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| 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 | **AFTI (Association française des Professionnels des Titres)** |
| Confidential[[1]](#footnote-1) |[ ]
| Activity: | **Post-trade activities- Regulatory and lobbying**  |
| Are you representing an association? |[x]
| Country/Region | **France**  |

# Introduction

Please make your introductory comments below, if any:

< ESMA\_COMMENT\_CP\_MIFID\_1>

**AFTI (French Association of Securites Professionals) represents the post-trade business on the Paris marketplace. It brings together the skills and expertise of the finance industry through its working groups and monitoring units.**

**AFTI brings together banks, investment companies, market infrastructures, issuers as well as professional associations and consulting firms.**

 **AFTI advocates for the industry in projects dealing with the harmonisation and integration of Europe’s financial markets.**

**Taking account of our scope of activity and namely of the fact we represent financial intermediaries acting as custodians and clearing members, our responses are focused on chapter 8 ( Market Data reporting) and chapter 9 (Post-trading issues)**

< 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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

Yes. We would like to comment the proposed definitions :

 **Remarks on the term “transaction”:**

We welcome the exclusion of SFTs from the reporting obligation under MiFIR, however we would appreciate to have the clarity that firms would not need to put in place any interim reporting mechanism for the SFTs by the time the SFTR comes into force. Building this reporting for an intermediate period would be extremely costly (and could jeopardize our availability for the build of the actual SFT reporting as the same teams would be involved)

 reporting of lifecycle events – we reiterate the concept of price-forming post-trade events being reportable, while non price-forming events should not be reportable.

We understand the requirement to report increase/decrease of the notional as a delta but regret this is not in line with the way we currently report these events under EMIR

intra-group activity : our understanding is that the requirement is aligned with EMIR :  transactions between entities that have the same LEI ( branches) are not reportable, while transactions between different legal entities (different LEI) belonging to the same group are reportable. It is  impossible to distinguish the “purely internal movements” from the “movements where there is a change in position”.

**Remarks on the term “execution”:**

We find that ESMA approach to the definition of execution confuses two different criteria. The first of these criteria is the action that leads to an acquisition/disposal/change, which can be assimilated to action that results to a change in position, as defined in Art. 3(1) of the draft RTS. This criterion is reflected in Art. 4(a) and Art. 4(c) of the draft RTS.

However, according to Art. 4(b) a second criterion is established according to which a firm would be providing execution when it receives for transmission from its client an order incomplete of the statutorily required data. In this situation a firm is supposed to report an execution of a transaction despite no actual acquisition or disposal or modification would be taking place.

This approach would have several consequences, particularly for firm engaging in transmission of orders:

-        firms would report execution of transactions where there was no actual execution at all

-        where firms are forced to report transactions only because they are not in a position to pass on the required data, the presumed “counterparty” would also have to ensure that is reports a transaction

-        it creates confusion between transaction data that is mandatory and optional to provide to the counterparty (or in the report, as the case may be), both when the firm is genuinely executing orders and when it is merely transmitting orders, and when firms are reporting execution of orders and when they are reporting the transmission of orders.

In order to avoid the confusion about whether a firm transmitting orders is actually executing and reporting execution a such, or it is transmitting an order and reporting a transmission as such.  ESMA should also provide more clarity on the data required to be provided in both circumstances, and distinguish clearly in the template which fields must be completed when a firm is reporting execution and when it is reporting transmission.

<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>

Yes. We believe thatArt. 3(3)(e) of the RTS 7 should provide an exclusion for the creation and redemption of shares in **all** funds, not just in ETFs. ETFs (as well as MMFs) are the only types of funds for which a secondary market exists and that could be susceptible to market abuse. By virtue of Art. 26(2)(c) MiFIR, unless exempted transactions in all funds  – i.e. creation/redemption of fund shares which result in acquiring/disposing of a position in a reportable instrument – would have to be reported, despite no secondary market activity whatsoever exists for these instruments. We believe this is not the intention of the level 1 text.

