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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 | International Capital Market Association |
| Confidential[[1]](#footnote-1) |  |
| Activity: | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | International |

# Introduction

Please make your introductory comments below, if any:

< ESMA\_COMMENT\_CP\_MIFID\_1>

**Introduction:**

* Who we are:

The International Capital market Association (ICMA) represents a broad range of capital market interests including global investment banks and smaller regional banks, as well as asset managers, exchanges, central banks, law firms and other professional advisers. It has 467 member firms located in 55 countries. ICMA’s market conventions and standards have been the pillars of the international debt market for almost 50 years, providing the framework of rules governing market practice which facilitate the orderly functioning of the market. ICMA actively promotes the efficiency and cost effectiveness of the capital markets by bringing together market participants including regulatory authorities and governments.

* Our approach:

As mentioned above, ICMA covers issues relating to the ‘orderly functioning of the market’. With this in mind, ICMA put together a technical working group made up of heads of fixed income dealing desks on the buy-side (Asset Managers) and heads of fixed income trading desks and Market Structure on the sell-side (Investment Banks/Brokers) to respond to the MiFID II Consultation Paper E.g. Bondcube Ltd, GAM, Goldman Sachs International, HSBC Bank plc, Nomura International plc, Nordea Investment Management, Société Générale S.A. and Tradition (UK) Ltd etc. This technical working group was tasked with answering the consultation questions that most affected the ‘orderly functioning of the market’, such as: transparency, as it relates to liquidity in the bond market. ICMA is exceptional because we are one of the very few international trade associations that has buy-side and sell-side members.

Since determining liquidity is the foundation of a functioning bond market, ICMA’s working group had to innovate and come to agreement across the spectrum of the working group as to potential future market practices. Much debate and deliberation took place and in the end a consensus emerged as to proposed solutions for ESMA to consider.

The questions are answered in depth and hopefully provide a usable context to measure liquidity, where appropriate. Owing to the buy-side and sell-side membership in the working group, we believe this is an accurate picture as to the way forward for bond market trading regulation and practice.

* ICMA Welcomes the opportunity to respond to ESMA’s MiFID II Consultation Paper:

MiFID II extends much of the equity transparency requirements in MiFID I to fixed income instruments. Often, this is referred to as the ‘equitisation’ of the fixed income markets. This means potentially pre-trade transparency with firm executable prices advertised to the whole market and post- trade disclosure transparency of details such as price, volume and time of trade. However, fixed income is not equities. In fixed income markets, transparency does not equal liquidity. The importance of this concept is why ICMA is focusing on liquidity related questions in the Consultation Paper. Due to ICMA’s make up of buy-side and sell-side membership, we believe our response will be particularly valuable to ESMA. It is widely expected that MiFID II will lead to an evolutionary change in bond trading. ICMA looks forward to working with industry participants to navigate this substantial change.

< 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>

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<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>

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<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>

**ICMA Response**

**57.1.2.3 – Summary:**

ICMA welcomes ESMA’s efforts to determine liquidity in the bond market. The bond market is a heterogeneous market not a homogeneous market. It is quite complex, made up of moving parts such as maturity dates, coupons, multiple currencies and cyclicality. Due to its complexity, ICMA considers the only true way to calibrate liquidity is daily (trading) behaviour. Any other methodology will generate a high proportion of false liquidity as evidenced in ESMA’s data.

Therefore, ESMA’s proposals need considerable refinement if they are to become ‘fit for purpose’ in serving the needs of all market participants in the international bond markets, including investors. ICMA also understands ESMA’s ambition to devise a regime for classification which is reasonably simple to implement. ICMA hopes to prove our response to be both ‘fit for purpose’ and simplified.

 The ICMA response is two pronged. First as our preferred response, we consider it is necessary (if the classification is to be sensitive enough) to include elements of the Instrument by Instrument Approach (IBIA) alongside COFIA (Class by Class) in a ‘Hybrid’ approach.  We have deliberately designed the ‘Hybrid’ approach as far as possible to meet ESMA’s ‘simplicity and predictability of calculation’ criterion as explained in detail below in Table 1. We consider that it is not possible to protect the interests of market users properly using COFIA alone.  If, despite the arguments highlighted in Section 3, ESMA continues to be of the view that COFIA alone is necessary - in the interest of regulatory simplicity, it will be vital to at least reduce the ‘Large in Scale’ (LIS) and ‘Size Specific to The Instrument’ (SSTI) thresholds for determining market transparency obligations. This is explained in the second part of our answer and detailed in Table 2 below.

A major reason why ICMA has proposed a hybrid IBIA/COFIA model as our preferred method of determining liquidity is that on page 104 of the MiFID II ESMA Consultation Paper in Table 5, between 42% and 74% of the instruments listed by ESMA as liquid are in fact illiquid. Throughout ESMA’s discussion of COFIA, ESMA has materially understated the importance and number of false positives (inaccurate classification of instruments and trades as liquid when in fact they are illiquid) that COFIA throws up.  Such a high level of false positives (between 42% and 74%) would clearly be inappropriate, and will be highly damaging to the markets, including investors.  We describe in Section 3 examples of the type of problem that ESMA’s proposed COFIA approach would cause, and the types of impact that ‘false positives’ will have on the investor community, a major end-user of the bond markets. Furthermore, ICMA supports the analysis detailed in The Association for Financial Markets in Europe’s Tables in their official response to the MiFID II Consultation Paper.

