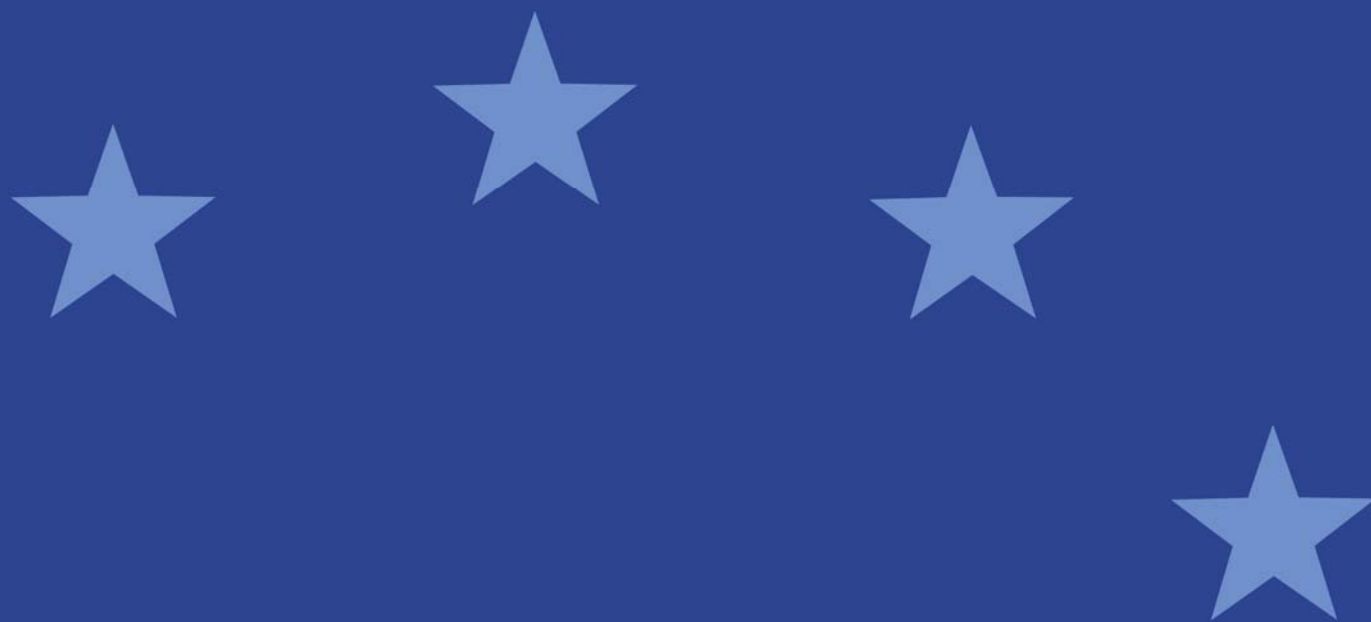


Reply form for the Consultation Paper on MiFID II/ MiFIR review report on the transparency re- gime for non-equity and the trading obligations for derivatives



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the Consultation Paper on the transparency regime for non-equity instruments and the trading obligations for derivatives MiFID II/ MiFIR review report 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_CP_MIFID_NQT_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;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

Naming protocol

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

ESMA_CP_MIFID_NQT_NAMEOFCOMPANY_NAMEOFDOCUMENT.

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

ESMA_CP_MIFID_NQT_ESMA_REPLYFORM or

ESMA_CP_MIFID_NQT_ANNEX1

Deadline

Responses must reach us by **19 April 2020**.

All contributions should be submitted online at 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 under the headings 'Legal notice' and 'Data protection'.

General information about respondent

Name of the company / organisation	Deutsche Bank AG
Activity	Banking sector
Are you representing an association?	<input type="checkbox"/>
Country/Region	Germany

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_CP_MIFID_NQT_1>

Deutsche Bank welcomes the opportunity to provide feedback to ESMA's review of the effectiveness of the non-equity transparency regime and the derivatives trading obligation (DTO) in the Markets in Financial Instruments Regulation (MiFIR).

The non-equity transparency regime introduced by MiFIR in early 2018 has required extensive implementation efforts by all market participants and given the broad scope of the regime, certain areas of the legislation are in need of recalibration. Any changes to the regime should take into consideration the need for a careful calibration of transparency obligations and liquidity provision in non-equity markets and should be based on robust impact assessments and extensive consultation with market participants.