In addition, we welcome the exclusion of SFTs from the reporting obligation under MiFIR, however we would appreciate to have the clarity that firms would not need to put in place any interim reporting mechanism for the SFTs by the time the SFTR comes into force. Building this reporting for an intermediate period would be extremely costly (and could jeopardize our availability for the build of the actual SFT reporting as the same teams would be involved)

 Regarding intra-group activity, our understanding is that the requirement is aligned with EMIR:  transactions between entities that have the same LEI ( branches) are not reportable, while transactions between different legal entities (different LEI) belonging to the same group are reportable. It is impossible to distinguish the “purely internal movements” from the “movements where there is a change in position”.

<ESMA\_QUESTION\_CP\_MIFID\_215>

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

<ESMA\_QUESTION\_CP\_MIFID\_216>

Yes. there are several impacts that will result in costs and complications for firms, whether transmitting or executing orders:

-necessity to define exactly in which case an order received is a transmitted order/direct order

-necessity to re-paper prior to entering into the transaction (transaction agreements) while there is no legal context for this type of agreements yet

- issue with timing - especially when the required details are not available yet at the time of reporting ( as we cannot complete/amend the reporting)

- we would also appreciate more clarity how the transmitting firms should interpret who they consider a “client” and an “ultimate client”.

Since the same template should serve in multiple different situations, ESMA should distinguish more clearly in the template which fields are obligatory to be completed when a firm is reporting execution and when it is reporting transmission. It should also clarify how the executing firm subsequently reporting the transaction should report, knowing that the transmitting firm has reported a transmission with some data, likely the client data or final allocations data, missing.

We understand that in situations where transmitting firms would opt to always report transmission for example due to difficulty to obtain the necessary data about clients or disaggregations, the executing firm would have to base its own transaction report on incomplete information, or report the transmitting firm as a counterparty. Would that mean that the executing firm would always have to report two transactions, one facing the transmitting firm and one facing the market? This would also pose difficulties in the population of fields such as decision-maker etc for both the firm reporting transmission and the firm reporting execution of the transaction.

We wish to obtain more clarity on the functioning of the transmission agreements, and whether they should be required for every client and for each of the executing firms serving THAT client (e.g. a client uses four broker, need to have four agreements in place for the client and four agreements in place with the broker for THAT particular client)? There are multiple possible permutations for the transmission agreements to be put in place, which would result in different degree of complexity and administrative burden.

In addition, we would like to have more clarity who would be responsible for transaction reporting when a transmitting firm transfers order to a third country firm operating in the EU in accordance with Title VIII of MiFIR (i.e. without physical presence) and the order is executed OTC. We invite ESMA to clarify the obligations for transaction reporting for third country firms operating in the EU without establishing physical presence, particularly when they execute transactions on an OTC basis and the provisions of Art. 26(5) don’t apply.

<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>

Despite improvements since the ESMA Discussion Paper, the new proposal based upon the identification of the buyer/seller on a transaction. We would note that the proposed approach is not a “one size fits all” and does not consider the characteristics of many derivatives, for which the determination of buyer and seller is not really relevant –leading to inconsistencies in reporting between firms. For example, in some transaction ( FX – float/float swaps ( basis swaps rates / common swaps)  it is not always clear which counterparty should be assigned buyer or seller of the risk.

In order to ensure the determination of buyer and seller is done as consistently and accurately as possible, firms would urge ESMA to work with the industry to develop and endorse best practices and make sure global standards are followed across jurisdictions. The industry already uses conventions that assign roles to counterparties to a trade e.g. in the case of a fixed / float interest rate swap, the payer of the fixed rate may be assigned the role of BUYER and the payer of the floating rate may be assigned the role of the SELLER. ESMA may consider, in collaboration with the industry, to issue detailed guidance (examples) on the assignments of these roles.

We also encourage ESMA to provide guidance on the population of these fields when a transaction consists of two legs but only one of these legs is MiFID-reportable. For instance, an equity leg of an equity swap and the interest rate leg of the equity swap.

