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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 | Bloomberg |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |  |
| Country/Region | UK |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_MIFID\_TO\_0>

Bloomberg welcomes the opportunity to comment on ESMA's proposals for a draft regulatory technical standard (RTS) to implement the trading obligation for derivatives under MIFIR. As ESMA finalises its work we would like to make a limited number of comments and suggestions, which we think would improve the RTS from the perspective of both market participants and regulators.

In summary, Bloomberg wishes to see the smoothest possible implementation of the trading obligation and we strongly believe that this calls for:

(i) Safeguarding liquidity through international consistency: A smooth implementation of the trading obligation will be hampered if the new EU rules conflict with the requirements of other jurisdictions. We therefore strongly support ongoing efforts by EU and third country regulators to reach mutual recognition and cooperation agreements in order to avoid fragmentation of liquidity.

(ii) Clarity: To implement the RTS correctly market participants need to be certain about what the rules actually require. This necessitates a sufficient level of granularity. For this purpose we have highlighted, in response to question 4, certain fields, which we think could be clarified further, so that market participants have additional certainty on the scope of the trading obligation.

(iii) Lead-time: Even if there is a high degree of international consistency and sufficient granularity in the rules, the smooth implementation of the trading obligation will likely be impaired unless market participants have adequate time to design solutions to implement the requirements.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

Bloomberg supports a trading obligation that specifies swap parameters in detail in order to avoid confusion and unnecessary errors in the market place. We therefore suggest that the fields below should be included in the RTS itself to the extent possible in order to provide maximum clarity to market participants on the product scope of the trading obligation.

At present some of these parameters are set out in the consultation document as part of the explanation of the proposed product scope but it would be useful if they would also form part of the RTS legal text.

* Currency
* Floating Rate Index
* Trade Start Type
* Maturity
* Rolls
* Optionality
* Dual Currencies
* Notional type
* Fixed Leg Rate (i.e. par, standard coupon…etc.)
* Tenor(s)
* Holiday Calendar(s)
* Business Day Convention
* Fixed Leg
  + Payment Frequency
  + Day Count Convention
* Floating Leg
  + Payment/Reset Frequency
  + Day Count

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>