**Q57 (i)**

**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)?**

**ICMA response:**

ICMA disagrees with the subclass criteria defined in the Consultation Paper. ICMA considers that ESMA’s definition of a liquid market for bonds needs more granularity in order to define more homogeneous classes, therefore we recommend different criteria. These sub-classes are set out in our proposed Liquidity Determination tables below.

**Q57 (ii)**

**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?**

**ICMA response:**

ICMA disagrees with parameters and thresholds as defined in the Consultation Paper. ICMA considers that ESMA’s definition of a liquid market and its parameters and thresholds for bonds needs refinement. We therefore recommend different criteria. These new/modified parameters and thresholds are set out in our proposed Liquidity Determination tables below.

**Q57(iii)**

**Would you define classes declared as liquid in ESMA’s proposal as illiquid (or vice versa)? Please provide reasons for your answer**.

**ICMA response:**

ICMA disagrees with ESMA’s view as to where it is appropriate to set the boundary between liquid and illiquid classes, and considers that ESMA’s definition of a liquid market for bonds needs more refinement and calibration (including criteria, parameters and thresholds). As explained in the summary above, ESMA’s proposals would result in far too high a level of false positives. We therefore set out below ICMA’s proposed Liquidity Determination Tables 1. Table 2 below is our secondary or reserve approach to determining liquidity.

**57.1.2.3 - ICMA Proposed Solutions:**

**Key:** In the following tables, an instrument would need to satisfy the criteria in each column in order to be deemed liquid. In all other cases, an instrument should be deemed illiquid. Failure to meet any single criterion should result in an instrument being classified as illiquid.

**(I) Liquidity Determination Table 1: Hybrid - Granular COFIA with IBIA Liquidity Gate\***

| **Liquidity Gate\*** | **Issuance Size (EUR)** | **Credit Rating** | **Currency** | **Time since issuance** | **Time to Maturity** | **Bond Characteristics \*\*\*\*** |
| --- | --- | --- | --- | --- | --- | --- |
| **EU Sovereign Bonds** | | | | | | |
| < 4 Bps Daily Avg Spread (firm price) | >= 2bn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| < 4 Bps Daily Avg Spread (firm price) | >=5bn outstanding | IG or IG equivalent | EUR | 4 weeks to 3 years | < 30 years | Standard |
| < 4 Bps Daily Avg Spread (firm price) | >=10bn outstanding | IG or IG equivalent | Non-EUR | 4 weeks to 3 years | < 30 years | Standard |
| **Non-EU Sovereign Bonds** | | | | | | |
| < 4 Bps Daily Avg Spread (firm price) | >=2bn outstanding | IG or IG equivalent | USD | Up to 4 weeks | < 30 years | Standard |
| < 4 Bps Daily Avg Spread (firm price) | >=2bn outstanding | IG or IG equivalent | JPY | Up to 4 weeks | < 30 years | Standard |
| < 4 Bps Daily Avg Spread (firm price) | >=5bn outstanding | IG or IG equivalent | USD | 4 weeks to 3 years | < 30 years | Standard |
| **Senior corporate bonds** | | | | | | |
| < 4 Bps Daily Avg Spread (firm price) | >=750mn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| < 4 Bps Daily Avg Spread (firm price) | >=1.25bn outstanding | IG or IG equivalent | EUR | 4 weeks to three years | < 30 years | Standard |
| **Subordinated corporate bonds** | | | | | | |
| < 4 Bps Daily Avg Spread (firm price) | >=500mn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| < 4 Bps Daily Avg Spread (firm price) | >=1bn outstanding | IG or IG equivalent | EUR | 4 weeks to 3 years | < 30 years | Standard |
| **Covered bonds** | | | | | | |
| < 4 Bps Daily Avg Spread (firm price) | >=750mn outstanding | IG or IG equivalent | G7\*\* | Up to 6 months | < 30 years | Standard |
| **Convertible bonds (excluding contingent conversion bonds)** | | | | | | |
| < 4 Bps Daily Avg Spread (firm price) | >=750mn outstanding | IG or IG equivalent | G7\*\* | Up to 6 months | < 30 years | Standard |

**\*Liquidity Gate =** IBIA calculation using ‘average spread’. An average spread ‘gate’ (movable barrier) is used, due to MiFIR Level 1 language.

**\*\*IG** = Investment Grade (Bonds that are judged by a **rating** agency (s) as likely enough to meet payment obligations. Banks are allowed to invest in them. E.g. A bond is considered **investment grade** or IG if its **credit rating** is BBB- or higher by Standard & Poor's or Baa3 or higher by Moody's.)

\*\*\* **G7 =** EUR, USD, JPY, GBP, CAD, AUD, CHF

\*\*\*\* Standard Bond Characteristics include (i) fixed coupon and (ii) constant notional.

