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| 19 June 2017 | ESMA70-156-166 |

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| Reply form for the Consultation Paper on the trading obligation for derivatives under MiFIR |
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| Date: 19 June 2017 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on the trading obligation for derivatives under MiFIR, 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 properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type <ESMA\_ QUESTION\_MIFID\_TO\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* 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:

* if they respond to the question stated;
* contain a clear rationale, including on any related costs and benefits; and
* describe any alternatives that ESMA should consider.

**Naming protocol**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_MiFID\_TO\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA\_MiFID\_TO\_ESMA\_REPLYFORM or

ESMA\_MiFID\_TO\_ESMA\_ANNEX1

***Deadline***

Responses must reach us by **31 July 2017.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/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](http://www.esma.europa.eu) under the headings ‘Legal notice’ and ‘Data protection’.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Barclays |
| Activity | Banking sector |
| Are you representing an association? | ☐ |
| Country/Region | UK |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_MIFID\_TO\_0>

Barclays welcomes the opportunity to respond to ESMA’s consultation paper on proposed RTS to introduce a Trading Obligation under MiFIR.

We highlight in this section a summary of our more significant comments/concerns we have with the proposals. More detailed responses are included against the relevant questions, with the exception of where no specific question is raised in respect of a topic, in which case we set out our concerns here more fully.

**Executive Summary**

Timing

Although it may not be possible to introduce a conditionality provision into the formal text, we urge ESMA to recognise the very significant adverse impact on markets of imposing a trading obligation in advance of a finalised equivalence decision being in place for major 3rd country jurisdictions, in particular the US.

As a separate issue, we urge a modest delay of a month from the proposed date to mitigate the numerous technical and operational risks associated with a go-live on 3rd January 2018. We expand upon these in our response to Question13.

Scope of the Trading Obligation

We hold the view that instruments that are sufficiently liquid to trade under the Trading Obligation are represented by the same set that are currently subject to the US SEF MAT determination. We regard these instruments as adequately liquid within the EU market to meet the standard as a factual matter – the benefit of alignment to the US being operationally helpful but incidental. See further detail in our responses to Questions 6, 8 and 10.

Packages

We believe it is essential that ESMA provides clarity to the market on how the Trading Obligation will apply to package transactions well in advance of implementation. We set out below our more detailed recommendations for a practical outcome, especially given the prospective adverse impact on the new issue market of ESMA’s proposed position. The immediacy of this concern is qualified by the expectation that few packages will be liquid at the outset.

Large-in-scale trades

We believe in principle that there need be no size limit above which the Trading Obligation ceases to apply provided that appropriate pre-trade communication between counterparties is permitted off-venue for trades exceeding post-trade SSTI and a mechanism exists that does not interrupt efficient execution of larger trades. We expand upon this in our response to Question 2.

Intragroup transactions

It is necessary that transitional language is introduced to the RTS in order for firms to make use of the Level 1 intragroup exemption from the trading obligation. We set out below more detail on this point.

Suspension of the trading obligation

We support the comments made by ISDA in its response on the risk associated with the current absence of a mechanism for ESMA to suspend the trading obligation.

**Detailed Comments for issues for which no specific question is asked**

Packages

In the case of packages ESMA asserts in paragraph 103 that it feels obligated to apply the Trading Obligation at a component level, because the MIFIR text does not explicitly empower ESMA to adopt a more tailored regime for packages. We understand ESMA to mean by this that if a package contains several components, including one that is subject to the Trading Obligation, then, as a matter of rule, the Trading Obligation still applies to that component but to that component only. The other components may trade away from venues if it is practically expedient to do so. In practice, however, it likely is not, which results in a need for all components to trade on venue.

Our concern is that the Trading Obligation, if widely applied as described, interrupts/puts at risk the necessary contingent and simultaneous execution of all components of the package, which is most important in the case of packages made up of combinations including cash instruments ( such as bonds) as well as derivatives.

Following the precedent in the US, we take the view that

1. In the case where a package is made up solely of non exchange traded derivatives that are all subject to the Clearing Obligation, it can be assumed as a practical matter that these can all trade on a venue and accordingly if one component alone is subject to the Trading Obligation, the entire set can in practice trade on the venue. Venues would typically set themselves up to be able to execute these frequently traded combinations.
2. In the case where the package contains both a derivative subject to the Trading Obligation and a bond, this package (or any derivative component individually) should not be subject to the Trading Obligation and accordingly there should be no obligation to execute the otherwise mandated derivative on venue (except in the case of ‘spread overs” where the bond is a benchmark Treasury instrument). This approach is important in order to preserve the proper working of the new issue and asset swap markets. Although this relief in the US is at present temporary, it is our expectation that the CFTC will in due course recognize the need that this relief be permanent and establish it by rule.

