European Securities and Markets Authority

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PRESS RELEASE

MiFID II – ESMA: no need to temporarily exclude ETDs from open access to trading venues and CCPs

The European Securities and Markets Authority (ESMA) sees no need to temporarily exclude exchange-traded derivatives (ETDs) from non-discriminatory access to central counterparties (CCPs) and trading venues, which will be introduced by the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR). MiFIR requires ESMA to assess whether ETDs should be exempted for a period of 30 months from the non-discriminatory access provisions.

ESMA's analysis found that open access to ETDs does not create undue risks to the overall stability and orderly functioning of European financial markets. As potential risks relating to open access are already addressed by the legislative frameworks of MiFID II, MiFIR and EMIR – the European Markets Infrastructure Regulation – ESMA proposed to the European Parliament and Council not to introduce an ETD specific phase-in regarding the access provisions of MiFID II.

Steven Maijoor, ESMA Chair, stated:

> "Trading venues and CCPs are important market infrastructures and crucial for well-functioning EU capital markets. Strengthening competition and choice between venues and CCPs is an important step to further the integration of the EU's capital markets. The open access provisions of MiFID II will help to achieve these goals for all instruments without creating undue risks to stability."

MiFIR introduces a regime for open and non-discriminatory access to CCPs and trading venues. These provisions cover:

- transferable securities;
- money market instruments; and
- ETDs.

This means that trading venues can clear their trades at the CCP of their choice and CCPs can access trade feeds from trading venues. Trading venues and CCPs may, however, deny access under certain circumstances as well as National Competent Authorities (NCAs) may refuse access to a particular CCP or trading venue. This is the case where granting such access would require an interoperability agreement for ETDs, or threaten the smooth and orderly functioning of the market – in particular due to liquidity fragmentation – or affect systemic risk.

In September 2015, ESMA has already submitted draft regulatory technical standards to the Commission further specifying the conditions under which access may be denied, the conditions under which access must be permitted and the conditions under which access will threaten the smooth and orderly functioning of the market.

Notes for editors

1. ESMA's mission is to enhance investor protection and promote stable and orderly financial markets.

   It achieves these objectives through four activities:
   1. assessing risks to investors, markets and financial stability;
   2. completing a single rulebook for EU financial markets;
   3. promoting supervisory convergence; and
   4. directly supervising specific financial entities.

2. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

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