**Liquidity Determination Table 1: Hybrid - Granular COFIA with IBIA Liquidity Gate – Reasoning:**

**Table 1 - MiFIR Level 1 Definition of a ‘Liquid Market’:**

For ICMA’s preferred approach, ‘Hybrid - Granular COFIA with IBIA Liquidity Gate’; Level 1 text of MIFIR, Article 2(17) explicitly foresees the ***use of average spreads*** to determine liquidity:

**MiFIR Level 1 states:**

**Article 2 (17) (a) (i) (ii) (iii):**

(17) ‘liquid market’ means:

(a) for the purposes of Articles 9, 11, and 18, a market for a financial instrument or a class of financial instruments, where there are ready and willing buyers and sellers on a continuous basis, and where the market is assessed in accordance with the following criteria, taking into consideration the specific market structures of the particular financial instrument or of the particular class of financial instruments:

(i) the average frequency and size of transactions over a range of market conditions, having regard to the nature and life cycle of products within the class of financial instrument;

(ii) the number and type of market participants, including the ratio of market participants to traded financial instruments in a particular product;

(iii) **the average size of spreads, where available**;

**Liquidity Determination Table 1: Hybrid - Granular COFIA with IBIA Liquidity Gate – Reasoning:**

**Table 1 - MiFIR Level 1 - Obligation to offer trade data on a separate and reasonable commercial basis:**

MiFIR clearly states below a requirement to collect pre- trade and post trade data, available on a reasonable commercial basis. ICMA considers there will be the necessary mechanism in place (to calibrate daily) and in time to be compliant with ESMA’s obligations regarding liquidity determination, to meet Table 1’s proposed methodology. Please refer to relevant MiFIR Level 1 wording below:

**MiFIR Level 1 states:**

**Title II - Transparency for Trading Venues**

**Chapter 3 - Obligation to offer trade data on a separate and reasonable commercial basis**

**Article 12.1**

**Obligation to make pre-trade and post-trade data available separately**

Market operators and investment firms operating a **trading venue shall make the information published** in accordance with Articles 3, 4 and 6 to 11 (MiFIR – Title II Transparency for Trading Venues) **available to the public by offering pre-trade and post-trade transparency data separately.**

**Article 13.1**

**Obligation to make pre-trade and post-trade data available on a reasonable commercial basis**

Market operators and investment firms operating a trading venue shall make the information published in accordance with Articles 3, 4 and 6 to 11 (MiFIR – Title II Transparency for Trading Venues) **available to the public on a reasonable commercial basis and ensure non- discriminatory access to the information.** Such information shall be made available free of charge 15 minutes after publication.

**TITLE III - Transparency for systematic internalisers and investment firms trading OTC**

**Article 14**

**Obligation for systematic internalisers to make public firm quotes in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments**

**Article 18.8**

**Obligation for systematic internalisers to make public firm quotes in respect of bonds, structured finance products, emission allowances and derivatives**

The quotes published pursuant to paragraph 1 and 5 (see below) and those at or below the size referred to in paragraph 6 (see below) **shall be made public in a manner which is easily accessible to other market participants on a reasonable commercial basis.**

Paragraph 18.1: Investment firms shall make public firm quotes in respect of bonds, structured finance products, emission allowances and derivatives traded on a trading venue for which they are systematic internalisers and for which there is a liquid market when the following conditions are fulfilled:

(a) they are prompted for a quote by a client of the systematic internaliser;

(b) they agree to provide a quote.

Paragraph 18.5: Systematic internalisers shall make the firm quotes published in accordance with paragraph 1 available to their other clients. Notwithstanding, they shall be allowed to decide, on the basis of their commercial policy and in an objective non-discriminatory way, the clients to whom they give access to their quotes. To that end, systematic internalisers shall have in place clear standards for governing access to their quotes. Systematic internalisers may refuse to enter into or discontinue business relationships with clients on the basis of commercial considerations such as the client credit status, the counterparty risk and the final settlement of the transaction.

Paragraph 18.6: Systematic internalisers shall undertake to enter into transactions under the published conditions with any other client to whom the quote is made available in accordance with paragraph 5 when the quoted size is at or below the size specific to the financial instrument determined in accordance with Article 9(5)(d).

**Note: Table 1 (unlike Table 2) has no implication for RTS 9**

**(II) Liquidity Determination Table 2: Granular COFIA w/tiered LIS and SSTI thresholds** **(calculation including trades below €100k)**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **LIS:**  **percentile of transactions in class** | **SSTI:**  **percentile of transactions in class\*** | **Issuance Size** | **Credit Rating** | **Currency** | **Time since issuance** | **Time to Maturity** | **Bond Characteristics** |
| **EU Sovereign Bonds** | | | | | | | |
| 75% | 35% | >= 2bn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| 75% | 35% | >=5bn outstanding | IG or IG equivalent | EUR | 4 weeks to 3 years | < 30 years | Standard |
| 75% | 35% | >=10bn outstanding | IG or IG equivalent | Non-EUR | 4 weeks to 3 years | < 30 years | Standard |
| **Non-EU Sovereigns** | | | | | | | |
| 75% | 35% | >=2bn outstanding | IG or IG equivalent | USD | Up to 4 weeks | < 30 years | Standard |
| 75% | 35% | >=2bn outstanding | IG or IG equivalent | JPY | Up to 4 weeks | < 30 years | Standard |
| 75% | 35% | >=5bn outstanding | IG or IG equivalent | USD | 4 weeks to 3 years | < 30 years | Standard |
| **Senior Corporate Bonds** | | | | | | | |
| 50% | 25% | >=750mn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| 50% | 35% | >=1.25bn outstanding | IG or IG equivalent | EUR | 4 weeks to three years | < 30 years | Standard |
| **Subordinate Corporate Bonds** | | | | | | | |
| 50% | 25% | >=500mn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| 50% | 25% | >=1bn outstanding | IG or IG equivalent | EUR | 4 weeks to 3 years | < 30 years | Standard |
| **Covered Bonds** | | | | | | | |
| 50% | 25% | >=750mn outstanding | IG or IG equivalent | G7\* | Up to 6 months | < 30 years | Standard |
| **Convertible Bonds (excluding contingent conversion bonds)** | | | | | | | |
| 75% | 35% | >=750mn outstanding | IG or IG equivalent | G7\* | Up to 6 months | < 30 years | Standard |

**\*Percentile of transactions in a class:** The trade size corresponding to the trade below which lies the percentage specified in (the above Table 2) of all the transactions executed for the relevant class of bonds.

