large in scale thresholds based on different classes.

<ESMA\_QUESTION\_CP\_MIFID\_42>

1. Do you agree with the classes, thresholds and frequency of calculation proposed by ESMA for certificates? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_43>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_43>

1. Do you agree with the proposed approach on stubs? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_44>

We agree with the proposed approach as it maintains the ability to execute large orders through order books without revealing sensitive information to the market.

<ESMA\_QUESTION\_CP\_MIFID\_44>

1. Do you agree with the proposed conditions and standards that the publication arrangements used by systematic internalisers should comply with? Should systematic internalisers be required to publish with each quote the publication of the time the quote has been entered or updated? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_45>

We support the proposal to publish with each quote the time the quote has been entered or updated.

In order to allow the buy side to better verify best execution and improve the quality and reliability of quotes being offered to the market, systematic internalisers should be required to publish of the time the quote is entered and updated.

<ESMA\_QUESTION\_CP\_MIFID\_45>

1. Do you agree with the proposed definition of when a price reflects prevailing conditions? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_46>

We agree that a price reflects the prevailing market conditions when close to comparable quotes for the same equity or equity-like instrument on other trading venues.

<ESMA\_QUESTION\_CP\_MIFID\_46>

1. Do you agree with the proposed classes by average value of transactions and applicable standard market size? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_47>

We agree with the proposed classes by average value of transactions and applicable standard market size, including for ETFs.

<ESMA\_QUESTION\_CP\_MIFID\_47>

1. Do you agree with the proposed list of transactions not contributing to the price discovery process in the context of the trading obligation for shares? Do you agree that the list should be exhaustive? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_48>

We agree with the proposed list. We also agree with the proposal to have an exhaustive list as it allows for an appropriate balance between consistency across EU countries and proportionality.

We would suggest ESMA clarify that, ‘where no other investment firm is involved’, would include situations where the asset manager uses a broker to obtain the current mid-price and delegate transaction reporting obligations.

<ESMA\_QUESTION\_CP\_MIFID\_48>

1. Do you agree with the proposed list of information that trading venues and investment firms shall made public? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_49>

We agree with the proposed list of information

We would however remind ESMA that the duplication of transaction data reported might be the consequence of a different interpretation of applicable regulation by NCA’s, as we expressed in our reply to the question Q376 of the DP.

The extent to with Art. 9 EMIR is applied or not on contractual relationships by different NCA may lead to duplicative reports and to some additional reconciliation exercises. EFAMA supports the overall goal that duplicative reports should be avoided and therefore supports any endeavour of ESMA to achieve this goal.

<ESMA\_QUESTION\_CP\_MIFID\_49>

1. Do you consider that it is necessary to include the date and time of publication among the fields included in Table 1 Annex 1 of Draft RTS 8? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_50>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_50>

1. Do you agree with the proposed list of flags that trading venues and investment firms shall made public? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_51>

We agree with the proposed list of flags that trading venues and investment firms have to make public.

However, we encourage ESMA to align its requirements to the greatest extent possible with existing reporting such EMIR.

<ESMA\_QUESTION\_CP\_MIFID\_51>

1. Do you agree with the proposed definitions of normal trading hours for market operators and for OTC? Do you agree with shortening the maximum possible delay to one minute? Do you think some types of transactions, such as portfolio trades should benefit from longer delays? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_52>

Yes, we agree with the proposed definition of normal trading hours for market operators and for OTC.

On the other hand, we do not agree on shortening the maximum delay to 1 minute compared to 3 minutes previously. This is already a very short period for traders to comply with this obligation. By experience we know that market operators may have to face several requests for prices at the very same time and that they need time to select the best transactions available according to the level of risk they can bear beside having to find hedging solutions to cover these risks. We think this is essential to report trades as fast as possible but, considering all those element, we would recommend to let traders report in the coming 3 minutes as is currently the case.

<ESMA\_QUESTION\_CP\_MIFID\_52>

1. Do you agree that securities financing transactions and other types of transactions subject to conditions other than the current market valuation of the financial instrument should be exempt from the reporting requirement under article 20? Do you think other types of transactions should be included? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_53>

We agree with this proposal.

<ESMA\_QUESTION\_CP\_MIFID\_53>

1. Do you agree with the proposed classes and thresholds for large in scale transactions in shares and depositary receipts? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_54>

We generally agree with the proposed classes.

However, the threshold for large in scale transactions should balance adequately between the needs to protect large institutional equity orders and the requirement to publish these orders in a delayed matter, especially in less liquid shares such as SMEs in order to preserve their liquidity and “attractiveness”.

Additionally, we encourages ESMA to undertake a periodic review of the relationship between post trade transparency requirements and liquidity in less liquid shares, such as those of SMEs

<ESMA\_QUESTION\_CP\_MIFID\_54>

1. Do you agree with the proposed classes and thresholds for large in scale transactions in ETFs? Should instead a single large in scale threshold and deferral period apply to all ETFs regardless of the liquidity of the financial instrument as described in the alternative approach above? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_55>

We think that as much as possible ETF data should be made available to the public as ETFs are already subject to the highest level of standards in terms of investor protection and transparency obligations.

As with pre-trade transparency, we are not in favour Average Daily Turnover (ADT) as a metric for ETFs given that it could lead to an unlevel playing field between funds with the same underlying exposure (and hence liquidity) and would result in unnecessary complexity without obvious benefit for market quality or the end-investor

<ESMA\_QUESTION\_CP\_MIFID\_55>

1. Do you agree with the proposed classes and thresholds for large in scale transactions in certificates? Please provide reasons for your answers

<ESMA\_QUESTION\_CP\_MIFID\_56>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_56>

1. Do you agree with ESMA’s proposal for the definition of a liquid market? Please provide an answer for SFPs and for each of type of bonds identified (European Sovereign Bonds, Non-European Sovereign Bonds, Other European Public Bonds, Financial Convertible Bonds, Non-Financial Convertible Bonds, Covered Bonds, Senior Corporate Bonds-Financial, Senior Corporate Bonds Non-Financial, Subordinated Corporate Bonds-Financial, Subordinated Corporate Bonds Non-Financial) addressing the following points:
   1. Would you use different qualitative criteria to define the sub-classes with respect to those selected (i.e. bond type, debt seniority, issuer sub-type and issuance size)?
   2. Would you use different parameters (different from average number of trades per day, average nominal amount per day and number of days traded) or the same parameters but different thresholds in order to define a bond or a SFP as liquid?
   3. Would you define classes declared as liquid in ESMA’s proposal as illiquid (or viceversa)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_57>

We have several concerns regarding possible unintended consequences that would impact end-investors following the ESMA’s proposed definitions of fixed income liquidity.

Firstly, we believe that the proposed regime does not distinguish sufficiently primary and secondary market liquidity. The calibration of the definition of the liquidity for fixed income financial instruments is totally different compared to equities. The liquidity of fixed income products cannot be determined through a collection of reference data or other objective factors. Fixed income products are mainly liquid directly after the issuance, but should be considered illiquid during most of their life cycle. The trading activity of fixed income products cannot be determined in advance as additional factors such as unpredictable market events play a significant role in the bond market.

Secondly, even if we recognise the benefits of COFIA (the simplicity of the regime), we believe that this would create misclassification of fixed income instruments by having:

* Fewer, if any, brokers would be willing to make prices that would have to be disclosed to the public.
* Where prices are made public, there is the very real possibility of firms running predatory strategies profiting at the expense of the end-investor.
* These scenarios translate into higher cost for the end-investor and increased market volatility.

As a consequence, institutional or retail investors have to bear higher transaction costs connected with increased market volatility. Therefore, neither the COFIA nor the IBIA approach will deliver a balanced approach by classifying fixed income products as liquid/illiquid financial instruments.

A first possible solution that would mitigate the negative impacts of publication of the individual bids and offers in response to RFQ is to publish an average of those responses.

We also disagree with the objection raised to this proposal that “*publishing an average would be inconsistent with Level 1 text”*.

We consider that the information proposed to be made public for the other types of system contradicts this assertion.

Liquidity in the bond markets is not determinable by a series of characteristics captured by reference data or by any other objective factors. Furthermore, activity is not predictable by looking back to the previous period. Factors such as market events which significantly drive liquidity in the bond markets are simply not possible to predict.

A second possible solution would be for ESMA to develop a balanced approach for the classification of liquidity for fixed income products taking into consideration the requirements by the buy-side to execute large fixed income block orders with minimal market impact. For that reason, we propose a simpler COFIA approach with fewer classes and corresponding issuance sizes which will probably decrease the number of illiquid fixed income products to be classified as liquid. Furthermore, we suggest lowering the SSTI waivers enabling broker/dealers and liquidity providers to further provide prices which do not expose them to risks.