It is worth noting also that in the new issue circumstance the inclusion of the +5/-5 days criteria in the Trading Obligation likely brings into scope more swaps executed against new issues than if this was limited to truly benchmark dates only. This increases the importance of obtaining relief outlined above. We see no reason to include the +5/-5 day criteria. The definition of spot is clear on any given day. If the regulatory concern is avoidance, adequate other powers exist to enforce this. Without intrinsic justification based on trade frequency of the wider set, it seems inappropriate to mandate a Trading Obligation as the means to mitigate avoidance.

1. We also agree with the CFTC’s current position that when a component derivative is not subject to the Clearing Obligation but is part of a package, the consequence should be that no part of that package should have to trade on venue.

Accordingly we urge ESMA to permit a swap otherwise subject to the Trading Obligation to be executed away from a venue if a component of a package is a bond or other security instrument, or if a component is not subject to the clearing obligation. Please see our response to Question 13 on the implications for implementation timing should ESMA disagree with this proposal.

Intragroup Transactions

We are concerned that the exemption from the derivative Trading Obligation that is permitted under MiFIR Article 28 for intragroup transactions will not in practice be made available to firms as of January 2018. The exemption refers to intragroup transactions as defined in Art 3 of EMIR. Where one of the counterparties to a transaction between two entities in the same group is established in a third country, Art 3 of EMIR permits such transactions to qualify as “intragroup” only where the EC has adopted an equivalence decision for the relevant jurisdiction under EMIR Art 13(2). To date, no such equivalence decisions have been adopted. Under EMIR, both the clearing obligation and margin rules leverage the same intragroup definition. Acknowledging that while the EC had not completed any of the requisite equivalence decisions firms would be prevented from making legitimate use of the available exemptions, in the RTS submitted by ESMA/the ESAs for both the clearing obligation (Recital 12, Art 3(2)) and margin rules (Recital 40, Art 36(2)) specific transitional provisions allowing for up to a 3 year deferral were included. As the same conditions apply for the MiFIR trading obligation we ask ESMA to include the same transitional periods in the final RTS when submitted to the EC for adoption.

<ESMA\_COMMENT\_MIFID\_TO\_0>

1. Do you agree with ESMA’s assessment and proposed way forward for the criteria assessing the number and types of active market participants? If not, please explain your position and how you would integrate these elements into the liquidity test.

<ESMA\_QUESTION\_MIFID\_TO\_1>

Barclays endorses the response submitted by ISDA.

<ESMA\_QUESTION\_MIFID\_TO\_1>

1. Do you agree with the revised proposal not to exempt post-trade LIS transactions? If not, please explain and present your proposal.

<ESMA\_QUESTION\_MIFID\_TO\_2>

ESMA’s revised proposal has the policy benefit of bringing all trades in the designated instrument under the mandate by having these be executed in every case subject to the rules of the relevant venue. Although these policy benefits are arguably muted given the application of waivers, on balance we support ESMA’s proposed approach subject to the important condition below.

It is universally the case that venues allow certain levels of negotiation to take place outside the venue’s formal execution protocols where trades are so large as to benefit from such pre trade communications because the venue protocols are not an appropriate means for a negotiation between parties. We do not agree with the statement made in paragraph 97 that “given the flexibility of trade execution provided in MIFIR it does not appear necessary to exempt large trades from the Trading Obligation” unless that flexibility in turn allows for pre trade communications in certain instances. Simply because MIFIR allows Request For Quote (and indeed Voice) as a Trading System does not in our view preclude the need for such bilateral engagement between a market maker and its client in the case of very large trades. On venue Request for Quote is not well designed to operate as a negotiating process, or for execution of large orders. Accordingly we can support the extension of the Trading Obligation to all transaction sizes only if ESMA recognises the permissibility in such cases for an appropriate degree of dialogue / negotiation between the parties. As in the case of the US SEF rule, assuming the mandate applies, the trade must then procedurally be executed on the venue at the previously negotiated price.

This ability to negotiate away from the venue’s Trading System should be limited to trades of a size that justify the need for this. Of the trade sizes articulated /available in MIFIR we consider post trade SSTI to be the most appropriate level and that accordingly ESMA should allow venues’ rule books to accommodate this activity in such cases.