**Liquidity Determination Table 2: Granular COFIA w/tiered LIS and SSTI thresholds (calculation including trades below €100k) - Reasoning:**

**Table 2 – ESMA Consultation Paper wording: 3.5 (35) (p. 100):**

35. ESMA is aware of the risks that might arise from COFIA. Therefore, ESMA intends to design it with an **appropriate level of granularity and will strive to remedy the possible weaknesses.** In particular, if some relatively illiquid instrument happens to be wrongly classified as liquid, it is important that the potential adverse impact on liquidity is mitigated by means of the waivers and deferrals for transactions that are large-in-scale ('LIS') or above the size specific to the instrument ('SSTI').

**Table 2 - Regulatory Technical Standard Amendment - RTS 9:**

Proposed modified wording (in *italics*):

**Article 11. 2 (a)**

The large in scale (LIS) size referred to in paragraph 1(a) of this Article, shall be determined as the trade size corresponding to the trade below which lies ~~90%~~ *the percentage specified in (ICMA’s Table 2)* of all the transactions executed for the relevant class of bonds; *~~and~~*

*~~(b) the trade size corresponding to the trade below which lies 70% of the total volume of the transactions executed for this class of financial instruments; and~~*

*~~(c) The large in scale threshold floor as provided for in Table 47 of Section 11 of Annex III for the corresponding class.~~*

**Article 11. 6**

The size specific to the financial instrument referred to in paragraph 1(b), shall be calculated as ~~50%~~ *the trade size corresponding to the trade below which lies the percentage specified in (ICMA’s Table 2) of all the transactions executed for the relevant class of bonds.*

**57.1.2.3 - Unintended consequences of false positives:**

It is important to understand the practical impacts for investors of inaccurate classification of instruments and trades as ‘liquid’ when they are in fact illiquid (false positives).  The risks of withdrawal of liquidity provision (liquidity crunch) and severe market volatility could materially damage the ability to trade in secondary markets.  In turn, loss of confidence in secondary markets might damage willingness to issue and invest in primary markets.  As ESMA knows, Capital Markets Union is probably the most important plank of the European Commission’s and European Union’s policy development over the next five years.  Our suggested ‘Hybrid’ approach is specifically designed to align ESMA’s Technical Standards as closely as possible to the Capital Markets Union agenda.

**Examples of Unintended Consequences of ‘False Positives’ in the Investor Community:**

**‘False Positive’ Example 1:**

Routinely, Asset Managers/Investment Managers receive client instructions to liquidate their portfolios in adverse risk conditions. This is contractually agreed between the asset manager portfolio manager and the client (pension funds, insurance companies or large corporates). The result can be two-fold: first they may not be able to liquidate at all, particularly now in a shrunken balance sheet environment. Secondly, the price may be so disadvantageous that it corrupts the funds’ performance.

**‘False Positive’ Examples 2:**

Public Funds are increasingly collateralised with OTC instruments such as bonds. E.g. Bond ETFs. Collateralisation is a daily and sometimes intraday process. If the collateral is advertised as liquid but is in fact, illiquid then this could put the underlying client at risk. This client could be a pension scheme or an insurance company or even a bank treasury (creating problems with balance sheets). Furthermore, the situation will create *forced* behaviour such as unavoidable buying and selling of bonds, resulting in more illiquidity in the market.

**‘False Positive’ Examples 3:**

Liquidity scores in Investment Managers:

Generally a senior portfolio manager at an Investment Manager must sign off on a liquidity score of a given fund. The individual security components have all been given a score, and an aggregate is produced for the client to review.

Hypothetically: A Fund has a liquidity score of 65% (using independent third-party service to ascertain the relative liquidity per individual ISIN). The client who has entrusted money, etc. will review and make informed decisions.

Investment Manager A has assigned a liquidity score of 65% to UCITS fund A. Additionally, Investment Manager B may have assigned a liquidity score of 55% to UCITS fund B. Fund A and Fund B hold the same amounts and same percentages of the specific securities (bonds in this example), but use different methodologies in calculating liquidity (hence different Liquidity scores). These methodologies are the tried and tested methodologies for the respective Investment Managers. Investment Managers discuss with their clients explaining to them; what they are holding and why and how the client can liquidate a certain ‘liquid’ portion, at the client’s request. In which case, the ‘liquid’ securities can be immediately sold, as they are not considered particularly price sensitive.

Now, in MiFID II ESMA introduces a classification allowing classes of bonds, (not individual securities) to be either liquid or illiquid based on pure COFIA. ESMA’s COFIA proposal identifies a large percentage of ‘false positives’, anywhere from 42% to 74%. Suddenly (under new MiFID II rules), the UCITS Funds above have new liquidity scores of perhaps 40% (for example). COFIA has changed the agreed Liquidity score and the data the client (together with the Investment Manager) made his ‘informed’ decision from.