**Hybrid - Granular COFIA with IBIA Liquidity Gate:**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| The criteria proposed by ESMA to define liquidity are: | (i) the average frequency and size of transactions having regard to the life-cycle of products; | (ii) the number and type of market participants; and | (iii) the average size of spreads, when available. |  | Based on the ESMA statement, most of our members believe that the outstanding percentage is more relevant than the transaction size and we are proposing to define the liquidity of bonds as follows: | (1)         Use the criteria proposed by ESMA | (2)          Add the ratio between the size of the envisaged transaction and the total amount of issuance on that issue |
|  | Their approach would be as follows: |  | Sovereign Bonds | |  |  |  |  | | --- | --- | --- | --- | | EUR (or EUR equivalent) |  | Sovereign | Sovereign | | Issue Size | transaction size | disclosure requirement | vol/trade | | Above 5bn | 20 mm above | volume omission, EOD | 10bn/500trd | |  | 10-20mm | real-time | 10bn/500trd | |  | 1-10mm | real-time | 10bn/500trd | |  | up to 1mm | real-time | 10bn/500trd | |  |  |  |  | | 500mm - 5bn | Above 10 mm up | volume omission, EOD | 300 mm/100 trd | |  | 5-10 mm | Volume omission , T+3 | 300 mm/100 trd | |  | 1-5 mm | EOD Depending on the bonds | 300 mm/100 trd | |  | 500k-1m | EOD | 300 mm/100 trd | |  | Under 500 k | real-time | 300 mm/100 trd | |  |  |  |  | | up to 500 mm | all trade sizes | time delay | all trade sizes | | Corporate bonds | |  |  |  |  | | --- | --- | --- | --- | | EUR (or EUR equivalent) |  | corporate bonds | corporate bonds | | Issue Size | transaction size | disclosure requirement | vo (eur)/trade no | | Above 5bn | 20 mm above | Volume omission, EOD | 5Bn / 200 tr | |  | 10-20mm | Volume omission, EOD | 5Bn / 200 tr | |  | 1-10mm | real-time | 5Bn / 200 tr | |  | up to 1mm | real-time | 5Bn / 200 tr | |  |  |  |  | | 500mm - 5bn | Above 10 mm up | volume omission, EOD | 20mm/20 tr | |  | 5-10 mm | Volume omission, T+3 | 20mm/20 tr | |  | 1-5 mm | T+3 | 20mm/20 tr | |  | 500k-1m | T+3 | 20mm/20 tr | |  | Under 500 k | Real-time | 20mm/20 tr | |  |  |  |  | | up to 500 mm | all trade sizes | time delay | all trade sizes | | Emerging bonds |
| |  |  |  |  | | --- | --- | --- | --- | | EUR (or EUR equivalent) |  | emerging bonds | emerging bonds | | Issue Size | transaction size | disclosure requirement | vo (eur)/trade no | | Above 5bn | 20 mm above | Volume Omission, T+3 | 0mm/0 tr | |  | 10-20mm | Volume Omission, T+3 | 0mm/0 tr | |  | 1-10mm | Volume Omission, T+3 | 0mm/0 tr | |  | up to 1mm | real-time | 0mm/0 tr | |  |  |  |  | | 500mm - 5bn | Above 10 mm up | volume omission t+7 | 0mm/0tr | |  | 5-10 mm | volume omission t+7 | 0mm/0tr | |  | 1-5 mm | volume omission t+7 | 0mm/0tr | |  | 500k-1m | volume omission t+7 | 0mm/0tr | |  | Under 500 k | Real time/EOD | 0mm/0tr | |  |  |  |  | | up to 500 mm | all trade sizes | time delay | all trade sizes | | Other criteria might be added and could bring some further information but with less importance. |  | For instance, ESMA could use: | -          Average frequency of trade in absolute numbers | -          Time period for calculation with a monthly retrospective calibration; | -          Calculation of total turnover with the ADT calculated by dividing the notional volume turnover (rather than market value) by the number of days in the period on a monthly period. | -          The calculation of the total number of trades based on the use of block trades rather than allocations (due to the matching process applied to bond trading). |
| The criteria proposed by ESMA to define liquidity are: | (i) the average frequency and size of transactions having regard to the life-cycle of products; | (ii) the number and type of market participants; and | (iii) the average size of spreads, when available. |  | Based on the ESMA statement, most of our members believe that the outstanding percentage is more relevant than the transaction size and we are proposing to define the liquidity of bonds as follows: | (1)         Use the criteria proposed by ESMA | (2)          Add the ratio between the size of the envisaged transaction and the total amount of issuance on that issue |
|  | Their approach would be as follows: |  | Sovereign Bonds | |  |  |  |  | | --- | --- | --- | --- | | EUR (or EUR equivalent) |  | Sovereign | Sovereign | | Issue Size | transaction size | disclosure requirement | vol/trade | | Above 5bn | 20 mm above | volume omission, EOD | 10bn/500trd | |  | 10-20mm | real-time | 10bn/500trd | |  | 1-10mm | real-time | 10bn/500trd | |  | up to 1mm | real-time | 10bn/500trd | |  |  |  |  | | 500mm - 5bn | Above 10 mm up | volume omission, EOD | 300 mm/100 trd | |  | 5-10 mm | Volume omission , T+3 | 300 mm/100 trd | |  | 1-5 mm | EOD Depending on the bonds | 300 mm/100 trd | |  | 500k-1m | EOD | 300 mm/100 trd | |  | Under 500 k | real-time | 300 mm/100 trd | |  |  |  |  | | up to 500 mm | all trade sizes | time delay | all trade sizes | | Corporate bonds | |  |  |  |  | | --- | --- | --- | --- | | EUR (or EUR equivalent) |  | corporate bonds | corporate bonds | | Issue Size | transaction size | disclosure requirement | vo (eur)/trade no | | Above 5bn | 20 mm above | Volume omission, EOD | 5Bn / 200 tr | |  | 10-20mm | Volume omission, EOD | 5Bn / 200 tr | |  | 1-10mm | real-time | 5Bn / 200 tr | |  | up to 1mm | real-time | 5Bn / 200 tr | |  |  |  |  | | 500mm - 5bn | Above 10 mm up | volume omission, EOD | 20mm/20 tr | |  | 5-10 mm | Volume omission, T+3 | 20mm/20 tr | |  | 1-5 mm | T+3 | 20mm/20 tr | |  | 500k-1m | T+3 | 20mm/20 tr | |  | Under 500 k | Real-time | 20mm/20 tr | |  |  |  |  | | up to 500 mm | all trade sizes | time delay | all trade sizes | | Emerging bonds |
| |  |  |  |  | | --- | --- | --- | --- | | EUR (or EUR equivalent) |  | emerging bonds | emerging bonds | | Issue Size | transaction size | disclosure requirement | vo (eur)/trade no | | Above 5bn | 20 mm above | Volume Omission, T+3 | 0mm/0 tr | |  | 10-20mm | Volume Omission, T+3 | 0mm/0 tr | |  | 1-10mm | Volume Omission, T+3 | 0mm/0 tr | |  | up to 1mm | real-time | 0mm/0 tr | |  |  |  |  | | 500mm - 5bn | Above 10 mm up | volume omission t+7 | 0mm/0tr | |  | 5-10 mm | volume omission t+7 | 0mm/0tr | |  | 1-5 mm | volume omission t+7 | 0mm/0tr | |  | 500k-1m | volume omission t+7 | 0mm/0tr | |  | Under 500 k | Real time/EOD | 0mm/0tr | |  |  |  |  | | up to 500 mm | all trade sizes | time delay | all trade sizes | | Other criteria might be added and could bring some further information but with less importance. |  | For instance, ESMA could use: | -          Average frequency of trade in absolute numbers | -          Time period for calculation with a monthly retrospective calibration; | -          Calculation of total turnover with the ADT calculated by dividing the notional volume turnover (rather than market value) by the number of days in the period on a monthly period. | -          The calculation of the total number of trades based on the use of block trades rather than allocations (due to the matching process applied to bond trading). |
| The criteria proposed by ESMA to define liquidity are: | (i) the average frequency and size of transactions having regard to the life-cycle of products; | (ii) the number and type of market participants; and | (iii) the average size of spreads, when available. |  | Based on the ESMA statement, most of our members believe that the outstanding percentage is more relevant than the transaction size and we are proposing to define the liquidity of bonds as follows: | (1)         Use the criteria proposed by ESMA | (2)          Add the ratio between the size of the envisaged transaction and the total amount of issuance on that issue |

*Structured Finance Products*

(1) If SFP´s become more liquid in future, debt seniority would be a good criteria to differentiate liquidity

(2) We wouldn´t use any other parameter, but the threshold for average transaction volume is too low

(3) No, we would define SFP´s as illiquid

On top of these elements, we believe that ESMA could also consider assessing the liquidity of illiquid instrument through their daily average spread which would also set efficient means to calculate liquidity gate

We urge ESMA to carefully consider the impact of applying pre-trade transparency requirements to genuinely illiquid bonds and the impact this will have on end-investors, companies and overall market efficiency. We also encourage ESMA to work on the number of workable alternatives to the proposals put forward so far.

<ESMA\_QUESTION\_CP\_MIFID\_57>

1. Do you agree with the definitions of the bond classes provided in ESMA’s proposal (please refer to Annex III of RTS 9)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_58>

An appropriate calibration is necessary.

We generally agreed wit bond classes definitions, subject to the following two remarks:

* for corporate and financial bonds a differentiation between Investment-Grade- and High-Yield-Bonds would be neededl, the difference in liquidity between these is higher than the difference between financial- and non-financial bonds
* for covered bonds the “best practices” of EBA could be added to the proposed definition.

<ESMA\_QUESTION\_CP\_MIFID\_58>

1. Do you agree with ESMA’s proposal for the definition of a liquid market? Please provide an answer per asset class identified (investment certificates, plain vanilla covered warrants, leverage certificates, exotic covered warrants, exchange-traded-commodities, exchange-traded notes, negotiable rights, structured medium-term-notes and other warrants) addressing the following points:
   1. Would you use additional qualitative criteria to define the sub-classes?
   2. Would you use different parameters or the same parameters (i.e. average daily volume and number of trades per day) but different thresholds in order to define a sub-class as liquid?
   3. Would you qualify certain sub-classes as illiquid? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_59>

Exchange traded notes (ETN) and commodities (ETC) should be included in the same liquid market, pre- and post-trade transparency regime as applies to ETFs given they trade, clear and settle in the same way as ETFs.