<ESMA\_QUESTION\_MIFID\_TO\_2>

1. Do you agree with this proposal? If not, please explain why and provide an alternative proposal for ESMA to populate and maintain the register.

<ESMA\_QUESTION\_MIFID\_TO\_3>

We agree with the proposals but would welcome clarification from ESMA as to when the register would be first published. With reference to our observations on implementation timing in response to Question 13, it would be preferable for the first version of the register to be made available to market participants some time before the obligation first applies, to allow for adequate time for firms to make any necessary updates to their internal systems and controls, and communicate as required to clients. As venues can only technically become OTFs as of 3rd January 2018, we would anticipate that the first version of the register could not be published until this date at the earliest and hence believe the Trading Obligation cannot commence on this same date.

We would also welcome clarification from ESMA that trades with embedded optionality (such as cancellable or extendable swaps) should not be included in the trading mandate.

<ESMA\_QUESTION\_MIFID\_TO\_3>

1. Do you agree with this proposal? Would you add other parameters e.g. day count convention of the floating leg, notional type (constant vs. variable), fixed rate type (MAC vs. MAC)? If yes, please explain why and provide the parameters.

<ESMA\_QUESTION\_MIFID\_TO\_4>

Barclays does not agree that is it necessary to include trades within a +/- 5 day parameter of the benchmark tenors in the mandate. We endorse the response submitted by ISDA to this question. Please also refer to our comments under packages above.

<ESMA\_QUESTION\_MIFID\_TO\_4>

1. For each Case, specify if you agree with the proposal of qualifying the sub-classes as liquid for the purpose of the trading obligation and if not, please explain why and provide an alternative proposal

<ESMA\_QUESTION\_MIFID\_TO\_5>

In response to the questions following that seek to identify views on the precise scope of the Trading Obligation under MIFIR, it is our position that the appropriate scope is represented by those same trade structures currently subject to the mandate under the CFTC in the US.

Accordingly we agree that the sub-classes set out in Cases A1 and A2 are currently suitably liquid to be subject to the Trading Obligation.

<ESMA\_QUESTION\_MIFID\_TO\_5>

1. Would you also consider any of these possible sub-classes as liquid? Which other combinations of fixed leg payment frequency and floating leg reset frequency specifically would you consider to be sufficiently liquid?

<ESMA\_QUESTION\_MIFID\_TO\_6>

The set of instruments in table A3 and A4 should be omitted from the mandate where the floating rate tenor is not compounded or paid with a frequency that aligns with that tenor. We believe ESMA has erred in believing these to be included in the US trading mandate. Only swaps where the floating leg reset period matches the floating leg tenor should be considered for the trading mandate. The combinations in table A3 and A4 that replicate those in Table A1 or A2 should of course be in the mandate.

See our response to Question 10, which response applies equally to Swaps in Euros, Dollars and Sterling. <ESMA\_QUESTION\_MIFID\_TO\_6>

1. For each Case, specify if you agree with the proposal of qualifying the sub-classes as liquid for the purpose of the trading obligation and if not, please explain why and provide an alternative proposal.

<ESMA\_QUESTION\_MIFID\_TO\_7>

Barclays endorses the response submitted by ISDA in respect of Case C1-C2, but would also support that the additional tenors set out in Cases C5-C8 could be added to Cases C1-C2, reflecting our position that the US mandate represents the appropriate scope of the mandate under MIFIR.

We also request that ESMA clarifies that for IMM starting trades the start date intended to be captured is those starting on the next IMM date (i.e. IMM+1) and next but one (IMM+2), in line with the current US mandate.

Any structure set out in table C5 -C8 that misaligns the floating rate tenor with its reset frequency should be excluded from the Trading Obligation.

<ESMA\_QUESTION\_MIFID\_TO\_7>

1. Would you also consider any of these possible sub-classes as liquid? Which other combinations of fixed leg payment frequency and floating leg reset frequency specifically would you consider to be sufficiently liquid?

<ESMA\_QUESTION\_MIFID\_TO\_8>

Subject to our comments below on floating leg mismatches also made in relation to the other currency rate swaps, we agree that the sub-classes set out in Cases C5 – C8 are currently suitably liquid to be subject to the trading obligation, including in the various tenors in red.