So, what does this mean? The European client or end user (Pension Fund, State Treasury etc) as part of his fiduciary responsibilities may have made his decision to invest €100m based on a liquidity score of above 50%. This information and resulting decision is now incorrect. The Investment Manager immediately appears to be mis-managing the client’s funds. The client who has agreed he can liquidate perhaps 20% of his portfolio quickly, in time of need may at that time have to pay a very high price to execute, if that portion is in fact illiquid according to ESMA’s new rules. Therefore, the end user (EU Pension fund, EU Member State Treasury etc) is punished for the mis-calibrated ESMA simplified COFIA methodology.

All three examples highlight the dangers of ‘false positives’ and the threat to an EU functioning end user (EU Pension fund, EU Member State treasury, EU large corporate) based market. This is particularly relevant as Europe transitions closer towards a Capital Markets Union.

<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>

**ICMA response:**

ICMA disagrees moderately with ESMA’s bond class definitions in Section 1 of RTS 9. Please note the modified definitions in RTS 9.

**Regulatory Technical Standard Amendment - RTS 9:**

Proposed modified wording (in *italics*):

*Recital 11 should be amended, as follows:*

*"For the purposes of this Regulation, plain vanilla covered warrants, leverage certificates, exotic warrants, exchange-traded-commodities; exchange-traded notes, negotiable rights and structured medium-term-notes (and other structured debt securities) should be considered securitised derivatives. This is not meant to be an exhaustive list of securitised derivatives."*

Annex III:

1. *The definition of "bond" should be amended, as follows:*

*‘Bond’ means a transferable security that is constituted by an order, promise, engagement or acknowledgement to pay on demand, or at a determinable future time, a sum in money to, or to the order of, the holder of one or more units of the security. It includes depositary receipts representative of bonds falling within Article 4(1)(44)(b) of Directive 2014/65/EU which is not a structured finance product or a structured debt security.*

*(5) The definition of "convertible bond" should be amended, as follows:*

*‘Convertible bond’ means an instrument consisting of a bond or a securitised debt instrument with an embedded derivative, such as an option to buy the underlying equity acquire shares of an issuer or a member of the issuer's group.*

*Section 2:*

*The definition of "securitised derivatives" should be amended, as follows:*

*‘Securitised derivative’ means a structured debt security or a transferable security as defined in falling within Article 4(1)(44)(c) of Directive 2014/65/EU different from which is not a structured finance product.*

New Definitions:

*"Structured debt security" should be included, as follows:*

*"Structured debt security" means a transferable security falling within Article 4(1)(44)(b) of Directive 2014/65/EU with an embedded derivative which is not a convertible bond.*

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_69>

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

<ESMA\_QUESTION\_CP\_MIFID\_70>

**ICMA response:**

ICMA disagrees with the content of pre-trade transparency as we would like to add to the ‘content’ for consideration for pre –trade transparency. ICMA recommends that ESMA augment non- equities asset classes - “bonds, structured finance products, emission allowances and derivatives” to include: combinations of these asset classes or combination within these asset classes. This combination of asset class instruments are ‘package transactions’ (a transaction comprising two or more components, each of which is a *bond, structured finance product, or derivative* where:

* The components are priced as a “package” with simultaneous execution of all such components;
* The execution of each component is contingent on the execution of the other components;
* Each component must be able to stand alone and must be able to bear economic risk; and
* either:

1. the components are economically similar in nature such that the pricing of one component can affect the pricing of the other component; or
2. the components must have a reasonable degree of correlation;

We would welcome clarification from ESMA that all components of a package have to be tradeable on a single venue in order that the package be considered “traded on a venue”.

**Note:** the December 2014 MiFID II Consultation Paper does not address how these transactions might be treated under the new regulatory framework.  ICMA recommends recognising specific tailored treatment and understanding for ‘package transactions’ as follows:

1. ‘Package transactions’ should be considered in its entirety when being assessed as subject to transparency.
2. ‘Package transactions’ should be considered as assisting end users to reduce transaction costs. E.g. a single transaction (less expensive to execute than multiple transactions)
3. ‘Package transactions’ should be considered to contribute to managing execution risk. E.g. a single execution (alleviates timing and other mechanical/process risks)

The MiFIR Level 1 text clearly identifies non equities as asset classes: “bonds, structured finance products, emission allowances and derivatives”. However, both Level 1 and Level 2 fail to identify instruments that are combinations of these asset classes or combination within these asset classes. ‘Package transactions’ are such instruments and should be taken into consideration in pre -trade MiFIR Level 2 obligations. As ESMA has not identified these actively traded instruments in either MiFIR Level 1 or Level 2, ESMA has the scope and flexibility for the additional ‘package transactions’. Below are also suggested modifications to RTS 9 to include ‘package transactions’.