<ESMA\_QUESTION\_CP\_MIFID\_59>

1. Do you agree with the definition of securitised derivatives provided in ESMA’s proposal (please refer to Annex III of the RTS)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_60>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_60>

1. Do you agree with ESMA’s proposal for the definition of a liquid market? Please provide an answer for each of the asset classes identified (FRA, Swaptions, Fixed-to-Fixed single currency swaps, Fixed-to-Float single currency swaps, Float -to- Float single currency swaps, OIS single currency swaps, Inflation single currency swaps, Fixed-to-Fixed multi-currency swaps, Fixed-to-Float multi-currency swaps, Float -to- Float multi-currency swaps, OIS multi-currency swaps, bond options, bond futures, interest rate options, interest rate futures) addressing the following points:
   1. Would you use different criteria to define the sub-classes (e.g. currency, tenor, etc.)?
   2. Would you use different parameters (among those provided by Level 1, i.e. the average frequency and size of transactions, the number and type of market participants, the average size of spreads, where available) or the same parameters but different thresholds in order to define a sub-class as liquid (state also your preference for option 1 vs. option 2, i.e. application of the tenor criteria as a range as in ESMA’s preferred option or taking into account broken dates. In the latter case please also provide suggestions regarding what should be set as the non-broken dates)?
   3. Would you define classes declared as liquid in ESMA’s proposal as illiquid (or vice versa)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_61>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_61>

1. Do you agree with the definitions of the interest rate derivatives classes provided in ESMA’s proposal (please refer to Annex III of draft RTS 9)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_62>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_62>

1. With regard to the definition of liquid classes for equity derivatives, which one is your preferred option? Please be specific in relation to each of the asset classes identified and provide a reason for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_63>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_63>

1. If you do not agree with ESMA’s proposal for the definition of a liquid market, please specify for each of the asset classes identified (stock options, stock futures, index options, index futures, dividend index options, dividend index futures, stock dividend options, stock dividend futures, options on a basket or portfolio of shares, futures on a basket or portfolio of shares, options on other underlying values (i.e. volatility index or ETFs), futures on other underlying values (i.e. volatility index or ETFs):
   1. your alternative proposal
   2. which qualitative criteria would you use to define the sub-classes
   3. which parameters and related threshold values would you use in order to define a sub-class as liquid.

<ESMA\_QUESTION\_CP\_MIFID\_64>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_64>

1. Do you agree with the definitions of the equity derivatives classes provided in ESMA’s proposal (please refer to Annex III of draft RTS 9)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_65>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_65>

1. Do you agree with ESMA’s proposal for the definition of a liquid market? Please provide an answer detailed per contract type, underlying type and underlying identified, addressing the following points:
   1. Would you use different qualitative criteria to define the sub-classes? In particular, do you consider the notional currency as a relevant criterion to define sub-classes, or in other words should a sub-class deemed as liquid in one currency be declared liquid for all currencies?
   2. Would you use different parameters or the same parameters (i.e. average number of trades per day and average notional amount traded per day) but different thresholds in order to define a sub-class as liquid?
   3. Would you define classes declared as liquid in ESMA’s proposal as illiquid (or vice versa)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_66>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_66>

1. Do you agree with ESMA’s proposal for the definition of a liquid market? Please provide an answer detailed per contract type, underlying type and underlying identified, addressing the following points:
   1. Would you use different qualitative criteria to define the sub-classes? In particular, do you consider the notional currency as a relevant criteria to define sub-classes, or in other words should a sub-class deemed as liquid in one currency be declared liquid for all currencies?
   2. Would you use different parameters or the same parameters (i.e. average number of trades per day and average notional amount traded per day) but different thresholds in order to define a sub-class as liquid?
   3. Would you define classes declared as liquid in ESMA’s proposal as illiquid (or vice versa)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_67>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_67>

1. Do you agree with ESMA’s proposal for the definition of a liquid market? Please provide an answer detailed per contract type and underlying (identified addressing the following points:
   1. Would you use different qualitative criteria to define the sub-classes?
   2. Would you use different parameters or the same parameters (i.e. average number of trades per day and average notional amount traded per day) but different thresholds in order to define a sub-class as liquid?
   3. Would you define classes declared as liquid in ESMA’s proposal as illiquid (or vice versa)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_68>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_68>

1. Do you agree with ESMA’s proposal for the definition of a liquid market? Please provide an answer per asset class identified (EUA, CER, EUAA, ERU) addressing the following points:
   1. Would you use additional qualitative criteria to define the sub-classes?
   2. Would you use different parameters or the same parameters (i.e. average number of trades per day and average number of tons of carbon dioxide traded per day) but different thresholds in order to define a sub-class as liquid?
   3. Would you qualify as liquid certain sub-classes qualified as illiquid (or vice versa)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_69>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_69>

1. Do you agree with ESMA’s proposal with regard to the content of pre-trade transparency? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_70>

In terms of fixed income cash products we disagree with ESMA´s proposal with regard to the content of pre-trade transparency. In our opinion the publication of price settings before transaction will limit operational capability and competitive environment of common used Request-for-Quote trading systems. If every counterpart in a RFQ will get notice of price settings of other requested competitors, no one will be interested to price fast and in a competitive manner. Therefore we expect a worsening of market liquidity and quality of price settings.

Today well established RFQ trading systems provide a multitude of useful pre-trade-information (quotes, sizes, axis, composite quotes, click-to-trade quotes) that offers sufficient transparency in liquid instruments and order sizes below LSI and SSTI. Therefore, we suggest that the requirements of pre-trade-transparency should not overshoot these existing information to avoid negative impact on market liquidity.

<ESMA\_QUESTION\_CP\_MIFID\_70>

1. Do you agree with ESMA’s proposal with regard to the order management facilities waiver? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_71>

In terms of fixed income cash products this waiver is nearly useless. Relevant continuous trading facilities do not exist for fixed income cash products, so it does not make sense to hold orders in order management facilities.

<ESMA\_QUESTION\_CP\_MIFID\_71>

1. ESMA seeks further input on how to frame the obligation to make indicative prices public for the purpose of the Technical Standards. Which methodology do you prefer? Do you have other proposals?

<ESMA\_QUESTION\_CP\_MIFID\_72>

In terms of fixed income cash products well established trading venues such as Bloomberg, TradeWeb or MarketAxess are publishing composite bids and offers permanently. These composite quotes are reflecting an average of all available quotations in the market. If there would be an IOI above SSTI the trading venue can amend the composite quote in a way that it is close to the price of trading interests.

<ESMA\_QUESTION\_CP\_MIFID\_72>

1. Do you consider it necessary to include the date and time of publication among the fields included in Annex II, Table 1 of RTS 9? Do you consider that other relevant fields should be added to such a list? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_73>

In terms of fixed income cash products it is not necessary to add any other field. In our opinion all relevant information are included.

<ESMA\_QUESTION\_CP\_MIFID\_73>

1. Do you agree with ESMA’s proposal on the applicable flags in the context of post-trade transparency? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_74>

In terms of fixed income cash products all relevant flags are included.

<ESMA\_QUESTION\_CP\_MIFID\_74>

1. Do you agree with ESMA’s proposal? Please specify in your answer if you agree with:
   1. a 3-year initial implementation period
   2. a maximum delay of 15 minutes during this period
   3. a maximum delay of 5 minutes thereafter. Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_75>

Please see also our answer to question Q57.

We support the efforts made to improve post-trade transparency in fixed income markets.

The implementation of an appropriate timing of post trade information for non-equities, especially for the fixed income instruments should be carefully calibrated and not be rushed.

To implement efficiently a post-trade transparency regime that respects the liquidity characteristics of fixed income instruments, we believe that it is important to learn the lessons from the implementation of comparable requirements such as TRACE in the US, even it European fixed income markets are relatively less liquid that their US counterparts.

Due to the lower liquidity in the European fixed income market, we believe that an aggressive post-trade publication schedule would increase the impacts on the liquidity and challenge these markets even more.

A possible publication delay of 5 minutes after the transaction is too ambitious as buy-side clients executing large fixed income orders could be put at a disadvantage as other market participants could detect their portfolio strategies thereby profiting at the expense of the end-investors.

Furthermore, a possible publication delay of 5 minutes could also have effects on liquidity meaning that banks, broker/dealers or liquidity providers could be much less willing to provide quotes to the market. Therefore, a publication delay of 15 minutes would be more appropriate taking into account the requirements by the buy-side to execute large fixed income orders on behalf of the institutional investors.

In terms of fixed income cash products we disagree with ESMA´s proposal. In our opinion, a real time publication respectively a maximum delay of 5 min will increase risk for liquidity providers because of arbitrage opportunities. We would prefer a longer period of time for the maximum permissible delay to protect liquidity providers. They should have a realistic chance liquidate the position before the trade is published. In our view, it is not a question of technical feasibility, it is more a question of post-trade data´s market impact and market damage, therefore a 3-year initial implementation period is not required

<ESMA\_QUESTION\_CP\_MIFID\_75>

1. Do you agree that securities financing transactions and other types of transactions subject to conditions other than the current market valuation of the financial instrument should be exempt from the reporting requirement under article 21? Do you think other types of transactions should be included? Please provide reasons for your answers.

<ESMA\_QUESTION\_CP\_MIFID\_76>

We agree with this proposal

<ESMA\_QUESTION\_CP\_MIFID\_76>

1. Do you agree with ESMA’s proposal for bonds and SFPs? Please specify, for each type of bonds identified, if you agree on the following points, providing reasons for your answer and if you disagree providing ESMA with your alternative proposal:
   1. deferral period set to 48 hours
   2. size specific to the instrument threshold set as 50% of the large in scale threshold
   3. volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9
   4. pre-trade and post-trade thresholds set at the same size
   5. large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.

<ESMA\_QUESTION\_CP\_MIFID\_77>

Please see our answers to question Q57.

We agree with proposals 1-4.

Regarding proposal 5, our preference is for the annual recalculation of thresholds.

We agree also with the proposal that the deferral period should be set at minimum at 48 hours after the transaction.

This should leave sufficient time for the publication of data while in the same time protecting the publication of large fixed income orders for the buy-side clients.