Although we recognize that the tables setting out what instruments are included in the US SEF Mandate do, in the interest of brevity, also conflate a number of tenors and payment frequencies, it is our clear understanding that a rate swap with a payment or compounding frequency on the floating rate side that is anything other than the tenor of the floating rate itself falls outside the US SEF mandate. For example, a six month libor rate, reset and/or paid quarterly, is rightly not in the US mandate since this is in fact a completely different risk profile from the case where floating rate tenor and payment frequency are aligned, involving more complex pricing factors that result in this structure only trading by appointment. Nor do these structures in fact trade with any frequency at all.

The text of paragraph 139 suggests ESMA may have interpreted such structures to be included in the US mandate. To the extent that the structures in C5-C8 are the same as in C1 to C4, these of course can appropriately be included in the Trading Obligation, but to the extent these tables include other structures – involving mismatches of floating rate tenors and payment of compounding frequency - these should be excluded from the Trading Obligation.

<ESMA\_QUESTION\_MIFID\_TO\_8>

1. For each case, specify if you agree with the proposal of qualifying the sub-classes as liquid for the purpose of the trading obligation and if not, please explain why and provide an alternative proposal.

<ESMA\_QUESTION\_MIFID\_TO\_9>

It is our view that in respect of the structure and tenors of sterling interest rate swaps set out in Case D1, all of these – including the tenors set out in red text – can appropriately be subject to the Trading Obligation. These tenors are subject to the US SEF Trading mandate and we have experienced no difficulties in that context.

We also agree that the sterling rates swaps set out in Case D2 - being the same tenors as D1 but with three month Libor as the floating rate index - should be included in the Trading Obligation.

Many market makers stream indications to their clients in all these maturities on venues today.

<ESMA\_QUESTION\_MIFID\_TO\_9>

1. Would you also consider the possible sub-classes here below as liquid? Which other combinations of fixed leg payment frequency and floating leg reset frequency specifically would you consider to be sufficiently liquid?

<ESMA\_QUESTION\_MIFID\_TO\_10>

We assume this question refers to the instruments set out in Cases D3 and D4.

We repeat our answer to the earlier questions that raise the same issue. Although we recognize that the tables setting out what instruments are included in the US SEF Mandate do, in the interest of brevity, also conflate a number of tenors and payment frequencies, it is our clear understanding that a rate swap with a payment or compounding frequency on the floating rate side that is anything other than the tenor of the floating rate itself falls outside the US SEF mandate. For example, a six month libor rate, reset and/or paid quarterly, is rightly not in the US mandate since this is in fact a completely different risk profile from the case where floating rate tenor and payment frequency are aligned , involving more complex pricing factors that result in this structure only trading by appointment. Nor do these structures in fact trade with any frequency at all.

The text of paragraph 146 suggests ESMA may have interpreted such structures to be included in the US mandate. To the extent that the structures in D3 and D4 are the same as in D1 and D2, these of course can appropriately be included in the Trading Obligation, but to the extent these tables include other structures – involving mismatches of floating rate tenors and payment of compounding frequency - these should be excluded

<ESMA\_QUESTION\_MIFID\_TO\_10>

1. Do you agree with this proposal? If not, please explain why and provide an alternative proposal.

<ESMA\_QUESTION\_MIFID\_TO\_11>

We agree with ESMA’s analysis and support the proposal that the EU Trading Obligation should not extend to JPY libor swaps, as these are far less commonly traded in the EU than USD, EUR and GBP swaps.

<ESMA\_QUESTION\_MIFID\_TO\_11>

1. Do you agree with this proposal? If not, please explain why and provide an alternative proposal

<ESMA\_QUESTION\_MIFID\_TO\_12>

We agree with ESMA’s proposal to include the first off-the-run series as this is consistent with the US mandate but would note that there is often not deep liquidity in this series. However, we are concerned that ESMA does not currently have an ability to suspend the Trading Obligation should liquidity diminish, to which end we endorse the comments submitted by ISDA.

<ESMA\_QUESTION\_MIFID\_TO\_12>

1. Do you agree to the proposed timeline? If not, please explain why and present your proposal.

<ESMA\_QUESTION\_MIFID\_TO\_13>

We have significant concerns regarding the proposed timelines for implementation. As noted in our introductory summary comments, we have particular concerns regarding the potential for a Trading Obligation being introduced without prior favourable venue equivalence determinations being in place for major jurisdictions, notably the US. Should a positive equivalence decision not be formalised and confirmed to the market in advance of the Trading Obligation implementation date, many market participants will require very significant lead time – in excess of a year - to prepare and execute contingency plans to allow them to remain present as market makers in instruments where there is a conflict of laws. The consequence of implementing a conflicting European derivatives Trading Obligation without sufficient time to implement contingency plans is that European market makers will need to consider ceasing trading any derivatives which are subject to both the European and US Trading Obligations with all US persons.