We would also appreciate more clarity on how firms using the same LEI should transaction report when they are executing in the SI capacity and at the same time they have execution activities on a riskless principal basis.

<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>

Despite some developments since the Discussion paper, we still find the proposed template difficult to work with, as we observe that the same template is not a one-size-fits-all. It is meant to serve for reports of different events, notably execution, transmission, single orders, aggregate orders, as well as for different asset classes that are not comparable among each other.

We encourage ESMA to work further with the industry to develop and endorse best practices and make sure robust standards are put in place without unnecessarily overburdening the industry.

We would suggest ESMA clearly identifies where fields are mandatory, optional (and can be left blank) or non-applicable (and can be left blank) in the draft RTS 32.

ESMA should distinguish more clearly in the template which fields are obligatory to be completed when a firm is reporting execution and when a firm is reporting transmission. It should also clarify how the executing firm reporting the transaction after the transmitting firm reported transmission should report, knowing that the transmitting firm has reported a transmission with (or due to) some data likely to be missing.

We also need to know which fields can be repeatable blocks ( example the transmission fields)

**Transmission (fields 35-52)**

We would like more clarification on which fields in the template as a whole are supposed to be completed when the firm is reporting a transmission, bearing in mind that one of the reasons why firm would have to report an order transmission is lack of complete data.

We would also like to understand the function of marking field 35 as “NO”.

We would like to obtain more clarity how the buyer and seller transmitting order fields are to be populated when the transmitting firms aggregates the order and reports the transmission, and how these fields are to be subsequently populated when the executing firm reports the transaction execution of the aggregated order.

**Trade related information (fields 40-52 and 59-67)**

It is not clear whether the fields 40-52 are meant to be populated when a firm is reporting transmission of a transaction.

We would like to emphasise that – for derivatives - ESMA should align definitions / formats / content with the requirements in EMIR.Some of the fields / definitions  do not allow a meaningful representation of some derivatives types. We invite ESMA to source from the EMIR consultation for reporting to obtain a better alignment.

**Trading capacity – field 42**

We need to have a better understanding of the M “matched principal” and how it would apply – we understand it is meant to capture transactions we would enter into as “riskless” principal but the definitions are not similar. In particular, a riskless principal transaction implies that the firm executes two simultaneous off-setting trades – does it mean it has to transaction report both transactions?

**Consideration - field 50**

We do not see what this means and how to populate this field for all asset classes– if this field is a mere calculation it should not be reportable.

**Instrument Identification Fields 53-58**

CFI as taxonomy / ISIN or AII as identifiers are not appropriate identifiers for derivatives : some products (like certificate for difference ) fit in multiple CFI codes – and overall the granularity of the CFI taxonomy will not allow to correctly recognize the product. We support the ISDA taxonomy for derivatives, and support ISDA effort to introduce the global UPI that could identify derivatives. We therefore suggest that any derivative product/contract identification or classification approaches be focused on the endorsement of a globally consistent UPI. We would like to voice our concern over the removal of the interim UPI in the absence of an endorsed one. If there is not an available UPI nor CFI code as mandated in ESMA’s proposals, industry is  at a loss as to how such a product should be reported.

**Instrument identification code** – **Field 54**

If AII, then ESMA suggests to populate this field with a concatenation of venue and code – we think only AII should be used as the information on the venue is already specified in Field 51

**Ultimate underlying instrument code - Field 58**

This metric needs further consideration and for ESMA to work with industry to come to globally consistent standards. We think indices could – ultimately  - be identified at the level of the index by an ISIN ( combination of trade date and ISIN would define the exact composition at that stage) – while the reporting of baskets is far more challenging ( due to the number of baskets and the diversity of the components) .

We also want to ensure that changes in compositions of baskets are also not reportable after a transaction has occurred (this would lead to massive overreporting).

**Other relevant information (fields 63-81)**

We wish to obtain more clarification generally on which of these fields are to be populated and how when a firm is reporting an order transmission.