In addition to what has been said above on this topic, EFAMA strongly urges ESMA to lower the LIS thresholds of Table 1 (page 154) of Annex B as follows:

Non-European Sovereign Bonds: LIS of € 5M instead of €10M

Other European Public Bonds: LIS of €3M instead of €5M

For the following classes, EFAMA considers that the issuance size threshold should be €1M instead of the various thresholds proposed and that LIS thresholds should be as followed:

Covered bonds: €2M instead of €5,5M

Corporate Bonds Senior Financial: €2M instead of €2,5M

Corporate Bonds Subordinated Non-financial: €2M instead of €5M.

The table 2 for bonds not having a liquid market should be modified accordingly.

(1) We agree with a harmonised deferral period of 48 hours. Liquidity providers would have a realistic chance to settle illiquid or large positions before the trade is published.

(2) We agree with a size specific to instrument threshold set as 50% of the large in scale threshold.

(3) The setting of LSI threshold with consideration of total nominal value of debt instruments traded is reasonable.

(4) As pointed out in our answer to Q70 we disagree with the proposal of pre-trade transparency because of estimated negative impact on market liquidity, it doesn’t help to set any pre-trade thresholds. SSTI and LSI thresholds should only be used for post-trade matters.

(5) An annual recalculation of the thresholds seems to be the favorable option because of a better adaption to changing market conditions. The threshold calculation methodology from 2018 onwards seems plausible.

<ESMA\_QUESTION\_CP\_MIFID\_77>

1. Do you agree with ESMA’s proposal for interest rate derivatives? Please specify, for each sub-class (FRA, Swaptions, Fixed-to-Fixed single currency swaps, Fixed-to-Float single currency swaps, Float -to- Float single currency swaps, OIS single currency swaps, Inflation single currency swaps, Fixed-to-Fixed multi-currency swaps, Fixed-to-Float multi-currency swaps, Float -to- Float multi-currency swaps, OIS multi-currency swaps, bond options, bond futures, interest rate options, interest rate futures) if you agree on the following points providing reasons for your answer and, if you disagree, providing ESMA with your alternative proposal:
   1. deferral period set to 48 hours
   2. size specific to the instrument threshold set as 50% of the large in scale threshold
   3. volume measure used to set the large in scale and size specific to the instrument threshold as specified in Annex II, Table 3 of draft RTS 9
   4. pre-trade and post-trade thresholds set at the same size
   5. large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1), provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2), provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed (c) irrespective of your preference for option 1 or 2 and, with particular reference to OTC traded interest rates derivatives, provide feedback on the granularity of the tenor buckets defined. In other words, would you use a different level of granularity for maturities shorter than 1 year with respect to those set which are: 1 day- 1.5 months, 1.5-3 months, 3-6 months, 6 months – 1 year? Would you group maturities longer than 1 year into buckets (e.g. 1-2 years, 2-5 years, 5-10 years, 10-30 years and above 30 years)?

<ESMA\_QUESTION\_CP\_MIFID\_78>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_78>

1. Do you agree with ESMA’s proposal for commodity derivatives? Please specify, for each type of commodity derivatives, i.e. agricultural, metals and energy, if you agree on the following points providing reasons for your answer and if you disagree, providing ESMA with your alternative proposal:
   1. deferral period set to 48 hours
   2. size specific to the instrument threshold set as 50% of the large in scale threshold
   3. volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9
   4. pre-trade and post-trade thresholds set at the same size
   5. large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.

<ESMA\_QUESTION\_CP\_MIFID\_79>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_79>

1. Do you agree with ESMA’s proposal for equity derivatives? Please specify, for each type of equity derivatives [stock options, stock futures, index options, index futures, dividend index options, dividend index futures, stock dividend options, stock dividend futures, options on a basket or portfolio of shares, futures on a basket or portfolio of shares, options on other underlying values (i.e. volatility index or ETFs), futures on other underlying values (i.e. volatility index or ETFs)], if you agree on the following points providing reasons for your answer and if you disagree, providing ESMA with your alternative proposal:
   1. deferral period set to 48 hours
   2. size specific to the instrument threshold set as 50% of the large in scale threshold
   3. volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9
   4. pre-trade and post-trade thresholds set at the same size
   5. large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.

<ESMA\_QUESTION\_CP\_MIFID\_80>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_80>

1. Do you agree with ESMA’s proposal for securitised derivatives? Please specify if you agree on the following points providing reasons for your answer and if you disagree, providing ESMA with your alternative proposal:
   1. deferral period set to 48 hours
   2. size specific to the instrument threshold set as 50% of the large in scale threshold
   3. volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9
   4. pre-trade and post-trade thresholds set at the same size
   5. large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.

<ESMA\_QUESTION\_CP\_MIFID\_81>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_81>

1. Do you agree with ESMA’s proposal for emission allowances? Please specify if you agree on the following points providing reasons for your answer and if you disagree, providing ESMA with your alternative proposal:
   1. deferral period set to 48 hours
   2. size specific to the instrument threshold set as 50% of the large in scale threshold
   3. volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9
   4. pre-trade and post-trade thresholds set at the same size
   5. large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.

<ESMA\_QUESTION\_CP\_MIFID\_82>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_82>

1. Do you agree with ESMA’s proposal in relation to the supplementary deferral regime at the discrection of the NCA? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_83>

We agree with ESMA’s proposal.

National competent authorities should retain some discretions over key elements of market structure but it should be minimised given the risk of divergent regulatory approaches that would only serve to lock-in complexity, fragmentation and ultimately, cost to end-investors

<ESMA\_QUESTION\_CP\_MIFID\_83>

1. Do you agree with ESMA’s proposal with regard to the temporary suspension of transparency requirements? Please provide feedback on the following points:
   1. the measure used to calculate the volume as specified in Annex II, Table 3
   2. the methodology as to assess a drop in liquidity
   3. the percentages determined for liquid and illiquid instruments to assess the drop in liquidity. Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_84>

We agree with proposed text.

In terms of fixed income cash products, we generally appreciate the possibility of temporary suspension of transparency requirements. The use and measure of average daily turnover is comprehensible and we have no better alternative to suggest. The methodology to assess a drop in liquidity does not come up with a massive decline in liquidity. We believe a consideration of 7 days in relation to average weekly volume could also be more suitable.

<ESMA\_QUESTION\_CP\_MIFID\_84>

1. Do you agree with ESMA’s proposal with regard to the exemptions from transaprency requirements in respect of transactions executed by a member of the ESCB? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_85>

We agree with the proposed text.

<ESMA\_QUESTION\_CP\_MIFID\_85>

1. Do you agree with the articles on the double volume cap mechanism in the proposed draft RTS 10? Please provide reasons to support your answer.

<ESMA\_QUESTION\_CP\_MIFID\_86>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_86>

1. Do you agree with the proposed draft RTS in respect of implementing Article 22 MiFIR? Please provide reasons to support your answer.

<ESMA\_QUESTION\_CP\_MIFID\_87>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_87>

1. Are there any other criteria that ESMA should take into account when assessing whether there are sufficient third-party buying and selling interest in the class of derivatives or subset so that such a class of derivatives is considered sufficiently liquid to trade only on venues?

<ESMA\_QUESTION\_CP\_MIFID\_88>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_88>

1. Do you have any other comments on ESMA’s proposed overall approach?

<ESMA\_QUESTION\_CP\_MIFID\_89>

We support the proposed exclusion of technical trades from the trading obligation.

<ESMA\_QUESTION\_CP\_MIFID\_89>

1. Do you agree with the proposed draft RTS in relation to the criteria for determining whether derivatives have a direct, substantial and foreseeable effect within the EU?

<ESMA\_QUESTION\_CP\_MIFID\_90>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_90>

1. Should the scope of the draft RTS be expanded to contracts involving European branches of non-EU non-financial counterparties?

<ESMA\_QUESTION\_CP\_MIFID\_91>

We do not believe that the RTS should be expanded to European branches of non-EU non-financial counterparties. We would support adopting a consistent approach between EMIR and MiFID.

<ESMA\_QUESTION\_CP\_MIFID\_91>

1. Please indicate what are the main costs and benefits that you envisage in implementing of the proposal.

<ESMA\_QUESTION\_CP\_MIFID\_92>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_92>

1. Microstructural issues
2. Should the list of disruptive scenarios to be considered for the business continuity arrangements expanded or reduced? Please elaborate.

<ESMA\_QUESTION\_CP\_MIFID\_93>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_93>

1. With respect to the section on Testing of algorithms and systems and change management, do you need clarification or have any suggestions on how testing scenarios can be improved?

<ESMA\_QUESTION\_CP\_MIFID\_94>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_94>

1. Do you have any further suggestions or comments on the pre-trade and post-trade controls as proposed above?

<ESMA\_QUESTION\_CP\_MIFID\_95>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_95>

1. In particular, do you agree with including “market impact assessment” as a pre-trade control that investment firms should have in place?

<ESMA\_QUESTION\_CP\_MIFID\_96>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_96>

1. Do you agree with the proposal regarding monitoring for the prevention and identification of potential market abuse?

<ESMA\_QUESTION\_CP\_MIFID\_97>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_97>

1. Do you have any comments on Organisational Requirements for Investment Firms as set out above?

<ESMA\_QUESTION\_CP\_MIFID\_98>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_98>

1. Do you have any additional comments or questions that need to be raised with regards to the Consultation Paper?

<ESMA\_QUESTION\_CP\_MIFID\_99>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_99>

1. Do you have any comments on Organisational Requirements for trading venues as set out above? Is there any element that should be clarified? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_100>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_100>

1. Is there any element in particular that should be clarified with respect to the outsourcing obligations for trading venues?