**Unintended consequences:**

If ESMA fails to provide for the appropriate trading of packages, investors will be required to trade the components independently, resulting in increased transaction costs and increased execution risks. There is considerable risk to market participants if such transactions are no longer available to market participants in the EU. This could be due to individual components being treated differently and inconsistently vs. each other: These challenges are likely to be particularly acute where one or more of the components of a package transaction include bonds subject to the trading obligation:

* Where some components of a package transaction are traded on a trading venue but others are not;
* Where some components of a package transaction are deemed liquid but others are not;
* Where some components of a package transaction are above the relevant LIS or SSTI thresholds but others are not;
* If the components of a package of transaction is below the relevant LIS or SSTI but together they behave similar to a single transaction above the LIS or SSTI; and
* Where the package transaction contains bonds or derivatives which trade on a different trading venue to other components

**Question 70 - Regulatory Technical Standard Amendment: RTS 9:**

Proposed modified wording (in *italics*):

**Article 2. 1 (a) (b), 2. 2 (a) (b), 2. 3, 2. 4**

*For the purpose of Article 8 of Regulation (EU) No 600/2014, market operators and investment firms operating a trading venue shall, in accordance with the trading system they operate, make public information in respect of bonds, structured finance products, emission allowances and derivatives as specified in Annex I.*

*1. Subject to point 3 below, if each component of a package transaction is liquid:*

*a. The package transaction should be considered liquid; and*

*b. If any one component is above the relevant threshold (LIS or SSTI) then the package transaction should be deemed to be above the threshold. \**

*2. Subject to point 3 below, if the package transaction contains liquid and illiquid components:*

*a. The package transaction should be considered illiquid; and*

*b. If any one component is above the relevant threshold (LIS or SSTI) then the package transaction should be deemed to be above the threshold. \**

*3. For the purposes of MiFIR Articles 8(1), 10(1), 18(1) and 18(2), all components of a package have to be tradable on a single venue in order that the package be considered “traded on a venue”.*

*4. If the package transaction comprises ten or more component legs, the package transaction should be considered illiquid.*

*\*The International Swaps and Derivatives Association’s response contains alternative formations of these two clauses. ICMA is supportive of both of the alternatives presented by The International Swaps and Derivatives Association.*

<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>

**ICMA response:**

Yes.  ICMA agrees (for the reasons ESMA provides) that securities financing transactions and primary market transactions should be exempt from the reporting requirement under Article 21.

<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>

**(1) deferral period set to 48 hours**

**ICMA response:**

ICMA observes that a deferral period of 48 hours in fixed income is shorter than the maximum deferral period available under MIFID 1 for equities.  It seems to be restrictive for very large or illiquid trades in fixed income, though this restriction may be compensated by effective and consistent operation of the extended deferral regimes. In addition, It is important for consistency of implementation across Europe (and to eliminate arbitrage and uncertainty) that ESMA does all it can to encourage all jurisdictions apply the same 48 hour period, and not expressed as ‘up to 48 hours’. In addition, to avoid trades done late on a Friday not benefitting from the necessary deferall, the deferral period should be set to 2 business days.

**(2) size specific to the instrument threshold set as 50% of the large in scale threshold**

**ICMA response:**

ICMA considers that it is inappropriate to set SSTI at such a high percentage of LIS, particularly for pre trade transparency. Such a high threshold will discourage liquidity provision. Furthermore, under the Systematic Internaliser obligations, a threshold of 50% means that two SSTI level trades would be executed before the firm has taken on risk equivalent to the LIS threshold, which would cause SI’s to limit the number of executions they will limit to very low levels that cannot have been the intention of MiFIR.

There is no rationale for choosing 50% (as opposed to another percentage) and its link to the LIS threshold means that the SSTI threshold is unlikely to result in 50% of trades in a sub-class actually falling below the SSTI threshold. Use of a 50% ratio does not appear to have factored in the elements required by MiFIR under article 5(d), specifically whether liquidity providers are able to hedge their risks, and the extent of retail participation (although we recognise the practical challenges of incorporating these factors).

Furthermore, as ESMA seems to view the waiver and deferral regimes as a way to reduce the detrimental impact of an illiquid instrument being incorrectly assessed as liquid, we urge ESMA to ensure that the LIS and SSTI thresholds are set at levels sufficiently low in order to compensate for inaccuracies in the liquidity calibration.

We propose instead that setting the SSTI at a level which covers a specified percentage of transactions (no higher than the median transaction size) would be more appropriate, though there may be potential for a higher level for post-trade transparency. The appeal of using a method based directly on the distribution of trade sizes is that ESMA can be sure that a predictable proportion of transactions in any liquid sub-class would be subject to pre-trade transparency, and would not experience deferred publication. We consider it would accord better with a normal market transaction at which liquidity providers could be reasonably expected to hedge their risks (as per MiFIR Article 9(5)(d). Furthermore, breaking the link to LIS would prevent the SSTI being skewed by individual, large transactions (which could result under ESMA’s current proposal for LIS calibration).

The relevant percentages that ICMA recommends using are shown in Table 2 below. For those classes where the COFIA results in the highest false positive rates of bonds determined to be liquid that are in fact illiquid (e.g. corporate bonds and covered bonds), we recommend that the relevant percentile be 25%, whilst for those classes where the COFIA achieves less poor classification (e.g. EU and non-EU sovereign bonds), we recommend that the relevant percentile be 35%. If ESMA is able to refine its COFIA such that it materially reduces false positive rates (as shown in column 8 of the table on page 104 of the Consultation Paper) below 20%, the relevant percentage used to set SSTI could be 50% (i.e. the median trade size for a given class).

**(3)  Volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9**

**ICMA response:**

ICMA agrees with ESMA’s proposals. But ESMA must use all trade sizes when calibrating LIS and SSTI, and should not consider excluding transactions below €100,000k.