**Result of the exercise (field 63)**

While of course the transaction as such would be reported, we want to draw attention to the fact that it is not always possible to track these transactions as being “result of an option”: some exercises are automatic and not the result of any investment decision. Building this “link” would be a technical challenge, while the added value of tracking this is not clear.

**Up-front payment (fields 65-66** )

It is not clear for which activity this would be applicable.

<ESMA\_QUESTION\_CP\_MIFID\_218>

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

<ESMA\_QUESTION\_CP\_MIFID\_219>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_223>

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

<ESMA\_QUESTION\_CP\_MIFID\_224>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_224>

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

<ESMA\_QUESTION\_CP\_MIFID\_225>

In the absence of a golden source of reportable products, we wish to reiterate that although best efforts will be made not to over-report, we disagree that over-reporting should be explicitly precluded in the RTS. When in doubt, we consider it more appropriate for the pursuit of the objectives of the L1 text to over-report than to under-report.

Firms should not be penalised (required to back report) for over-reporting as long as they make best efforts not to over-report and the information they send is complete and accurate.

<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>

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<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>

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<ESMA\_QUESTION\_CP\_MIFID\_231>

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

<ESMA\_QUESTION\_CP\_MIFID\_232>

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<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>

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<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>

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<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>

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<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>

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<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>

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<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>

First of all we would like to recall that there are two different views on what an OTC contract is depending on the regulation (MiFID 2 or EMIR). According to EMIR a contract is an OTC as soon as it has not been concluded on a regulated market whereas in a MIFID2’s context an OTC contract means a contract that has not been concluded on a trading venue, should the latter be a regulated market, an MTF or an OTF. ESMA should clarify its approach to what it considers bilateral transaction and transaction on a trading venue. MiFIR's understanding of a transaction "on a trading venue" brings into the same category derivative instruments capable of anonymous multilateral trading, where the counterparty risk profile is not a relevant factor for the value of the transaction (like classic options, futures and indices, traded largely on RMs) and instruments where the counterparty risk profile is a relevant factor for the price of the transaction (swaps), and the trading, even if conducted on a formal trading venue, still largely resembles a bilateral negotiation (RFQ).

We understand ESMA’s objective to ensure the highest possible certainty of clearing, both for ETDs and OTC derivatives (OTCDs as qualified by EMIR) that are concluded on a trading venue. However, the trade pre-check could not be processed in the same manner for these two environments.

1. For ETDs (contracts concluded on a regulated market), even for contracts subject to the clearing obligation, the client credit check by the venue at the level of the transaction could not have a definitive outcome and it should still be possible to reject it, as the case may be, at the level of the CCP. This is due to the fact that a client is likely to have a single credit limit with its clearing member while being a trading member at multiple trading venues.

Moreover, the client trading firm may execute a trade on behalf of a third party (give-in), where the credit check for that third party would only be conducted after the trade has been taken up at the level of the CCP, and in any case after the transaction would be concluded. Therefore it is important to maintain the possibility to reject the trade at the level of clearing despite an initial positive check at the trading level.

The quality and speed of the pre-trade check would depend on the segregation model applicable to the client at the clearing level.  Credit check at the level of the final client would be more time consuming for client who are using the omnibus model, which is the prevailing model nowadays. Finally, in the prospective of open access between trading venues and CCPs, clients may use different clearers and different CCPs.

2. We are skeptical whether the proposed limits of 60 seconds/10 minutes would be practicable.

**We urge ESMA to provide a more substantiated explanation on the proposed deadlines for the pre-trade checks. We understand that the proposals are made solely on the basis of the current US standards. If these standards should be made applicable to the EU, we urge ESMA to provide more clarity on the origin of those standards and how they would be appropriate in the context of the prevailing EU infrastructures for listed derivatives clearing.**

3. We highlight that at present there is a very high degree of clearing certainty in the ETD sphere, even without regulatory standards applying.

4. In the OTC environment in the meaning of EMIR (contracts concluded on a trading venue which is not a regulated market), the checks could have a definitive outcome and be binding at the clearing level. The clearing member should have at all times a good visibility of the credit limit status of its client.  In this vein, the admission/rejection of transactions for clearing is also easier to automate.