<ESMA\_QUESTION\_CP\_MIFID\_101>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_101>

1. Is there any additional element to be addressed with respect to the testing obligations?

<ESMA\_QUESTION\_CP\_MIFID\_102>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_102>

1. In particular, do you agree with the proposals regarding the conditions to provide DEA?

<ESMA\_QUESTION\_CP\_MIFID\_103>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_103>

1. Do you agree with the proposed draft RTS? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_104>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_104>

1. Should an investment firm pursuing a market making strategy for 30% of the daily trading hours during one trading day be subject to the obligation to sign a market making agreement? Please give reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_105>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_105>

1. Should a market maker be obliged to remain present in the market for higher or lower than the proposed 50% of trading hours? Please specify in your response the type of instrument/s to which you refer.

<ESMA\_QUESTION\_CP\_MIFID\_106>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_106>

1. Do you agree with the proposed circumstances included as “exceptional circumstances”? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_107>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_107>

1. Have you any additional proposal to ensure that market making schemes are fair and non-discriminatory? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_108>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_108>

1. Do you agree with the proposed regulatory technical standards? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_109>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_109>

1. Do you agree with the counting methodology proposed in the Annex in relation to the various order types? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_110>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_110>

1. Is the definition of “orders” sufficiently precise or does it need to be further supplemented? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_111>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_111>

1. Is more clarification needed with respect to the calculation method in terms of volume?

<ESMA\_QUESTION\_CP\_MIFID\_112>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_112>

1. Do you agree that the determination of the maximum OTR should be made at least once a year? Please specify the arguments for your view.

<ESMA\_QUESTION\_CP\_MIFID\_113>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_113>

1. Should the monitoring of the ratio of unexecuted orders to transactions by the trading venue cover all trading phases of the trading session including auctions, or just the continuous phase? Should the monitoring take place on at least a monthly basis? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_114>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_114>

1. Do you agree with the proposal included in the Technical Annex regarding the different order types? Is there any other type of order that should be reflected? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_115>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_115>

1. Do you agree with the proposed draft RTS with respect to co-location services? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_116>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_116>

1. Do you agree with the proposed draft RTS with respect to fee structures? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_117>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_117>

1. At which point rebates would be high enough to encourage improper trading? Please elaborate.

<ESMA\_QUESTION\_CP\_MIFID\_118>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_118>

1. Is there any other type of incentives that should be described in the draft RTS?

<ESMA\_QUESTION\_CP\_MIFID\_119>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_119>

1. Can you provide further evidence about fee structures supporting payments for an “early look”? In particular, do you agree with ESMA’s preliminary view regarding the differentiation between that activity and the provision of data feeds at different latencies?

<ESMA\_QUESTION\_CP\_MIFID\_120>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_120>

1. Can you provide examples of fee structures that would support non-genuine orders, payments for uneven access to market data or any other type of abusive behaviour? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_121>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_121>

1. Is the distinction between volume discounts and cliff edge type fee structures in this RTS sufficiently clear? Please elaborate

<ESMA\_QUESTION\_CP\_MIFID\_122>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_122>

1. Do you agree that the average number of trades per day should be considered on the most relevant market in terms of liquidity? Or should it be considered on another market such as the primary listing market (the trading venue where the financial instrument was originally listed)? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_123>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_123>

1. Do you believe a more granular approach (i.e. additional liquidity bands) would be more suitable for very liquid stocks and/or for poorly liquid stocks? Do you consider the proposed tick sizes adequate in particular with respect to the smaller price ranges and less liquid instruments as well as higher price ranges and highly liquid instruments? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_124>

We do not agree with the proposed regime.

We are under the impression that the proposal has been drafted absent a detailed data-driven study of the potential impacts to the ETF market hence a level of flexibility in its implementation will be necessary to avoid unnecessarily distorting markets. We are of the view that setting a very restrictive regime with inflexible tick size that ignores the liquidity of the underlying instruments of an ETF would lead to an increase of dark trading.

This would be even more important for larger more liquid funds and ETFs where the underlying securities trade with very tight spreads (e.g. money market or short duration funds).

Consequently, we propose an exceptions’ process that addresses possible flight from lit markets due to an inappropriate tick size table. The exceptions’ process would be available when an ETF had demonstrated a spread to tick ratio of three on a consistent basis or the underlying securities traded in tighter spreads than tick size table indicated. This would allow manual adjustments of the tick size to a more appropriate band (outside the instruments current price range).

<ESMA\_QUESTION\_CP\_MIFID\_124>

1. Do you agree with the approach regarding instruments admitted to trading in fixing segments and shares newly admitted to trading? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_125>

We welcome the inclusion of ETFs in the most liquid category. Therefore newly issued ETFs will fall into a tick size category based on price.

Considering this latest effect, we believe that there is a need to apply the exception process as described in Question 124 for a new fund.

For example a money market type fund in the current low rate environment would require a smaller tick size than the current tick size table would indicate.

Consequently, we believe critical that there is a review of the tick size of a newly launched ETF within the prescribed 6 week period. There should be an analysis of the spread to tick ratio to determine the most appropriate tick size.

<ESMA\_QUESTION\_CP\_MIFID\_125>

1. Do you agree with the proposed approach regarding corporate actions? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_126>

We agree with the approach regarding Corporate Actions for ETFs.

<ESMA\_QUESTION\_CP\_MIFID\_126>

1. In your view, are there any other particular or exceptional circumstances for which the tick size may have to be specifically adjusted? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_127>

For ETFs as described in Questions 124 and 125, tick sizes may need to be adjusted to take into accountthe underlying liquidity of the security.

<ESMA\_QUESTION\_CP\_MIFID\_127>

1. In your view, should other equity-like financial instruments be considered for the purpose of the new tick size regime? If yes, which ones and how should their tick size regime be determined? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_128>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_128>

1. To what extent does an annual revision of the liquidity bands (number and bounds) allow interacting efficiently with the market microstructure? Can you propose other way to interact efficiently with the market microstructure? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_129>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_129>

1. Do you envisage any short-term impacts following the implementation of the new regime that might need technical adjustments? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_130>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_130>

1. Do you agree with the definition of the “corporate action”? Please provide reasons for your answer.

<ESMA\_QUESTION\_CP\_MIFID\_131>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_131>

1. Do you agree with the proposed regulatory technical standards?

<ESMA\_QUESTION\_CP\_MIFID\_132>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_132>

1. Which would be an adequate threshold in terms of turnover for the purposes of considering a market as “material in terms of liquidity”?

<ESMA\_QUESTION\_CP\_MIFID\_133>

For ETFs we do not believe there is a requirement to halt trading on other exchanges if a “Material Market in terms of Liquidity” suspends trading. That said we value the transparency of trading halts and advise that more than 10% should constitute a material threshold for ETFs.

<ESMA\_QUESTION\_CP\_MIFID\_133>

1. Data publication and access
2. Do you agree with ESMA’s proposal to allow the competent authority to whom the ARM submitted the transaction report to request the ARM to undertake periodic reconciliations? Please provide reasons.

<ESMA\_QUESTION\_CP\_MIFID\_134>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_134>

1. Do you agree with ESMA’s proposal to establish maximum recovery times for DRSPs? Do you agree with the time periods proposed by ESMA for APAs and CTPs (six hours) and ARMs (close of next working day)? Please provide reasons.

<ESMA\_QUESTION\_CP\_MIFID\_135>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_135>

1. Do you agree with the proposal to permit DRSPs to be able to establish their own operational hours provided they pre-establish their hours and make their operational hours public? Please provide reasons. Alternatively, please suggest an alternative method for setting operating hours.

<ESMA\_QUESTION\_CP\_MIFID\_136>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_136>

1. Do you agree with the draft technical standards in relation to data reporting services providers? Please provide reasons.

<ESMA\_QUESTION\_CP\_MIFID\_137>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_137>

1. Do you agree with ESMA’s proposal?

<ESMA\_QUESTION\_CP\_MIFID\_138>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_138>

1. Do you agree with this definition of machine-readable format, especially with respect to the requirement for data to be accessible using free open source software, and the 1-month notice prior to any change in the instructions?

<ESMA\_QUESTION\_CP\_MIFID\_139>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_139>

1. Do you agree with the draft RTS’s treatment of this issue?

<ESMA\_QUESTION\_CP\_MIFID\_140>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_140>

1. Do you agree that CTPs should assign trade IDs and add them to trade reports? Do you consider necessary to introduce a similar requirement for APAs?

<ESMA\_QUESTION\_CP\_MIFID\_141>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_141>

1. Do you agree with ESMA’s proposal? In particular, do you consider it appropriate to require for trades taking place on a trading venue the publication time as assigned by the trading venue or would you recommend another timestamp (e.g. CTP timestamp), and if yes why?

<ESMA\_QUESTION\_CP\_MIFID\_142>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_142>

1. Do you agree with ESMA’s suggestions on timestamp accuracy required of APAs? What alternative would you recommend for the timestamp accuracy of APAs?

<ESMA\_QUESTION\_CP\_MIFID\_143>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_143>

1. Do you agree with ESMA’s proposal? Do you think that the CTP should identify the original APA collecting the information form the investment firm or the last source reporting it to the CTP? Please explain your rationale.

<ESMA\_QUESTION\_CP\_MIFID\_144>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_144>

1. Do you agree with the proposed draft RTS? Please indicate which are the main costs and benefits that you envisage in case of implementation of the proposal.

<ESMA\_QUESTION\_CP\_MIFID\_145>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_145>

1. Do you agree with the proposed draft RTS? Please indicate which are the main costs and benefits that you envisage in case of implementation of the proposal.

<ESMA\_QUESTION\_CP\_MIFID\_146>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_146>

1. With the exception of transaction with SIs, do you agree that the obligation to publish the transaction should always fall on the seller? Are there circumstances under which the buyer should be allowed to publish the transaction?