**(4) pre-trade and post-trade thresholds set at the same size**

**ICMA response:**

As noted under Q77(3) above, ICMA considers that for pre trade transparency a level of 10% of LIS would be more appropriate, though there may be potential for a higher level for post-trade transparency.

**(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**.

**ICMA response:**

As described in our response to Q57, ESMA can compensate for weaknesses of its liquidity determination by setting LIS and SSTI at low levels. We were encouraged by the statements made in Paragraph 35 on page 100 of the Consultation Paper in this regard, since this is an important method of compensation. However, we are disappointed that ESMA has not in fact embedded this compensation into its proposals. LIS and SSTI are proposed by ESMA to be calibrated using the same methodology (in terms of percentiles of volumes and transactions) regardless of how granularly classes are defined or regardless of how many illiquid instruments are classified as liquid in a given class. For example, ESMA’s methodology is the same for the Bund Future (shown in Table 2 of Annex III of RTS9), which is a single instrument and for which the liquidity determination is accurate, as for covered bonds, a class for which table 5 on page 104 of the Consultation Paper identifies 74% of bonds labelled as liquid by ESMA are in fact illiquid (on ESMA’s test, which is itself questionable as to whether it meets the description of a liquid market).

ICMA proposes that ESMA calibrate LIS and SSTI differently depending on how good a fit COFIA achieves for any given class.

As an illustration of what this looks like in practice, we have repeated below Table 2 from our response to Question 57. The first column proposes different percentiles for different asset classes, with lower percentiles (the median trade size) to be used for the classes for which the COFIA delivers the least accurate results (although for no asset class, do we consider a threshold higher than the 75th percentile of transactions to be appropriate).

**Liquidity Determination Table 2: Granular COFIA w/tiered LIS and SSTI thresholds (calculation including trades below €100k)**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **LIS:**  **percentile of transactions in class** | **SSTI:**  **percentile of transactions in class** | **Issuance Size** | **Credit Rating** | **Currency** | **Time since issuance** | **Time to Maturity** | **Bond Characteristics** |
| **EU Sovereign Bonds** | | | | | | | |
| 75% | 35% | >= 2bn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| 75% | 35% | >=5bn outstanding | IG or IG equivalent | EUR | 4 weeks to 3 years | < 30 years | Standard |
| 75% | 35% | >=10bn outstanding | IG or IG equivalent | Non-EUR | 4 weeks to 3 years | < 30 years | Standard |
| **Non-EU Sovereigns** | | | | | | | |
| 75% | 35% | >=2bn outstanding | IG or IG equivalent | USD | Up to 4 weeks | < 30 years | Standard |
| 75% | 35% | >=2bn outstanding | IG or IG equivalent | JPY | Up to 4 weeks | < 30 years | Standard |
| 75% | 35% | >=5bn outstanding | IG or IG equivalent | USD | 4 weeks to 3 years | < 30 years | Standard |
| **Senior Corporate Bonds** | | | | | | | |
| 50% | 25% | >=750mn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| 50% | 25% | >=1.25bn outstanding | IG or IG equivalent | EUR | 4 weeks to three years | < 30 years | Standard |
| **Subordinate Corporate Bonds** | | | | | | | |
| 50% | 25% | >=500mn outstanding | IG or IG equivalent | EUR | Up to 4 weeks | < 30 years | Standard |
| 50% | 25% | >=1bn outstanding | IG or IG equivalent | EUR | 4 weeks to 3 years | < 30 years | Standard |
| **Covered Bonds** | | | | | | | |
| 50% | 25% | >=750mn outstanding | IG or IG equivalent | G7\* | Up to 6 months | < 30 years | Standard |
| **Convertible Bonds (excluding contingent conversion bonds)** | | | | | | | |
| 75% | 35% | >=750mn outstanding | IG or IG equivalent | G7\* | Up to 6 months | < 30 years | Standard |

(a) ICMA considers that thresholds should be recalculated annually using the above methodology.

(b) We agree with use of the 90th percentile of transaction sizes to calibrate the LIS since consideration of trade sizes is a methodology consistent with a natural reading of a “trade that is large in scale compared to normal market size”. We don’t consider that the threshold that covers 70% percent of volumes is an appropriate means of deriving a trade that is consistent with such a natural reading, appears to be an arbitrary method contrived in order to derive an extra-large number, and has the potential to be skewed by isolated extremely large transactions.

(c) There should be no LIS floor: there is no mandate in the Level 1 text to create such a floor, which would lead to a false LIS level.

(d) Rounding should be simple mathematical rounding to the nearest round figure. There should not be systematic rounding up of values, since this inappropriately skews outcomes. €100,000 trades or below should not be excluded from the assessment.

**Question 77 - Regulatory Technical Standard Amendment: RTS 9**

Proposed modified wording (in *italics*):

**Article 8 (1)**

The deferred publication of information in respect of transactions may be authorised by the competent authority in accordance with Article 11(1) of Regulation (EU) No 600/2014, for a period of *~~no longer than~~* 48 hours for bonds, structured finance products, derivatives and emission allowances, provided that one of the following criteria is satisfied:

**Article 11.2 (a) (c)**

The large in scale (LIS) size referred to in paragraph 1(a) of this Article, shall be determined as the greater of:

(a) the trade size corresponding to the trade below which lies ~~90%~~ *the percentage specified in (ICMA’s Table 2)* of all the transactions executed for this class of financial instruments; *~~and~~*

*~~(b) the trade size corresponding to the trade below which lies 70% of the total volume of the transactions executed for this class of financial instruments; and~~*

*~~(c) The large in scale threshold floor as provided for in Table 47 of Section 11 of Annex III for the corresponding class.~~*

(c) until 30 April 2018, the large in scale threshold floor as provided for in Table 47 of Section 11 of Annex III for the corresponding class.