The pre-trade transparency regime has created limited client demand for this type of data from systematic internalisers (SIs). Rather than introducing changes to the pre-trade regime, the added value of the data for end investors and its relevance for price formation should be considered. The focus of the review of the MiFIR transparency requirements should be on the harmonisation and simplification of the post-trade transparency regime as well as on measures to enhance data quality through data standardisation and more extensive use of third-party data.

Additionally, the ability for SIs to anonymise their reporting of reference data to national competent authorities (NCAs) should be revisited. The current regime undermines the transparency regime for non-equity instruments by making public the type of instrument/trade being traded by an SI without any possibility for a deferral.

Lastly, the extraterritorial application of the derivatives trading obligation in MiFIR and the potential for conflicting trading obligations in the absence of equivalence decisions which should be addressed urgently in the context of Brexit.

<ESMA_COMMENT_CP_MIFID_NQT_1>

Q1. What benefits or impacts would you see in increased pre-trade transparency in the different non-equity markets? How could the benefits/impacts of such pre-trade transparency be achieved/be mitigated via changes of the Level 1 text?

<ESMA_QUESTION_CP_MIFID_NQT_1>

Deutsche Bank does not see additional benefit in increasing pre-trade transparency in non-equity markets, rather we recommend that concept of pre-trade transparency for Systematic Internalisers (SIs) in non-equity markets should be reviewed

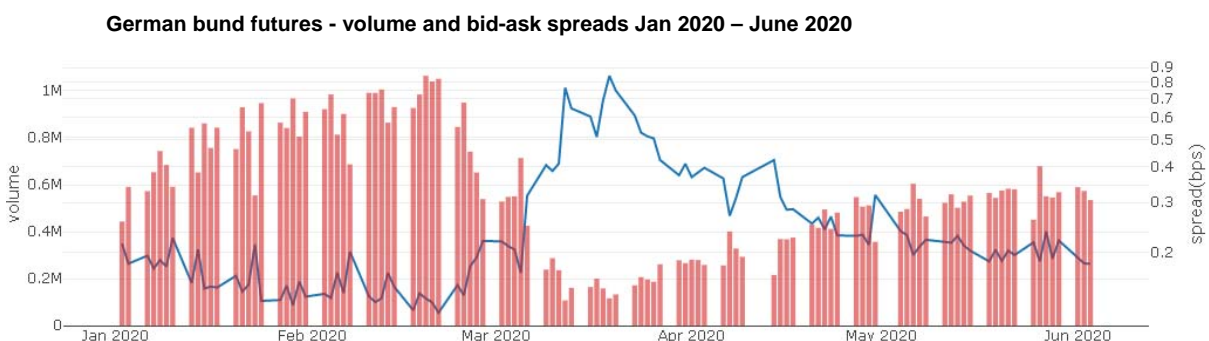
The newly introduced transparency requirements in MiFIR have not created client demand for pre-trade information from SIs. SI clients, which are mostly professional clients or eligible counterparties, continue to use indicative streams or composite feeds as well as actual request for quote (RfQ) responses for price formation purposes. The bilateral nature of the SI trading and the resulting bespoke nature of the quotes for each client means there is limited scope, nor any clear market benefit, in generalising SI quotes and making them available to a broader audience. A quote for one client is very different to the one of another.

It is also the case that a significant amount of trading is executed on trading venues, rather than SIs. This makes the pre-trade transparency regime for SIs less relevant for the price formation. We would question ESMA's assumption in para. 65 that little trading activity in bonds and credit derivatives is conducted on-venue – our data is showing that more than 95% of the number of DB transactions in bonds is conducted on venue.

As a consequence, the value of a pre-trade transparency regime for SIs in non-equity instruments is questionable. Market function would benefit much more from improvements in the post-trade transparency regime, in particular by making the composite feeds of venues, especially multilateral trading facilities (MTFs), more freely available and standardised in the way they are published.

It is also important to note that we are currently only in the first of four phases of the phase-in of the MiFIR transparency regime. It would be premature at this point to either re-assess the classification of liquid instruments in order to expand the scope of the pre-trade transparency regime, or to make significant changes to the waiver thresholds.