<ESMA\_QUESTION\_CP\_MIFID\_147>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_147>

1. Do you agree with the elements of the draft RTS that cover a CCP’s ability to deny access? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_148>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_148>

1. Do you agree with the elements of the draft RTS that cover a trading venue’s ability to deny access? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_149>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_149>

1. In particular, do you agree with ESMA’s assessment that the inability to acquire the necessary human resources in due time should not have the same relevance for trading venues as it has regarding CCPs?

<ESMA\_QUESTION\_CP\_MIFID\_150>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_150>

1. Do you agree with the elements of the draft RTS that cover an CA’s ability to deny access? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_151>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_151>

1. Do you agree with the elements of the draft RTS that cover the conditions under which access is granted? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_152>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_152>

1. Do you agree with the elements of the draft RTS that cover fees? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_153>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_153>

1. Do you agree with the proposed draft RTS? Please indicate which are the main costs and benefits that do you envisage in case of implementation of the proposal.

<ESMA\_QUESTION\_CP\_MIFID\_154>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_154>

1. Do you agree with the elements of the draft RTS specified in Annex X that cover notification procedures? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_155>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_155>

1. Do you agree with the elements of the draft RTS specified in [Annex X] that cover the calculation of notional amount? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_156>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_156>

1. Do you agree with the elements of the draft RTS that cover relevant benchmark information? If not, please explain why and, where possible, propose an alternative approach. In particular, how could information requirements reflect the different nature and characteristics of benchmarks?

<ESMA\_QUESTION\_CP\_MIFID\_157>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_157>

1. Do you agree with the elements of the draft RTS that cover licensing conditions? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_158>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_158>

1. Do you agree with the elements of the draft RTS that cover new benchmarks? If not, please explain why and, where possible, propose an alternative approach.

<ESMA\_QUESTION\_CP\_MIFID\_159>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_159>

1. Requirements applying on and to trading venues
2. Do you agree with the attached draft technical standard on admission to trading?

<ESMA\_QUESTION\_CP\_MIFID\_160>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_160>

1. In particular, do you agree with the arrangements proposed by ESMA for verifying compliance by issuers with obligations under Union law?

<ESMA\_QUESTION\_CP\_MIFID\_161>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_161>

1. Do you agree with the arrangements proposed by ESMA for facilitating access to information published under Union law for members and participants of a regulated market?

<ESMA\_QUESTION\_CP\_MIFID\_162>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_162>

1. Do you agree with the proposed RTS? What and how should it be changed?

<ESMA\_QUESTION\_CP\_MIFID\_163>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_163>

1. Do you agree with the approach of providing an exhaustive list of details that the MTF/OTF should fulfil?

<ESMA\_QUESTION\_CP\_MIFID\_164>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_164>

1. Do you agree with the proposed list? Are there any other factors that should be considered?

<ESMA\_QUESTION\_CP\_MIFID\_165>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_165>

1. Do you think that there should be one standard format to provide the information to the competent authority? Do you agree with the proposed format?

<ESMA\_QUESTION\_CP\_MIFID\_166>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_166>

1. Do you think that there should be one standard format to notify to ESMA the authorisation of an investment firm or market operator as an MTF or an OTF? Do you agree with the proposed format?

<ESMA\_QUESTION\_CP\_MIFID\_167>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_167>

1. Commodity derivatives
2. Do you agree with the approach suggested by ESMA in relation to the overall application of the thresholds? If you do not agree please provide reasons.

<ESMA\_QUESTION\_CP\_MIFID\_168>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_168>

1. Do you agree with ESMA’s approach to include non-EU activities with regard to the scope of the main business?

<ESMA\_QUESTION\_CP\_MIFID\_169>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_169>

1. Do you consider the revised method of calculation for the first test (i.e. capital employed for ancillary activity relative to capital employed for main business) as being appropriate? Please provide reasons if you do not agree with the revised approach.

<ESMA\_QUESTION\_CP\_MIFID\_170>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_170>

1. With regard to trading activity undertaken by a MiFID licensed subsidiary of the group, do you agree that this activity should be deducted from the ancillary activity (i.e. the numerator)?

<ESMA\_QUESTION\_CP\_MIFID\_171>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_171>

1. ESMA suggests that in relation to the ancillary activity (numerator) the calculation should be done on the basis of the group rather than on the basis of the person. What are the advantages or disadvantages in relation to this approach? Do you think that it would be preferable to do the calculation on the basis of the person? Please provide reasons. (Please note that altering the suggested approach may also have an impact on the threshold suggested further below).

<ESMA\_QUESTION\_CP\_MIFID\_172>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_172>

1. Do you consider that a threshold of 5% in relation to the first test is appropriate? Please provide reasons and alternative proposals if you do not agree.

<ESMA\_QUESTION\_CP\_MIFID\_173>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_173>

1. Do you agree with ESMA’s intention to use an accounting capital measure?

<ESMA\_QUESTION\_CP\_MIFID\_174>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_174>

1. Do you agree that the term capital should encompass equity, current debt and non-current debt? If you see a need for further clarification of the term capital, please provide concrete suggestions.

<ESMA\_QUESTION\_CP\_MIFID\_175>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_175>

1. Do you agree with the proposal to use the gross notional value of contracts? Please provide reasons if you do not agree.

<ESMA\_QUESTION\_CP\_MIFID\_176>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_176>

1. Do you agree that the calculation in relation to the size of the trading activity (numerator) should be done on the basis of the group rather than on the basis of the person? (Please note that that altering the suggested approach may also have an impact on the threshold suggested further below)

<ESMA\_QUESTION\_CP\_MIFID\_177>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_177>

1. Do you agree with the introduction of a separate asset class for commodities referred to in Section C 10 of Annex I and subsuming freight under this new asset class?

<ESMA\_QUESTION\_CP\_MIFID\_178>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_178>

1. Do you agree with the threshold of 0.5% proposed by ESMA for all asset classes? If you do not agree please provide reasons and alternative proposals.

<ESMA\_QUESTION\_CP\_MIFID\_179>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_179>

1. Do you think that the introduction of a de minimis threshold on the basis of a limited scope as described above is useful?

<ESMA\_QUESTION\_CP\_MIFID\_180>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_180>

1. Do you agree with the conclusions drawn by ESMA in relation to the privileged transactions?

<ESMA\_QUESTION\_CP\_MIFID\_181>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_181>

1. Do you agree with ESMA’s conclusions in relation to the period for the calculation of the thresholds? Do you agree with the calculation approach in the initial period suggested by ESMA? If you do not agree, please provide reasons and alternative proposals.

<ESMA\_QUESTION\_CP\_MIFID\_182>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_182>

1. Do you have any comments on the proposed framework of the methodology for calculating position limits?

<ESMA\_QUESTION\_CP\_MIFID\_183>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_183>

1. Would a baseline of 25% of deliverable supply be suitable for all commodity derivatives to meet position limit objectives? For which commodity derivatives would 25% not be suitable and why? What baseline would be suitable and why?

<ESMA\_QUESTION\_CP\_MIFID\_184>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_184>

1. Would a maximum of 40% position limit be suitable for all commodity derivatives to meet position limit objectives. For which commodity derivatives would 40% not be suitable and why? What maximum position limit would be suitable and why?

<ESMA\_QUESTION\_CP\_MIFID\_185>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_185>

1. Are +/- 15% parameters for altering the baseline position limit suitable for all commodity derivatives? For which commodity derivatives would such parameters not be suitable and why? What parameters would be suitable and why?

<ESMA\_QUESTION\_CP\_MIFID\_186>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_186>

1. Are +/- 15% parameters suitable for all the factors being considered? For which factors should such parameters be changed, what to, and why?

<ESMA\_QUESTION\_CP\_MIFID\_187>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_187>

1. Do you consider the methodology for setting the spot month position limit should differ in any way from the methodology for setting the other months position limit? If so, in what way?

<ESMA\_QUESTION\_CP\_MIFID\_188>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_188>

1. How do you suggest establishing a methodology that balances providing greater flexibility for new and illiquid contracts whilst still providing a level of constraint in a clear and quantifiable way? What limit would you consider as appropriate per product class? Could the assessment of whether a contract is illiquid, triggering a potential wider limit, be based on the technical standard ESMA is proposing for non-equity transparency?

<ESMA\_QUESTION\_CP\_MIFID\_189>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_189>

1. What wider factors should competent authorities consider for specific commodity markets for adjusting the level of deliverable supply calculated by trading venues?

<ESMA\_QUESTION\_CP\_MIFID\_190>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_190>

1. What are the specific features of certain commodity derivatives which might impact on deliverable supply?

<ESMA\_QUESTION\_CP\_MIFID\_191>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_191>

1. How should ‘less-liquid’ be considered and defined in the context of position limits and meeting the position limit objectives?

<ESMA\_QUESTION\_CP\_MIFID\_192>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_192>

1. What participation features in specific commodity markets around the organisation, structure, or behaviour should competent authorities take into account?

<ESMA\_QUESTION\_CP\_MIFID\_193>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_193>

1. How could the calculation methodology enable competent authorities to more accurately take into account specific factors or characteristics of commodity derivatives, their underlying markets and commodities?

<ESMA\_QUESTION\_CP\_MIFID\_194>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_194>

1. For what time period can a contract be considered as “new” and therefore benefit from higher position limits?

<ESMA\_QUESTION\_CP\_MIFID\_195>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_195>

1. Should the application of less-liquid parameters be based on the age of the commodity derivative or the ongoing liquidity of that contract.

<ESMA\_QUESTION\_CP\_MIFID\_196>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_196>

1. Do you have any further comments regarding the above proposals on how the factors will be taken into account for the position limit calculation methodology?

<ESMA\_QUESTION\_CP\_MIFID\_197>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_197>

1. Do you agree with ESMA’s proposal to not include asset-class specific elements in the methodology?

<ESMA\_QUESTION\_CP\_MIFID\_198>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_198>

1. How are the seven factors (listed under Article 57(3)(a) to (g) and discussed above) currently taken into account in the setting and management of existing position limits?