**Article 11.3 (b) (c)**

The threshold determined in accordance to paragraph (2) shall be rounded ~~up~~ to the *nearest:*

*(a) 100,000 if the threshold value is smaller than 1 million;*

(b) 500,000 if the threshold value is equal to or greater than 1 million but smaller than 10 million;

(c) 5 million if the threshold value is equal to or greater than 10 million but smaller than 100 million;

*(d) 25 million if the threshold value is equal to or greater than 100 million~~.~~*

**Article 11.5**

The trade size, *nominal trades per day including trades below €100k)* and the total volume of the transactions referred to in paragraph 2(a) *~~and (b)~~* should be determined for the class in question as specified in Table 3 of Annex II of this Regulation.

**Article 11.6**

The size specific to the financial instrument referred to in paragraph 1(b), shall be calculated as *~~50%~~* ~~of the corresponding large in scale size as determined in accordance with paragraphs 2, 3, 4 and 5~~ *the trade size corresponding to the trade below which lies the percentage specified in (ICMA’s Table 2) of all the transactions executed for the relevant class of bonds.*

<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>

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<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>

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<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>

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<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>

**ICMA response:**

ICMA agrees that the framework of the supplementary deferral regime is consistent with the Level 1 text.  Given the international nature of capital markets, it will be important to encourage a consistent application of the supplementary deferral regime as possible, in order to minimise problems with cross-border transactions, and to promote a level playing field across Europe.

However, ICMA does not agree that 4 weeks’ deferral is long enough to enable firms to protect certain trades. Quite often in order to hedge a large trade, it takes firms much longer than 4 weeks. For trades that are both large and illiquid, a longer deferral period is necessary, we consider 12 weeks to be an acceptable minimum deferral for such trades.

<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>

**ICMA response - 84, (1), (2), (3):**

ICMA does not agree with ESMA’s proposal.   COFIA is unworkable for temporary suspensions: it would be necessary for the whole market in a class to collapse before a temporary suspension came into effect.  ESMA’s proposed 30 day look-back and opinion would come too late for the needs of market participants.  The measure needs to be able to come into effect immediately.  The approach based on 12 months’ previous activity may not be an accurate indicator, as markets may move significantly over a 12 month period (this may not be a ‘market event’, justifying temporary suspension).  In contrast, an increase in activity may be an indicator of a ‘market event’, justifying suspension.

<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>

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<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>

TYPE YOUR TEXT HERE

<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>

**ICMA response:**

ICMA disagrees with the exclusions from the definition of transaction or execution. There may be a difference in the implementation timing of MiFIR and the Securities Financing Transaction Regulation (“SFTR”), as well as potential exemptions from reporting under the SFTR which may not be carried through to the MiFIR reporting framework under the current draft of Article 3(3)(a) of RTS 32.

We do not consider that investment firms should be required to report SFTs under MiFIR for the period between MiFIR implementation and SFTR implementation, nor should they need to transaction report particular SFTs if such transactions are exempt from reporting under SFTR.  We therefore suggest redrafting Article 3(3)(a) in order to avoid any such consequences – we would suggest that the Article is re-drafted simply to read “Securities financing transactions”, and that an additional definition of “securities financing transaction” as is used in RTS 8 could be added to RTS 32 – namely “securities financing transactions means an instance of stock lending or stock borrowing or the lending or borrowing of other financial instruments, a repurchase or reverse repurchase transaction, or a buy-sell or sell-buy back transaction.

<ESMA\_QUESTION\_CP\_MIFID\_215>

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

<ESMA\_QUESTION\_CP\_MIFID\_216>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_225>

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

<ESMA\_QUESTION\_CP\_MIFID\_226>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_226>

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

<ESMA\_QUESTION\_CP\_MIFID\_227>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_227>

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

<ESMA\_QUESTION\_CP\_MIFID\_228>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_228>

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

<ESMA\_QUESTION\_CP\_MIFID\_229>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_229>

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

<ESMA\_QUESTION\_CP\_MIFID\_230>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_230>

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

<ESMA\_QUESTION\_CP\_MIFID\_231>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_231>

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

<ESMA\_QUESTION\_CP\_MIFID\_232>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_232>

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

<ESMA\_QUESTION\_CP\_MIFID\_233>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_233>

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

<ESMA\_QUESTION\_CP\_MIFID\_234>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_234>

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

<ESMA\_QUESTION\_CP\_MIFID\_235>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_235>

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

<ESMA\_QUESTION\_CP\_MIFID\_236>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_236>

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

<ESMA\_QUESTION\_CP\_MIFID\_237>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_237>

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

<ESMA\_QUESTION\_CP\_MIFID\_238>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_241>

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

<ESMA\_QUESTION\_CP\_MIFID\_242>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_242>

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

<ESMA\_QUESTION\_CP\_MIFID\_243>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_243>

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

<ESMA\_QUESTION\_CP\_MIFID\_244>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_244>

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

<ESMA\_QUESTION\_CP\_MIFID\_245>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_245>

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