The chart below illustrates clear the need for careful calibration given the fragility of liquidity in non-equity markets. In times of stress, liquidity can disappear quickly even in the most in the most liquid futures contracts in Europe. The example depicts how liquidity in 10-year German Bund futures developed through the course of the COVID-19 crisis. In the space of two days in early March the volume traded in this usually highly liquid instrument contracted by two thirds whereas the bid-ask spread quadrupled in the same time and it took almost two months for the liquidity to relatively recover. This shows the importance to continue to exempt certain instruments from transparency requirements and to provide market makers with the ability mask positions in order to hedge effectively to ensure continued functioning of non-equity markets, even in times of acute stress.



Given we are currently still in times of market stress, we would recommend that the planned next stage of the phase-in of the non-equity transparency regime is carefully timed and taken with caution so as not to further disrupt market liquidity. The same holds true for any further or more comprehensive review of the existing transparency regime.

<ESMA_QUESTION_CP_MIFID_NQT_1>

Q2. What proposals do you have for improving the level of pre-trade transparency available? Do you believe that the simplification of the regime for pre-trade transparency waivers would contribute to the improvement of the level of pre-trade transparency available?

<ESMA_QUESTION_CP_MIFID_NQT_2>

The current pre-trade transparency regime is complex and would benefit from simplification as long as any changes are carefully calibrated.

Any removal of a waiver would need to be balanced by lowering of existing thresholds for other waivers. Without this mitigating action, the removal of existing waivers could significantly impair liquidity which—would expose liquidity providers to undue risks. DB would therefore welcome a holistic review of the pre-trade waiver thresholds on the basis of existing market data (including data from third-party providers).

In this context, the lack of anonymity for SI quotes which are published at the individual risk-taker level and not at venue level, as it is the case for trading venues, should be addressed. In order to allow SIs to anonymise their data, the requirements for additional disclosures by SIs which go above the one for trading venues in Articles 18 (5-7) would need to be removed.

<ESMA_QUESTION_CP_MIFID_NQT_2>

Q3. Are you supportive of ESMA's proposal to delete the pre-trade SSTI-waiver? Would you compensate for this by lowering the pre-trade LIS-thresholds across all asset classes or only for selected asset classes? What would be the appropriate level for such adjusted LIS-thresholds? If you do not support ESMA's proposal to delete the pre-trade SSTI-waiver, what should be the way forward on the SSTI-waiver in your view?

<ESMA_QUESTION_CP_MIFID_NQT_3>

As mentioned in our response to Question 2, only a very careful calibration of the LIS threshold would ensure that the removal of an existing waiver does not expose liquidity providers to undue risk. Currently, around 18% of transactions in bonds on trading venues are above the SSTI threshold and any recalibration of the LIS threshold should account for these transactions above the SSTI threshold.

Any changes to the thresholds should be based on a careful consultation of market participants. Given our recommendation to focus on post-trade transparency given the limited practical value of additional pre-trade information in non-equity instruments, the benefit of such an exercise is likely to be limited for end investors.

<ESMA_QUESTION_CP_MIFID_NQT_3>

Q4. What are your views on the use of the SSTI for the SI-quoting obligations. Should it remain (Option 1) or be replaced by linking the quoting obligation to another threshold (e.g. a certain percentage of the LIS-threshold) (Option 2)? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_4>

Please refer to our comment in Question 3 – any adjustment of the thresholds should be based on a careful analysis and public consultation.

<ESMA_QUESTION_CP_MIFID_NQT_4>

Q5. Would you support turning the hedging exemption into a limited negotiated trade waiver? If so, would you support Option 1 or Option 2? If not, please explain why.

<ESMA_QUESTION_CP_MIFID_NQT_5>

No comment.

<ESMA_QUESTION_CP_MIFID_NQT_5>

Q6. Do you agree with ESMA's observations on the emergence of new trading systems and the proposed way forward requiring a Level 1 change and ESMA to issue an Opinion for each new trading system defining its characteristics and the transparency requirements? Would you have suggestions for the timeline and process of such Opinions? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_6>

We agree with ESMA's observations with regards to new trading systems in non-equity markets. Requiring ESMA to issue an Opinion for each new trading system may, however, increase complexity. Instead, the definition of trading system in the Level 1 text could be simplified. This could be done by confirming that any system which brings multiple people together is deemed a multilateral trading venue (MTF) regardless of the trading protocol used. This definition would provide more clarity to market participants and remove the need for an ESMA Opinion every time a new trading system emerges.

<ESMA_QUESTION_CP_MIFID_NQT_6>

Q7. Do you agree with the proposal for the definition of hybrid system? Are there in your view trading systems currently not or not appropriately covered in RTS 2 on which ESMA should provide further guidance? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_7>

In line with our response to Question 6, we do not agree with the proposed definition of hybrid system. Rather than adding additional complexity, the definition of a trading system should instead be simplified and anything where multiple people can meet to trade should be defined as a multilateral system.