<ESMA\_QUESTION\_CP\_MIFID\_199>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_199>

1. Do you agree with the proposed draft RTS regarding risk reducing positions?

<ESMA\_QUESTION\_CP\_MIFID\_200>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_200>

1. Do you have any comments regarding ESMA’s proposal regarding what is a non-financial entity?

<ESMA\_QUESTION\_CP\_MIFID\_201>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_201>

1. Do you agree with the proposed draft RTS regarding the aggregation of a person’s positions?

<ESMA\_QUESTION\_CP\_MIFID\_202>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_202>

1. Do you agree with ESMA’s proposal that a person’s position in a commodity derivative should be aggregated on a ‘whole’ position basis with those that are under the beneficial ownership of the position holder? If not, please provide reasons.

<ESMA\_QUESTION\_CP\_MIFID\_203>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_203>

1. Do you agree with the proposed draft RTS regarding the criteria for determining whether a contract is an economically equivalent OTC contract?

<ESMA\_QUESTION\_CP\_MIFID\_204>

We generally agree with the proposed definition of OTC derivative contracts that they should be economically equivalent to commodity derivatives which are traded on a trading venue.

<ESMA\_QUESTION\_CP\_MIFID\_204>

1. Do you agree with the proposed draft RTS regarding the definition of same derivative contract?

<ESMA\_QUESTION\_CP\_MIFID\_205>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_205>

1. Do you agree with the proposed draft RTS regarding the definition of significant volume for the purpose of article 57(6)?

<ESMA\_QUESTION\_CP\_MIFID\_206>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_206>

1. Do you agree with the proposed draft RTS regarding the aggregation and netting of OTC and on-venue commodity derivatives?

<ESMA\_QUESTION\_CP\_MIFID\_207>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_207>

1. Do you agree with the proposed draft RTS regarding the procedure for the application for exemption from the Article 57 position limits regime?

<ESMA\_QUESTION\_CP\_MIFID\_208>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_208>

1. Do you agree with the proposed draft RTS regarding the aggregation and netting of OTC and on-venue commodity derivatives?

<ESMA\_QUESTION\_CP\_MIFID\_209>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_209>

1. Do you agree with the reporting format for CoT reports?

<ESMA\_QUESTION\_CP\_MIFID\_210>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_210>

1. Do you agree with the reporting format for the daily Position Reports?

<ESMA\_QUESTION\_CP\_MIFID\_211>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_211>

1. What other reporting arrangements should ESMA consider specifying to facilitate position reporting arrangements?

<ESMA\_QUESTION\_CP\_MIFID\_212>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_212>

1. Market data reporting
2. Which of the formats specified in paragraph 2 would pose you the most substantial implementation challenge from technical and compliance point of view for transaction and/or reference data reporting? Please explain.

<ESMA\_QUESTION\_CP\_MIFID\_213>

We do not have echo of one format that would be worse than another.

Given the precision in the message fields, formats and data dictionary definitions, firms should be able to work with any XML-based format.

We also anticipate that TRs or ARMs will offer alternative formats to submitting firms, which they would then translate to whatever format ESMA ultimately determines should be used to provide the data to NCAs.

<ESMA\_QUESTION\_CP\_MIFID\_213>

1. Do you anticipate any difficulties with the proposed definition for a transaction and execution?

<ESMA\_QUESTION\_CP\_MIFID\_214>

We believe that both a sufficiently well defined.

<ESMA\_QUESTION\_CP\_MIFID\_214>

1. In your view, is there any other outcome or activity that should be excluded from the definition of transaction or execution? Please justify.

<ESMA\_QUESTION\_CP\_MIFID\_215>

We consider that there are three categories that should be excluded from the definitions

1. Securities financing transactions (SFTs)

We would ask ESMA to clarify in the final RTS that reporting of SFTs will not be required provided they are in-scope for reporting under the forthcoming SFT Regulation. We fear that there are important risks of duplication of reporting (between SFTR and MiFID II but also MiFID II and EMIR as the initial scope of instruments covered by SFTR includes derivatives).

In addition, we anticipate conflicting reporting requirements as, similarity to EMIR, the reporting obligation under SFTR will fall upon the counterparties to the transaction, whereas the obligation under MiFIR falls upon an investment firm that executes a transaction on behalf of its client.

We would urge that Article 3(3)(a) of the draft RTS be modified to provide explicitly that SFTs executed by a portfolio management firm as agent for its client would be excluded from the definition of transaction for MiFIR reporting, even though the SFT obligation would lie with the client.

We believe that repos and securities borrowing/lending should not be reportable in any event, given that although title will be transferred temporarily to the borrower, the lender does not give up their interest in the asset and maintains a lien over it pending its return.

1. Exercise of options and other financial instruments

Paragraph 21 of the consultation paper suggests that when a financial instrument is exercised, the firms concerned should report *only* the delivery of the underlying.

This would mean that the intention is that the report should be similar to any purchase/sale of the underlying instrument except that Field 63 would be "Y" (instead of "N").

However, paragraph 22 (indent iii.) appears to confirm that ESMA intends that the exercise itself would be a reportable transaction.

Consequently, we urge ESMA to ensure that the final RTS are unambiguous and to confirm that only one level of transaction is reportable.

1. Transfers of investments to/from client portfolios

We do not believe that the transfer of investments by a client to/from a portfolio maintained with or managed by an investment firm would be reportable by the firm.

We would welcome clarification that this is indeed ESMA's intention.

<ESMA\_QUESTION\_CP\_MIFID\_215>

1. Do you foresee any difficulties with the suggested approach? Please justify.

<ESMA\_QUESTION\_CP\_MIFID\_216>

We do not foresee any difficulties.

<ESMA\_QUESTION\_CP\_MIFID\_216>

1. Do you agree with ESMA’s proposed approach to simplify transaction reporting? Please provide details of your reasons.

<ESMA\_QUESTION\_CP\_MIFID\_217>

We do not agree.

We believe the current difficulties with population of the buy/sell indicator are principally to do with interpretation of certain trading scenarios and the way this flows along the reporting chain.

We do not believe these will be solved by altering the reporting fields as proposed and furthermore, we are of the opinion that the proposed approach would increase the complexity in reporting.

Consequently, we believe the current buy/sell indicator approach should be retained, assisted by more detailed guidance on how it should be populated in the different trading scenarios.

<ESMA\_QUESTION\_CP\_MIFID\_217>

1. 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.

<ESMA\_QUESTION\_CP\_MIFID\_218>

Field 2 Identification code - we do not believe it should be necessary to add the country code to front of the identifier (for non-legal entities) when this will already be provided as part of the entity code type. For example, when identifying a UK individual, the identification code type would be GBNI, so the identification code itself should be simply the National Insurance number.

In our response to Discussion Paper 2014/548 we commented that firms should not be required to verify the accuracy of any national identifier provided by the client unless it had grounds to suspect that the identifier is false or incorrect. We ask that this be made clear in the final RTS.

Fields 5-34 Buyer/seller details - as discussed in our response to Q217, we do not agree with the proposed approach and ask that the current approach, as proposed in Discussion Paper 2014/548, be retained to identify consistently the counterparty and the client together with the direction of the trade.

We note that ESMA offers assurance in paragraph 98 of the consultation that it will ensure full compliance with data protection law and that Article 66(3) of Directive 2014/65/EU (MiFID) will oblige Member States to require ARMs to maintain data confidentiality, but this has not addressed the concerns of firms that the RTS should provide explicitly that they will not be in breach of any data privacy laws by reporting the required data. To this end, we believe strongly that the RTS should contain a provision similar to Article 9(4) of EMIR.

Field 41 Trading time - we would suggest that for post-trade events that have no specific execution time during the day firms should have flexibility to report either a default time of 00:00:00.0Z or a time that is captured at the point of entry into their system.

Fields 53/54 Instrument identification - It would be helpful to include similar guidance to that provided in the EMIR Trade Reporting Q&A to clarify that where an exchange trade derivative has been allocated both and ISIN and an ISO standard firms should report according to the identifier shown for the relevant exchange in ESMA's MiFID Database.

No indication is provided currently as to how these fields should be completed in the case of OTC derivatives and baskets that have neither an ISIN nor ISO standard an Aii

Fields 55/56 Instrument classification - Similarly, no indication id given as to how these fields should be completed in the case of OTC derivatives and baskets.

Field 58 Underlying instrument code - It will be necessary to accommodate the reporting of multiple underlying instruments in the case of a basket - we presume, therefore, that this would be a repeatable field, but this is not clear from the draft RTS.

Where the underlying is an instrument identified by the Aii, we believe this should be limited to the venue and exchange product code elements, as required for field 54.

Field 76 Waiver indicator - as the waiver indicator will be required only for market facing executions, it will be necessary to provide for another indicator (or for the field to be left blank) in the case of client-side trades, for which the indicator is not required.

Other We note ESMA's intention to proceed with a requirement to include for a report matching number for market-side trades, but do not see this field in Table 1 to the draft RTS.

<ESMA\_QUESTION\_CP\_MIFID\_218>

1. Do you agree with the proposed approach to flag trading capacities?

<ESMA\_QUESTION\_CP\_MIFID\_219>

As our members are trading on behalf of or as agent for their clients, we have no comment to make on the proposed approach.

<ESMA\_QUESTION\_CP\_MIFID\_219>

1. 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

<ESMA\_QUESTION\_CP\_MIFID\_220>

We do not foresee any difficulties

<ESMA\_QUESTION\_CP\_MIFID\_220>

1. Do you agree with ESMA’s approach for deciding whether financial instruments based on baskets or indices are reportable?

<ESMA\_QUESTION\_CP\_MIFID\_221>

We do not agree.

We are of the opinion that the duty for many firms to investigate every constituent of what might be a large basket or index would be a wrong allocation of resources.

