

22 City Road
Finsbury Square
London EC1Y 2AJ

Tel: +44 (0) 20 7448 7100
Email: info@pimfa.co.uk
Website: www.pimfa.co.uk

CONSULTATION ON MAR REVIEW PIMFA RESPONSE

Q1: Do you consider necessary to extend the scope of MAR to spot FX contracts? Please explain the reasons why the scope should or should not be extended, and whether the same goals could be achieved by changing any other piece of the EU regulatory framework.

Whilst we understand why an extension of the MAR regime to spot FX contracts has been suggested, we agree with ESMA that this is not necessary at this stage, for the reasons laid out by ESMA in paras 15 and 16.

In particular, the fact that the FX Global Code of Conduct has proven successful so far and is due to be reviewed next year is a strong argument in favour of a “wait and see” approach.

Q2: Do you agree with ESMA’s preliminary view about the structural changes that would be necessary to apply MAR to spot FX contracts? Please elaborate and indicate if you would consider necessary introducing additional regulatory changes.

We agree with ESMA’s preliminary view about the structural changes that would be needed to apply MAR to spot FX contracts.

Even if the changes were to be brought about, we would be against the inclusion under the MAR/MIFID/MIFIR regime of spot FX contracts traded by or on behalf of retail clients.

The point made by ESMA on para 22 about NCAs incurring significant costs in implementing the MAR regime extension to spot FX could well apply to regulated entities – and in particular to retail investment firms.

The knock-on impact (cost of development) for MiFIR transaction-reporting and market abuse surveillance IT systems appears to be disproportionate to the real risk of retail clients being able to abuse the spot-FX market.

Retail clients generally only engage in spot FX trades where purchasing assets which are valued in a currency different from their home currency. In our view, criminals wanting to abuse currency markets through retail-size transactions would rarely find the spot FX market “commercially viable” for their activities, and would most likely use FX derivatives, which are already caught by MAR.

PIMFA – 26/11/2019

The Personal Investment Management & Financial Advice Association (PIMFA) is the leading trade association for firms that provide investment services and financial advice to everyone from individuals and families to charities, pension funds, trusts and companies.

Our objective is to create the best possible operating environment for our member firms to deliver their services and meet client’s needs. PIMFA also leads the debate on policy and regulatory recommendations to ensure that the UK remains a global centre of excellence in the investment services and financial advice arena.

PIMFA was created in 2017 as the outcome of a merger between the Association of Professional Financial Advisers (APFA) and the Wealth Management Association (WMA) with a history as a trade association since 1991.