<ESMA_QUESTION_CP_MIFID_NQT_7>

Q8. Do you agree with ESMA's proposal to require SIs to make available data free of charge 15 minutes after publication? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_8>

Further to our response in Question 1, there is limited benefit in the existing pre-trade transparency requirements for SIs and therefore no benefit in making SI data free of charge 15 minutes after publication.

<ESMA_QUESTION_CP_MIFID_NQT_8>

Q9. Would you see value in further standardising the pre-trade transparency information to increase the usability and comparability of the information? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_9>

No further comment.

<ESMA_QUESTION_CP_MIFID_NQT_9>

Q10. Do you agree with ESMA's assessment of the level of post-trade transparency and with the need of a more streamlined and uniform post-trade regime which does not include options at the discretion of the different jurisdictions? If not, please explain why and, where available, support your assessment with data.

<ESMA_QUESTION_CP_MIFID_NQT_10>

A more streamlined and harmonised post-trade transparency regime which removes possibilities for regulatory arbitrage and prevents fragmentation of liquidity across EU markets would be beneficial. The current regime, which allows national competent authorities (NCAs) to elect their own deferral regime, has led to uncertainties and the potential for competitive distortion.

We disagree with the assessment that the post-trade regime has not been effective. The Swedish market which is used by ESMA as an example to demonstrate a decrease in transparency is very small compared to other non-equity financial markets (ca. 0.15% of DB's non-equity transactions) and not representative of other markets. We would recommend not drawing conclusions for other, bigger markets from Sweden, but rather encourage ESMA to look at the extensive post-trade transparency regime in operation across the EU 28 since January 2018.

The existing post-trade deferral regime in MiFIR acknowledges a balance between transparency and protection of risk takers when dealing with instruments which are illiquid or large in scale. For these types of instruments, risk takers need more time to exit their positions. Immediate transparency would allow competitors to identify those positions and trade against them to the detriment of liquidity providers. Ultimately this would lead to liquidity providers stepping back and to a reduction of liquidity in non-equity markets to the detriment of all participants.

The current MiFIR post-trade deferral regime in its most flexible form allows for the deferral of price information by two days (T+2) and of volume information by up to four weeks in a two-stage publication regime. This regime has been chosen by NCAs in 10 EU Member States, among others, France, Italy and Germany.

It is important that any harmonised post-trade deferral regime takes the need for balance between transparency and protection of risk takers into account and provides for at least a comparable system to that which is currently in operation.

We recommend the following approach to post-trade deferrals for non-equity instruments which provides a high-level of same day transparency while recognising adequate protections for risk takers:

1. The publication of post-trade data should move to a one-stage publication regime rather than a two-stage regime of currently price data on T+2 and volume data after four weeks.
2. The price information for instruments subject to a deferral should be published within 30 minutes (e.g. for sovereign bonds above LIS) or at the end of the day (T-0) (for corporate bonds and derivatives) instead of two days later (T+2). This would lead to increased transparency of the key information relevant for market participants for price-forming purposes and increase post-trade transparency in non-equity markets.
3. The volume information, which is currently published after four weeks under the most flexible deferral regime, should be omitted indefinitely which would provide increased protection to risk takers by giving them with more time to exit instruments which are illiquid or large in scale.

This proposal would remove the existing complexity in the post-trade deferral regime by introducing a harmonised EU-wide regime instead of the currently fragmented regime and would simplify the type of data available to market participants in a more timely manner.

Any changes to the post-trade deferral regime should however be based on a cost-benefit analysis and extensive consultation with the industry.

<ESMA_QUESTION_CP_MIFID_NQT_10>

Q11. Do you agree with this proposal? What would be the appropriate level of such a revised LIS-threshold in your view?

<ESMA_QUESTION_CP_MIFID_NQT_11>

We agree with the removal of the SSTI threshold provided the lower LIS threshold is adequately calibrated and reflects the economic reality of the relevant instrument. The thresholds by asset class should be set by an expert group on the basis of available data, including third-party data. ESMA should make use of the Data Advisory Group which consists of data expert from a wide range of market participants to make such a recommendation.