We would therefore propose that firms should be able to either report transactions in all baskets (irrespective of their composition) or just those that contain one or more reportable instruments.

<ESMA\_QUESTION\_CP\_MIFID\_221>

1. Do you agree with the proposed standards for identifying these instruments in the transaction reports?

<ESMA\_QUESTION\_CP\_MIFID\_222>

We agree with the proposal for the identification of indices.

However, further to our response to Q221, in which we propose that firms are given the option to report all trades in baskets, we would further suggest that in those instances all constituents should also be reported.

With such flexibility in relation to baskets, firms should be able to choose between:

* reporting only where a basket contains one or more reportable instruments, in which case only the relevant underlying instruments would be listed, or
* reporting in the case of all baskets, in which case they would need to report all the underlying instruments.

Firms would make this choice according to the method that was most appropriate to their activities and systems capability.

<ESMA\_QUESTION\_CP\_MIFID\_222>

1. Do you foresee any difficulties applying the criteria to determine whether a branch is responsible for the specified activity? If so, do you have any alternative proposals?

<ESMA\_QUESTION\_CP\_MIFID\_223>

We do not foresee any significant difficulties.

<ESMA\_QUESTION\_CP\_MIFID\_223>

1. Do you anticipate any significant difficulties related to the implementation of LEI validation?

<ESMA\_QUESTION\_CP\_MIFID\_224>

We do not foresee any significant difficulties in obtaining LEIs for their entity clients and validating their authenticity.

The operative structure of the LEI is fully operative before the obligation to report transactions under MiFIR starts. We strongly support the usage of the LEI in MiFIR transaction reporting. A regulatory implementation of the usage of the LEI in the MiFIR reporting will extend the coverage of the LEI in the (financial) industry and will enhance the supervisory convergence and ensure the high quality, reliability and comparability of data, supporting the Competent Authorities strategic objective to increase the overall efficiency of the supervisory system by promoting effective exchange of information.

We strongly recommend ESMA to ensure in their supervisory practise that all reporting entities have valid LEIs in place before the reporting obligation starts in order to avoid any difficulties of the identification of counterparties as experienced with the introduction of the EMIR reporting obligation.

<ESMA\_QUESTION\_CP\_MIFID\_224>

1. Do you foresee any difficulties with the proposed requirements? Please elaborate.

<ESMA\_QUESTION\_CP\_MIFID\_225>

We do not agree with ESMA's assertion that firms should accept total responsibility for determining which instruments are reportable in the absence of a reliable "golden source" of data on the instruments that are admitted to trading and potential uncertainty as to whether or not an application has been made for the new admission of a particular instrument to trading.

Similarly, we believe NCAs should be permitted and encouraged to take a pragmatic approach to enforcement in the event that a firm reports late having initially missed that an application had been made for admission to trading in spite of its best efforts.

<ESMA\_QUESTION\_CP\_MIFID\_225>

1. Are there any cases other than the AGGREGATED scenario where the client ID information could not be submitted to the trading venue operator at the time of order submission? If yes, please elaborate.

<ESMA\_QUESTION\_CP\_MIFID\_226>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_226>

1. Do you agree with the proposed approach to flag liquidity provision activity?

<ESMA\_QUESTION\_CP\_MIFID\_227>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_227>

1. Do you foresee any difficulties with the proposed differentiation between electronic trading venues and voice trading venues for the purposes of time stamping? Do you believe that other criteria should be considered as a basis for differentiating between trading venues?

<ESMA\_QUESTION\_CP\_MIFID\_228>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_228>

1. Is the approach taken, particularly in relation to maintaining prices of implied orders, in line with industry practice? Please describe any differences?

<ESMA\_QUESTION\_CP\_MIFID\_229>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_229>

1. Do you agree on the proposed content and format for records of orders to be maintained proposed in this Consultation Paper? Please elaborate.

<ESMA\_QUESTION\_CP\_MIFID\_230>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_230>

1. In your view, are there additional key pieces of information that an investment firm that engages in a high-frequency algorithmic trading technique has to maintain to comply with its record-keeping obligations under Article 17 of MiFID II? Please elaborate.

<ESMA\_QUESTION\_CP\_MIFID\_231>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_231>

1. Do you agree with the proposed record-keeping period of five years?

<ESMA\_QUESTION\_CP\_MIFID\_232>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_232>

1. Do you agree with the proposed criteria for calibrating the level of accuracy required for the purpose of clock synchronisation? Please elaborate.

<ESMA\_QUESTION\_CP\_MIFID\_233>

These requirements will only apply to trading venues and their members or participants

<ESMA\_QUESTION\_CP\_MIFID\_233>

1. Do you foresee any difficulties related to the requirement for members or participants of trading venues to ensure that they synchronise their clocks in a timely manner according to the same time accuracy applied by their trading venue? Please elaborate and suggest alternative criteria to ensure the timely synchronisation of members or participants clocks to the accuracy applied by their trading venue as well as a possible calibration of the requirement for investment firms operating at a high latency.

<ESMA\_QUESTION\_CP\_MIFID\_234>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_234>

1. Do you agree with the proposed list of instrument reference data fields and population of the fields? Please provide specific references to the fields which you are discussing in your response.

<ESMA\_QUESTION\_CP\_MIFID\_235>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_235>

1. Do you agree with ESMA‘s proposal to submit a single instrument reference data full file once per day? Please explain.

<ESMA\_QUESTION\_CP\_MIFID\_236>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_236>

1. Do you agree that, where a specified list as defined in Article 2 [RTS on reference data] is not available for a given trading venue, instrument reference data is submitted when the first quote/order is placed or the first trade occurs on that venue? Please explain.

<ESMA\_QUESTION\_CP\_MIFID\_237>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_237>

1. Do you agree with ESMA proposed approach to the use of instrument code types? If not, please elaborate on the possible alternative solutions for identification of new financial instruments.

<ESMA\_QUESTION\_CP\_MIFID\_238>

We strongly support the use of globally accepted identifiers for all financial instruments and trades/counterparties in all reporting regimes (e.g. EMIR, MiFID/MiFIR). Identification of the counterparties to the trade or the underlying entities should be based exclusively on the LEI. In particular, the required identifiers should be available on a license and fee free basis.

We would recommend to not use the AII. The AII is restricted to exchange traded derivatives and AII is not an ISO standard. Therefore they should not be used to identify financial instruments.

In this context, we would like to highlight that the EU Commission launched formal proceedings against S&P in 2009, investigating whether the fees being charged by S&P for databasing ISINs based on CUSIP numbers were in breach of EU competition law.

The Commission took the preliminary view that S&P is abusing its dominant position by requiring, as the sole-appointed National Numbering Agency (NNA) for US securities, financial institutions and information service providers (ISPs) to pay licensing fees for the use of the ISINs in their own databases. The Commission also took the preliminary view that this behaviour amounts to unfair pricing and constitutes an infringement of Article 82 EC Treaty. The Commission settled the case in 2011.

In that respect, we encourage ESMA to ensure that all identifier used in regulatory reporting should be available on a license and fee free basis. ESMA should clearly ensure the use of an IP and copyright free identification code.

<ESMA\_QUESTION\_CP\_MIFID\_238>

1. Post-trading issues
2. What are your views on the pre-check to be performed by trading venues for orders related to derivative transactions subject to the clearing obligation and the proposed time frame?

<ESMA\_QUESTION\_CP\_MIFID\_239>

We agree with the pre-check timings for OTC derivatives executed on a trading venue.

However, we do not support the application of the same proposal to ETDs. This would result in material changes of the way the ETD markets operate and associated cost impacts to end clients without benefits

<ESMA\_QUESTION\_CP\_MIFID\_239>

1. What are your views on the categories of transactions and the proposed timeframe for submitting executed transactions to the CCP?

<ESMA\_QUESTION\_CP\_MIFID\_240>

We agree with the proposed timeframes for submitting transactions to the CCP for on venue executions.

For trades executed off venue, significantly more time is required for submission of the executed transactions to the CCP. This should be 150 minutes in order to give participants sufficient time to submit accurately

<ESMA\_QUESTION\_CP\_MIFID\_240>

1. What are your views on the proposal that the clearing member should receive the information related to the bilateral derivative contracts submitted for clearing and the timeframe?

<ESMA\_QUESTION\_CP\_MIFID\_241>

We believe that the proposed timeframes for the CCP and CM to accept / refuse are sufficient, once the trade is submitted to the CCP.

<ESMA\_QUESTION\_CP\_MIFID\_241>

1. What are your views on having a common timeframe for all categories of derivative transactions? Do you agree with the proposed timeframe?

<ESMA\_QUESTION\_CP\_MIFID\_242>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_242>

1. What are your views on the proposed treatment of rejected transactions?

<ESMA\_QUESTION\_CP\_MIFID\_243>

We believe that the proposed 10 second deadline trades re-submit rejected because of technical problems is too short. Market participants should be able to re-submit those trades for clearing within 30 minutes to give sufficient time to resolve issues, which often have nothing to do with a willingness to not execute a transaction.

<ESMA\_QUESTION\_CP\_MIFID\_243>

1. Do you agree with the proposed draft RTS? Do you believe it addresses the stakeholders concerns on the lack of indirect clearing services offering? If not, please provide detailed explanations on the reasons why a particular provision would limit such a development as well as possible alternatives.

<ESMA\_QUESTION\_CP\_MIFID\_244>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_244>

1. Do you believe that a gross omnibus account segregation, according to which the clearing member is required to record the collateral value of the assets, rather than the assets held for the benefit of indirect clients, achieves together with other requirements included in the draft RTS a protection of equivalent effect to the indirect clients as the one envisaged for clients under EMIR?

<ESMA\_QUESTION\_CP\_MIFID\_245>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_245>

1. The field will used for consistency checks. If its value is different from the value indicated during submission on the website form, the latest one will be taken into account. [↑](#footnote-ref-1)