As an alternative for the clearing members to submit the credit limits to the trading venue, the trading venue could ping the clearing member for pre-trade check. This would also render a more precise result in terms of eliminating trades that are likely to be rejected at the clearing level.

In terms of the timing proposed, at this time we cannot ascertain whether the proposed deadlines of 60 seconds and of 10 minutes are practicable and that they take sufficient account of the different structure of the ETD and OTC environment.

**We urge ESMA to provide more clarity on which basis these standards are proposed and how they should be appropriate for the EU trading environment.**

 <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>

It is difficult for us tocomment on the ability of the trading venues, for the ETD environment, to submit the trades to the CCP within the proposed timeframes, and for the reconfirmation of trades by the CCP. However, we agree that these submissions should occur as soon as technologically possible.

**For ETDs, we re-iterate, in line with our comments to Q 239, that the pre-trade checks and the trading venue-CCP confirmations should not preclude the clearing member to reject the transaction at the subsequent stage.**

**Also, we wish to obtain ESMA clarification on the treatment of block trades.** Acceptance of the entire block for clearing before the breakdown shifts a higher amount of risk onto the clearing member with virtually no legal comeback. Breaking down the block before accepting for clearing would increase clearing certainty and keep the costs of clearing lower, but it would require more flexibility in terms of timing. At the minimum, clearing members should not be under any legal obligation to accept block trades for clearing.

  Finally we would like to highlight that there is already an internationally recognized market standard related to the timing for bilaterally executed transactions to be submitted to a CCP which is 150 minutes. Therefore we highly encourage ESMA to adopt the same value.  In addition it may be worth to recall that there is no requirement by US regulators on this specific topic.

<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 cannot comment on the feasibility of the CCP to transmit trades for the acceptance of the clearing member within 60s, however we agree that this should take place as soon as technologically possible. We invite ESMA to provide some substantiation of the proposed deadline of 60 s.

We notice that the clearing members are equally required to confirm to the CCP the clearing of the transaction within 60s. We agree with the objective to establish a global STP that would guarantee clearing certainty “as soon as technologically possible” including for bilaterally executed transactions. However, the proposed timeframe of 60s for the clearing member to reconfirm seems extremely short in the light of the confirmation being final and the risks passing entirely on the clearing member, and could result in unintended assumption of risks by the clearing member or, contrary to the intention, result in less clearing certainty.

Trade acceptance by the clearing member requires performing “pre-clearing” controls of client limits to ensure that the transaction, once cleared, would not put the client in breach with its limits. To be risk-efficient, such controls shall be based on in-depth risk calculations performed on an ad hoc basis, and shall rely on additional information available within in-house applications (for example the client’s available assets which may be used as collateral, in the case the clearing member is also the depositary of the client). From an operational and technical point of view, performing these controls within 60 seconds is extremely problematic.

The risk is that to ensure that clearing acceptance is done within 60 seconds of trade reception, clearing members may decide to simplify their pre-clearing controls by using some basic trade by trade risk calculation methods or by simply not performing any pre-clearing controls. This would potentially lead to additional credit and operational risks for the clearing member.

We recommend a much longer timeframe for clearing member acceptance. 30 minutes seems a more appropriate timeframe to allow clearing members to systematically perform in-depth client limit controls before accepting the client trade

**We also wish to obtain ESMA’s clarification as to why it does not wish to make any between trades subject to the trading obligation and those traded on a venue voluntarily.**

**Moreover, we would like to question the feasibility of Art. 5 of the draft RTS 37:** “For transactions that are executed on a bilateral basis and subject to the clearing obligation […], the clearing member shall ensure that the counterparties send the information related to the trade to the CCP within 30 minutes from the execution of the transaction.”