<ESMA_QUESTION_CP_MIFID_NQT_11>

Q12. In your view, should the real time publication of volume masking transactions apply to transactions in illiquid instruments and above LIS waiver (Option 1) or to transactions above LIS only (Option 2 and Option 3). Please elaborate. If you support another alternative, please explain which one and why.

<ESMA_QUESTION_CP_MIFID_NQT_12>

Please refer to our response in Question 10. The options provided do not provide sufficient protection for liquidity providers with their shorter periods for volume disclosure than the current regime and therefore are not suitable.

Liquidity providers need to be able to mask the volumes of any illiquid or large in scale instruments on their book in order to transfer the risk, unwind or hedge a trade. The nature of certain non-equity instruments (e.g. certain interest rate and bond option transactions) is can take several weeks or even months to fully hedge and manage the risk. Unless liquidity providers can maintain confidentiality about the volume of these transactions for the time required to hedge, the transactions will cease to be economically viable. Similarly, in line with our response to Question 16, a protection for liquidity providers by providing the ability to mask the MIC and the country when an SI reports to the FIRDs database should be introduced.

In addition, the third option proposed would increase the complexity of the post-trade regime even further by introducing yet another factor (in this case factor 5 for LIS). This would not meet the objective of simplifying the existing regime.

<ESMA_QUESTION_CP_MIFID_NQT_12>

Q13. Do you agree with the publication of the price and volume of all transactions after a certain period of time, such as two calendar weeks (Option 1 and 2) or do you support the two-steps approach for LIS transactions (Option 3)? Please explain why and provide any alternative you would support. Which is the optimal option in case a consolidated tape would emerge in the future?

<ESMA_QUESTION_CP_MIFID_NQT_13>

Please refer to our responses in Question 10 and 12.

<ESMA_QUESTION_CP_MIFID_NQT_13>

Q14. Do you agree with ESMA's proposed way forward to issue further guidance and put a stronger focus on enforcement to improve the quality of post-trade data? Are there any other measures necessary at the legislative level to improve the quality of post-trade data? What changes to the transparency regime in Level 1 could lead to a substantial improvement of data quality?

<ESMA_QUESTION_CP_MIFID_NQT_14>

Additional guidance would be beneficial to improve data quality in particular guidance on standardisation and machine-readability of the data from APAs and trading venues would be of value. As recommended in our response to Question 11, enhanced input into the determination of thresholds and verification of data by the industry would contribute to greater data quality. These measures, together with a simplified post-trade regime should provide sufficiently increased data quality with tangible benefits for the overall transparency in non-equity markets.

A stronger focus on enforcement would not lead to a reduction of existing ambiguities in the reporting nor contribute to greater data quality in itself.

<ESMA_QUESTION_CP_MIFID_NQT_14>

Q15. What would be the optimal transparency regime to help with the potential creation of a CTP?

<ESMA_QUESTION_CP_MIFID_NQT_15>

Please refer to our response to Question 10. A proposal for a harmonised and simplified post-trade regime which would contribute to the development of a consolidated post-trade tape for certain asset classes, such as bonds.

<ESMA_QUESTION_CP_MIFID_NQT_15>

Q16. Do you agree with ESMA's above assessment? If not, please explain.

<ESMA_QUESTION_CP_MIFID_NQT_16>

We do not agree with ESMA's assessment that the current MiFIR regime exempts too many derivatives from the scope of the trade and transaction reporting requirements.

Derivatives can have many different strikes, expiry dates etc., which means there is an almost indefinite number of derivatives which are tradeable, but which are not actually traded. Investment firms regularly

need to create ISINs for tradeable instruments, as ESMA acknowledges in para. 194, for example for the purpose of internal transfers. As a result, an SI could potentially create several millions of possible ISINs which represents the entire population of potentially tradeable instruments, however, with only a small proportion of these instruments are actually traded. The delta between ISINs which are created and ISINs which are reported should not be used as evidence for a significant proportion of OTC trading.

The current process for creation of an identifier for a derivative should be reviewed. Derivatives should be defined by common sets of data fields and values, rather than ISINs as is currently the case. ESMA should work with the derivatives industry to develop the relevant data fields for derivatives rather than being guided by the capabilities of the FIRDS data base and rely on identifiers such as ISINs which were developed for securities. Securities, unlike derivatives remain the same during their lifetime and for these, a static identifier such as an ISIN is adequate, however, for derivatives with an indefinite potential number of expiry dates, strikes etc., these types of static identifiers do not work.