Even if equivalence decisions are formalised and communicated to the market sufficiently in advance of the implementation date, we caution against adopting the proposed 3rd January 2018 implementation date for a range of technical and operational reasons.

1. Firstly, OTFs as a category of trading venue will only come into existence as of this date, and hence in order to be prepared to permit trading on such venues for products subjected to the mandate firms will require time to confirm the regulatory status of such venues and configure their internal systems and controls. They will also require time to communicate with clients on which venues they will be able to interact to execute in scope products. Firms and clients will also require lead time to review and accept the rulebooks of OTFs which are only expected to be made available from Q4 2017. Even venues currently authorised as MTFs will be required to make widespread changes to implement MiFID2/MiFIR from January 2018. We support ESMA’s proposal to publish a register of venues which firms can use to satisfy the trading obligation, but are unclear when this register will first be published, and the format it will take, and as such are concerned about the ability of all impacted market participants to consume and apply the information ready for start of trading on the 3rd January.
2. As noted in our introductory comments, we believe it is essential that ESMA provides in its final report further clarity on how the trading obligation must apply to package transactions. Absent this clarity firms cannot prepare with certainty with the time available until January 2018. Should ESMA not agree with our suggested scope as outlined above, and decide instead to include in the scope of the mandate packages which are not currently capable of being traded on venue then it is essential that an additional delay of many months be added to the implementation timeline to allow for venues in the EU to develop and test with market participants solutions that will permit the continued trading of such packages from the point in time when the trading mandate is in force.
3. We are supportive of replicating the overall counterparty classification structure as applied under the EMIR clearing obligation to introduce a form of phase-in for the MiFIR trading obligation. However, under EMIR, the clearing obligation has been staggered such that Cat 1 and Cat 2 counterparties have become subject to the mandate at different times. This has allowed for a phase-in that permits a smaller number of the most sophisticated market participants to go-live and complete and bed-in the required documentation, systems and controls before expanding the mandate to the much larger group of counterparties included in Cat 2. As currently proposed, all Cat 1 and Cat 2 counterparties would be subject to the Trading Obligation on a single day, 3rd Jan 2018, which date is also the implementation date for a huge number of other MiFID2/MiFIR rules for which the market is required to make significant preparatory adjustments and system updates. We defer to Cat 2 entities to opine on whether they will be ready by January 2018.
4. There are significant inter-related changes which go live on this same day. In particular, the clearing STP rules as specified in RTS 26 will go live, which will introduce new workflow and technology requirements for cleared derivatives, of which those now proposed for inclusion in the Trading Obligation are a sub-set. Should there be any issues with this go live at in scope firms, middle-ware, CCPs or venues, the application of a trading mandate effectively removes the ability of firms to resort to OTC bilateral trading with the current workflow to submit trades to clearing. Additionally, firms will have had very little time to test fully the end to end workflow associated with a trading mandate, especially on top of the significant range of other venue testing that must be completed in H2 2017, magnifying the risks of adding a 3rd January implementation date for the Trading Obligation.

As such, even if the equivalence issues noted above are resolved, we would urge that the final RTS include at least a small delay of a month to the initial implementation date, with it commencing at the earliest on 5th February 2018.

<ESMA\_QUESTION\_MIFID\_TO\_13>

**CBA QUESTIONS**

1. This first question aims at identifying the category of firm/entity you belong to. Please provide the total notional amount traded in derivatives (trading venues + OTC) in 2016 in thousands euros and the related total number of trades in the relevant boxes

<ESMA\_QUESTION\_MIFID\_TO\_14>

|  |  |  |  |
| --- | --- | --- | --- |
| **Category** | **Number of employees** | **Total Notional traded 2016 (in thousands euros)** | **Total number of trades 2016** |
| **EMIR Category 1** | **[1-50]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[51-250]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[251-1000]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **>1000** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **EMIR Category 2** | **[1-50]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[51-250]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[251-1000]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **>1000** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **EMIR Category 3** | **[1-50]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[51-250]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[251-1000]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
|  | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **EMIR Category 4** | **[1-50]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[51-250]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[251-1000]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **>1000** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **Trading Venue** | **[1-50]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[51-250]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **[251-1000]** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **>1000** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_TO\_14>

1. Based on the draft RTS, which percentage of your derivative trading (notional amount and number of trades) do you expect to be captured by the TO? Please provide the data for derivatives globally, and then for interest rate derivatives and for credit default swaps, using 2016 trading data?