In the way cleared OTCD bilateral transactions are processed today, there would be no material possibility for the clearing member to control that its clients abide by this 30 minutes deadline. **In general, the counterparties “confirm” the terms of the agreed transaction among each other (typically on a middleware market platform) and subsequently forward it to the CCP in an automated way. It is only at the time of the confirmation that each party selects the clearing member it intends to use. Since the clearing members have no knowledge of the transaction before the counterparties’ confirmation, they would be unable to ensure that their clients conform by the 30 min deadline.**

<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>

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<ESMA\_QUESTION\_CP\_MIFID\_242>

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

<ESMA\_QUESTION\_CP\_MIFID\_243>

This may, amongst other things, allow resubmission of a rejected trading venues should establish rules and fair clear rules and disclose methods for the calculation of the breakage costs those contracts which are subject to the trading obligation or are voluntarily traded on the trading venue, and have been rejected from clearing by the CCP.

Such rules should to ensure that counterparty responsible for the rejection of the contract bears the cost of the breakage and disincentivise to "walk away" from the contract once it has been rejected from clearing.

We note that listed derivatives capable of anonymous trading (central limit order book) should not be voided after the transaction has been confirmed by the trading venue matching system, and the delivery to the counterparty has to be honoured.

However, there should be a fair assignment of costs for the failure of one of the counterparties to trade if the transaction cannot be accepted for clearing. In this case, the clearing members should not be penalized to assume all the risks for the trades that failed due to a rejection from clearing.

However, **we also agree that it is important to preserve the flexibility offered by Article 7(3) of the draft RTS in the OTC context, i.e. in respect of OTC cleared transactions that are rejected by the CCP**. trade for clearing or submission for clearing through a different clearing member, as may be appropriate to the particular client’s circumstances. This is in line with the protocols already developed by many CCPs and enshrined in their rulebooks on the treatment of OTC cleared trades.

<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>

We find that the proposed RTS 38 is a positive development in respect of the criteria for indirect clearing structures. Still, we are cautious about the differences in functioning of the exchange-traded derivatives (ETD) structures and the related structures for the clearing of OTC derivatives.

We point out that indirect clearing is an established practice in the ETD sphere, while in the OTC sphere it is not. In the same vein, the practices applicable to the OTC environment should not necessarily inform the standards for the ETDs. We caution against adopting solutions that would render the functioning ETD indirect clearing structures inadequate or would eliminate the incentives to provide indirect clearing.

We find that the proposed RTS require further fine-tuning and we have serious concerns as to the feasibility of the indirect clearing regime becoming operational in January 2017. We strongly encourage ESMA to propose a more adequate implementation calendar.

We find that the RTS should be more precise as to the geographical scope. The application of the RTS should be limited to EU-incorporated indirect clients obtaining indirect clearing services towards EU-incorporated clearing members and EU-authorised CCPs. This is to eliminate the conflicts of law at the basic level and also to allow that indirect clearing arrangements can continue to be provided at non-EU CCPs recognised under EMIR.

We welcome the proposal to limit the scope of the RTS to the client of the client of the clearing member in order to reduce complexity of a potentially multi-layered environment. However, we find that this approach is not reflected in the wording of Art. 2 (2) of the drat RTS. We would appreciate a more precise wording in this respect.

Concerning the obligations for clearing members to offer indirect clearing arrangements, we wish to recall as a general point that MiFIR and EMIR objectives in respect of indirect clearing are different. While EMIR establishes that indirect clearing must be offered under EMIR is in relation to those end-users who are looking to satisfy an EMIR clearing obligation that applies to them, MiFIR establishes that indirect clearing is possible (“permissible”) but not mandatory. Regardless of the fact that indirect clearing already exists in the ETD space and without prejudice to the EMIR provisions, it is paramount that there should be no obligation for clearing members to offer indirect clearing arrangements, neither in the ETD space not in the OTC space.

We recognize the obligations created under Art. 30(1) MiFIR and under Art. 39 and Art. 48 of EMIR. They result in far-reaching consequences for clearing members. We equally appreciate that the duty to ensure portability of for the indirect client has been removed. However, the proposed draft RTS imposes on the clearing members to provide structures and protections similar to those offered by a CCP without the benefit of any of the legal tools protections available to a CCP in the case of a default or insolvency.