Furthermore, the same day FIRDS SI reporting requirement inadvertently makes public the type of instrument/trade being traded by that SI, by displaying the Market Identifier Code (MIC) and the country of the SI in the publically available FIRDS database the next day. This goes beyond the information required to be made public on multilateral venues and also undermines the transparency regime by allowing market participants to extrapolate certain information and anticipate the hedging position of an SI, inhibiting the SI from trading on normal market terms. The regime should be amended to allow SIs to anonymise their quotes through the omission of Articles 18(5-7) of MiFIR.

<ESMA_QUESTION_CP_MIFID_NQT_16>

Q17. Are you of the view that the interpretation of TOTV should remained aligned for both transparency and transaction reporting? If not, please explain why.

<ESMA_QUESTION_CP_MIFID_NQT_17>

Transaction reporting and transparency reporting serve two different purposes. While transaction reporting supports NCAs in their supervision and the detection of market abuse, transparency reporting gives market participants the possibility to make their investment decision on the basis of price transparency.

There is therefore no need for both reporting regimes to necessarily be aligned, which is already not the case for TOTV and non-TOTV instruments.

<ESMA_QUESTION_CP_MIFID_NQT_17>

Q18. Which of the three options proposed, would you recommend (Option 1, Option 2 or Option 3)? In case you recommend an alternative way forward, please explain.

<ESMA_QUESTION_CP_MIFID_NQT_18>

Option 1 is currently the approach we would recommend in order to maintain the status quo regarding the definition of TOTV. The market has taken time to adapt to the complicated definition of TOTV and while there are still issues with the current definition - due mainly to data quality issues - we do not believe that the scope of TOTV should be adjusted at the current time.

We do not agree with the underlying assumption of Option 2 that derivatives with the same physical underlying, traded on different trading venues, should be considered the same or equivalent contracts. Such instruments are subject to different terms and conditions as well as settlement procedures and prices.

Option 3 with the removal of the TOTV concept while providing exemptions for non-price forming and other transactions would remove a lot of the current ambiguity in relation to reporting. In addition to significant additional IT build as referenced by ESMA, this proposal would also require a broader review of identifiers and data fields within the trade reporting regime in particular. For example, SIs would need to be

given broad options to anonymise any data which is made public in FIRDs (see our response to Question 16).

Such a step in the current market environment would be premature at this point and ESMA should instead continue reviewing the existing regime and provide guidance where required. A more coherent overhaul can then be considered after more time has passed for market participants to adjust to existing system.
<ESMA_QUESTION_CP_MIFID_NQT_18>

Q19. What is your view on the proposal to delete the possibility for temporarily suspending the transparency provisions? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_19>

The temporary suspension of the transparency provisions should be maintained. The phase-in of the transparency regime is currently only in the first stage of four and once the requirements are further tightened, a need for such a suspension might arise.

<ESMA_QUESTION_CP_MIFID_NQT_19>

Q20. Do you have any remarks on the assessment of Article 28 of MiFIR? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_20>

No further comments.

<ESMA_QUESTION_CP_MIFID_NQT_20>

Q21. Do you have any views on the above-mentioned criteria and whether the criteria are sufficient and appropriate for assessing the liquidity of derivatives? Do you consider it necessary to include further criteria (e.g. currency)? Do you consider that ESMA should make use of the provision in Article 32(4) for asset classes currently not subject to the trading obligations? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_21>

No further remarks – we agree with ESMA's assessment and do not consider it necessary to include further criteria for the assessment of the liquidity of derivatives. In the context of Brexit, however, a future re-assessment of non-euro denominated derivatives for the purposes of the MiFIR trading obligation might become necessary.

<ESMA_QUESTION_CP_MIFID_NQT_21>

Q22. Do you agree that a procedure for the swift suspension of the trading obligation for derivatives is needed? Do you agree with the proposed procedure? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_22>

Yes, we agree.

<ESMA_QUESTION_CP_MIFID_NQT_22>

Q23. Do you have a view on this or any other issues related to the application of the DTO?

<ESMA_QUESTION_CP_MIFID_NQT_23>

Conflicting DTOs

One area of the DTO which should be reviewed with urgency is the extraterritorial application which creates challenges for EU firms operating in a branch network, especially in light of Brexit.

Counterparties subject to the DTO (including their third-country branches) can comply with their relevant obligations by executing transactions in eligible derivatives on EU trading venues or third-country venues which are deemed equivalent.