<ESMA\_QUESTION\_MIFID\_TO\_15>

|  |  |
| --- | --- |
| **% of trading captured by the TO** | **Year 2016** |
| % of total notional amount traded in derivatives captured by the TO | TYPE YOUR TEXT HERE |
| % of total number of transaction in derivatives captured by the TO | TYPE YOUR TEXT HERE |
| % of total notional amount traded in interest rate derivatives captured by the TO | TYPE YOUR TEXT HERE |
| % of total number of transactions in interest rate derivatives captured by the TO | TYPE YOUR TEXT HERE |
| % of total notional amount traded in credit default swaps captured by the TO | TYPE YOUR TEXT HERE |
| % of total number of transactions in credit default swaps captured by the TO | TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_TO\_15>

CBA Questions 16 and 17 are to be answered by investment firms and significant non-financial counterparties

1. Out of the trading activity expected to be captured by the TO, as identified under Q2, which % is already traded on an EU regulated market, an EU Multilateral Trading Facility (MTF), a US Swap Execution Facility (SEF) or another third-country trading venue?

<ESMA\_QUESTION\_MIFID\_TO\_16>

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Trading activity expected to be captured by the TO** | **Traded on a regulated market** | **Traded on an EU MTF** | **Traded on a US SEF** | **Traded on another 3rd country venue** |
| **% of total trading volume captured by the TO already traded on an EU trading venue, a US SEF or another third-country venue** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| **% of total number of transactions captured by the TO already traded on an EU trading venue, a US SEF or another third-country venue** | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_TO\_16>

1. Compliance with the TO may require some further trading arrangements. Which of the following statement would you consider relevant regarding the steps you might be taking to that end?Please add any comment as appropriate.

<ESMA\_QUESTION\_MIFID\_TO\_17>

|  |  |  |  |
| --- | --- | --- | --- |
| Arrangements contemplated to comply with the TO | Yes | No | Comments |
| 1. Current membership/Direct Electronic Access (DEA) arrangements are sufficient to comply with the TO | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| 2. I intend to become a member/ participant/client of one (or multiple) EU trading venues for the first time | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| 3. I intend to become a member/participant/client of additional EU trading venues | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| 4. I intend to seek access to EU trading venues through Direct Electronic Access (DEA) | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| 5. I intend to combine membership (2.or 3) with DEA (4.) | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| 6. I am considering other arrangements;  Please explain those arrangements in the Comments section | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_TO\_17>

**CBA Question 18 is to be answered by trading venues**

1. Question 5: Which of the derivatives subject to the TO, based on the draft RTS, are currently available for trading on your trading venue? Do you consider extending trading on your venue to other derivatives subject to the TO?

<ESMA\_QUESTION\_MIFID\_TO\_18>

|  |  |
| --- | --- |
| **Derivatives potentially subject to the TO currently available for trading on your venue** | **Derivatives potentially subject to the TO that may become available for trading on your venue** |
| TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_TO\_18>

**CBA Questions 19 to 22 are to be answered by all respondents**

1. Based on the draft RTS, which impacts do you expect from the TO in the short and medium term? Please elaborate as appropriate under Positive or Negative impact.

<ESMA\_QUESTION\_MIFID\_TO\_19>

|  |  |  |
| --- | --- | --- |
| TO Impact | Positive Impact | Negative impact |
| Impact on your business model/ organisation/ client relationship | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| Impact on your revenues | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| Impact on market structure (e.g. principal vs. agency trading etc). | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| Impact on market liquidity and execution costs. | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| Other impacts. Please elaborate | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_TO\_19>

1. Is there any specific provision in the draft RTS that you would expect to be a source of significant cost? If so, please elaborate.

<ESMA\_QUESTION\_MIFID\_TO\_20>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MIFID\_TO\_20>

1. Please provide an indication, even a rough one, of compliance costs (in thousands of euros).

<ESMA\_QUESTION\_MIFID\_TO\_21>

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Draft RTS on the TO | a. IT costs | b. Training costs | c. Staff costs | d. Other costs (please identify) | Total costs ( if a., b, c or d. are not available separately |
| One-off costs | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |
| Recurring costs (on an annual basis} | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE | TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_TO\_21>

1. Taking into account the size of your firm, would you qualify overall compliance costs with the draft RTS as low, medium or high?

<ESMA\_QUESTION\_MIFID\_TO\_22>

|  |
| --- |
| Please enter here “Low”, “Medium” or “High”  TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_TO\_22>