**Clearing members’ obligations should be interpreted in the context of the laws applicable to the indirect clearing arrangements, and the RTS should recognize that in some cases the clearing members should undertake best efforts to ensure restitution instead of providing an outright guarantee of restitution**: it may be impossible, in a number of situations, for the clearing member to ensure the return of the proceeds directly to the indirect client. This is notwithstanding the mirroring arrangements for clients facilitating indirect clearing as in Art. 5(4) and 5(6):  ·

* When the indirect client is accommodated in a net omnibus account
* When the applicable insolvency laws override the relevant contractual arrangements.

In respect of Art. 4(4) and Art. 5(4) of the draft RTS, we find that the current wording does not take sufficiently into account the differences between the NOSA and the GOSA model (Art. 4(2)(a) and Art. 4(2)(b) of the draft RTS, respectively). The obligation for the clearing member to bring the entire collateral value received from the indirect clearing member to the CCP should be applicable for the GOSA structure (Art. 4(2)(b) of the draft RTS). This aspect should be mirrored in the respective provisions applicable to the client in Art. 5(4) of the draft RTS.

We also suggest that contractual arrangements between the clearing member and the direct client facilitating indirect clearing should govern the treatment of any excess collateral. This is due to the risk management considerations of the indirect clearing arrangements which are usually specific to the client, and which require the clearing member to have some flexibility in the legal arrangements so as to cater to its risk-mitigation needs.

<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>

We welcome the development of ESMA’s position since the Discussion Paper concerning operational requirements for indirect clearing users, particularly the introduction of the gross omnibus account for indirect clients at the CCP level alongside the net omnibus account foreseen in EMIR RTS.  This is very positive in the light of the differences between the ETD and the OTC environments (segregation required all along the chain or not), and of the different objectives in respect of indirect clearing under MiFIR and under EMIR (mandatory vs permissible).

However, the operational requirements for clearing members and direct clients facilitating indirect clients still require further fine tuning so as to ensure the right balance between the commercial viability of indirect clearing, the need for proper risk mitigation by the clearing member as well as the client and the indirect client, and the need to ensure the required statutory protections for the indirect users. Against this background, we have serious concerns as to the feasibility of the indirect clearing regime becoming operational in January 2017. We strongly encourage ESMA to propose a more adequate implementation calendar while continuing to work with the industry on optimal solutions.

In particular we stress the need for more balance between the risk-related concerns and organisational requirements of the clearing members, whose services and obligations in the context of indirect clearing should not be assimilated to those of a CCP. This is due to the fact that clearing members are not market infrastructures themselves and don’t benefit from any legal protections available to CCPs.

**Additional comments:**

We appreciate that the duty to ensure portability of for the indirect client has been removed, however we have the following concerns as to the requirements for the clearing members under Art. 4(7) of the draft RTS:

* we take note of the obligation for the client in Art. 5(6) to provide in the indirect clearing agreement for contractual arrangements to return any liquidation proceeds to the indirect client. Despite any such contractual arrangements between the client and the indirect client, the clearing member may be beyond its powers to honor the obligations of Art. 4(7). The actual ability of the clearing member to return the assets to the indirect client in case of the client’s default could depend on:
* whether the indirect client is accommodated in a net or in a gross omnibus account ;
* the local law applicable to the client and to the contract between the client and the indirect client;
* the local law, or other provisions applicable to the clearing member that prevent him from making direct payments to the indirect client (sanctions, embargos etc);
* clearing members should undertake best effort to return the assets directly to the indirect clients, in accordance with the applicable contractual terms. Where the applicable law prevents or overrides such contractual arrangements, the clearing member should be allowed to return the assets to the liquidation practitioner of the client.
* should the return of any proceeds to the indirect client be impossible, the clearing member should attribute appropriate flags to the payments and transfers made to the client for the account of the indirect client, so as to distinguish them from payments and transfers made for the account if the client.

<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)