In the absence of a positive equivalence decision by the EU Commission for UK derivatives trading venues before the end of the Brexit transition period, the EU DTO will prevent UK branches of EU firms to continue trading on UK derivatives venues. They cannot continue to satisfy their obligations under the EU DTO when trading the most liquid derivatives contracts on UK trading venues and are therefore put at a competitive disadvantage. It is likely that the equivalent UK DTO will similarly require UK counterparties to conduct their transactions on UK trading venues. Consequently, EU and UK counterparties cannot continue to meet on derivatives trading venues due to the competing EU and UK DTOs. This will result in liquidity fragmentation and increase operational complexity with negative implications for market functioning in derivatives markets.

There are limited options to mitigate the negative impact of these competing trading obligations in the absence of mutual equivalence decisions by the European Commission and the UK authorities. One option would be to remove the extraterritorial requirement for non-EU branches of EU firms when trading in-scope instruments with non-EU clients which would likely require a change to Article 28 MiFIR. This option would not address the issues regarding the extraterritorial application of the DTO and the competing EU/UK DTOs in their entirety but would provide non-EU branches with the ability to continue to access trading venues in the jurisdictions where they operate and service their local clients.

Benchmark Fallbacks

A clarification should be included in MiFIR that, in the context of the transition from Interbank Offered Rates (IBORs), a replacement of existing benchmarks in derivative contracts with fallbacks under the EU Benchmarks Regulation, does not trigger a retroactive requirement to comply with the DTO.

<ESMA_QUESTION_CP_MIFID_NQT_23>

Q24. Do you have any views on the functioning of the register? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_24>

No comment.

<ESMA_QUESTION_CP_MIFID_NQT_24>

Q25. Do you agree that the current quarterly liquidity calculation for bonds is appropriate or would you be of the view that the liquidity determination of bonds should be simplified and provide for more stable results? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_25>

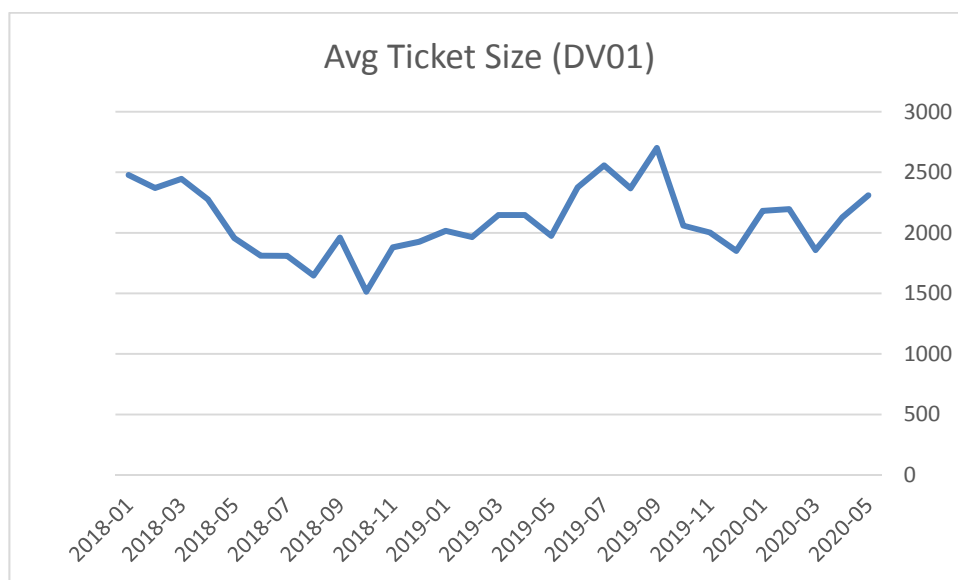
The liquidity calculation method for bonds might need to be reassessed in the medium term. More immediately, existing issues regarding the outcome of the assessment should be addressed, in particular data quality issues and a lack of standardised data. In order to improve the outcome of the quarterly assessments and to provide a more reliable and accurate set of liquid bonds, ESMA should consider verifying the data they are using for the liquidity determination with third-party vendor data and analyse the outcome with market experts, such as the recently convened Data Advisory Group (DAG).

<ESMA_QUESTION_CP_MIFID_NQT_25>

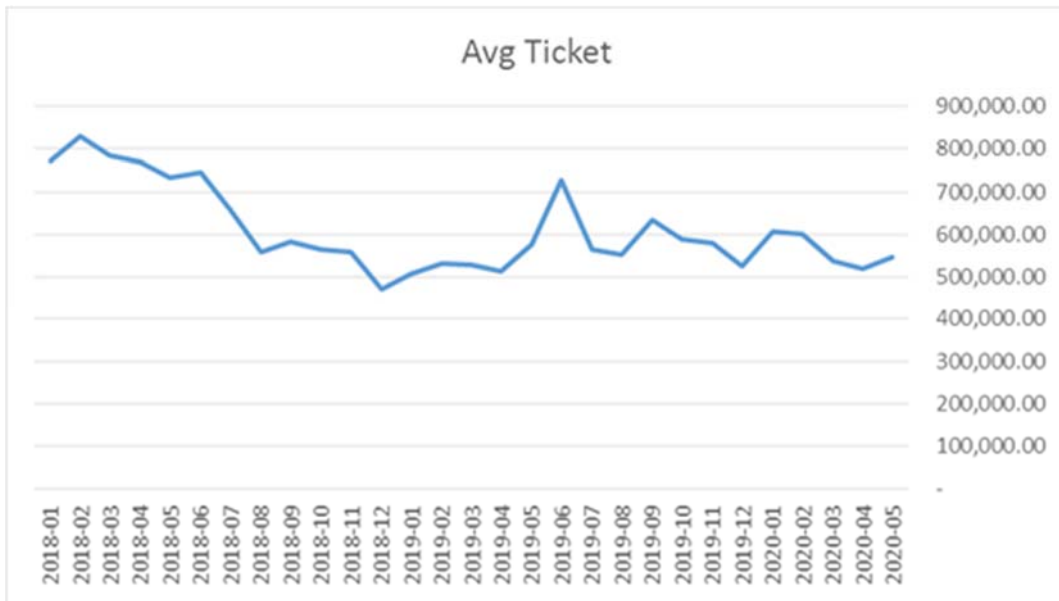
Q26. Do you agree with ESMA proposal to move to stage 2 for the determination of the liquidity assessment of bonds? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_26>

The liquidity calculation method for bonds might need to be reassessed in the medium term. More immediately, existing issues regarding the outcome of the assessment should be addressed, in particular data quality issues and a lack of standardised data. In order to improve the outcome of the quarterly assessments and to provide a more reliable and accurate set of liquid bonds, ESMA should consider verifying the data they are using for the liquidity determination with third-party vendor data and analyse the outcome with market experts, such as the recently convened Data Advisory Group (DAG).



The average ticket size in investment grade EU bonds also remained relatively stable, in particular since November 2019.



Should ESMA decide to move to stage two of the bond liquidity assessment nonetheless, we would recommend – similar to our response in Question 25 – to verify the data with third-party vendors and analyse the outcome to remove outliers etc. with market experts.

<ESMA_QUESTION_CP_MIFID_NQT_26>

Q27. Do you agree with ESMA proposal not to move to stage 2 for the determination of the pre-trade SSTI thresholds for all non-equity instruments except bonds? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_27>

Please refer to our response in Question 26.

<ESMA_QUESTION_CP_MIFID_NQT_27>

Q28. Do you agree with ESMA proposal to move to stage 2 for the determination of the pre-trade SSTI thresholds for bonds (except ETCs and ETNs)? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_28>

Please refer to our response in Question 26.

<ESMA_QUESTION_CP_MIFID_NQT_28>

Q29. What is your view on the current calibration of the ADNA and ADNT for commodity derivatives? Are there specific sub-asset classes for which the current calibration is problematic? Please justify your views and proposals with quantitative elements where available.

<ESMA_QUESTION_CP_MIFID_NQT_29>

No comment.

<ESMA_QUESTION_CP_MIFID_NQT_29>

Q30. In relation to the segmentation criteria used for commodity derivatives: what is your view on the segmentation criteria currently used? Do you have suggestions to amend them? What is your view on ESMA's proposals SC1 to SC3? In your view, for which sub-asset classes the "delivery/cash settlement location" parameter is relevant.

<ESMA_QUESTION_CP_MIFID_NQT_30>

No comment.

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Q31. What is your view on the analysis and proposals related to the pre-trade LIS thresholds for commodity derivatives? Which proposal to mitigate the counterintuitive effect of the current percentile approach do you prefer (i.e. keep the current methodology but modify its parameters, or change the methodology e.g. using a different metric for the liquidity criteria)? Please justify your views and proposals with quantitative elements where available.

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No comment.

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