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| 10 March 2020 |

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| Reply form for the Consultation Paper on MiFID II/ MiFIR review report on the transparency regime for non-equity and the trading obligations for derivatives |
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| Date: 10 March 2020 |

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](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

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| --- | --- |
| Name of the company / organisation | German Banking Industry Committee / Die Deutsche Kreditwirtschaft (DK) |
| Activity | Choose an item. |
| Are you representing an association? |  |
| Country/Region | Germany |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_CP\_MIFID\_NQT\_1>

TYPE YOUR TEXT HERE

<ESMA\_COMMENT\_CP\_MIFID\_NQT\_1>

1. 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>

ESMA should rather consider to abolish the pre-trade transparency requirements altogether since neither real benefits in pre-trade transparency nor a market failure can be observed. The huge amount of data is not and will not – no matter how many changes are made – be of any use for the overwhelming majority of market participants. The sheer amount of data and its poor accessibility limits its usefulness to a great extent. An undifferentiated approach with the aim of an unconditional increase in pre-trade transparency would lead to negative reactions, in particular a widening of spreads in order to hedge risks. A partial drying up of market liquidity would also be a realistic scenario. Should ESMA nevertheless wish to maintain the pre-trade transparency rules, simplifying the rules might be a sensible approach as long as negative consequences for market liquidity can be ruled out.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_1>

1. 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>

While we generally see no need for adjustments, simplifying the regime for pre-trade transparency waivers might be helpful as long as detrimental consequences for market liquidity are avoided.

Generally, we would like to point out, that data, that can be obtained from the post-trade transparency provisions is sufficient for market data transparency issues if it were more user friendly. Currently, the sheer data volume is mainly used by very big market participants, like hedge funds or algo-trading entities. In order to increase the number of users, better structuring of the data would be helpful.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_2>

1. 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>

It is essential that transactions of a certain size are exempted from pre-trade transparency or rather quoting obligations, otherwise Article 18 (10) MiFIR would become meaningless. Only if this is guaranteed, we are supportive of ESMA’s proposal to delete the pre-trade SSTI-waiver in order to simplify the pre-trade transparency regime. The compensation for this measure in the form of lowering the pre-trade LIS-thresholds across all asset classes must ensure that the same effect is achieved as by the waiver.

In order to determine the concrete level required for the thresholds, comparative model calculations must be carried out.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_3>

1. 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>

Article 18 (10) MiFIR provides that systematic internalisers are not subject to the other requirements of that Article as far as transactions above the SSTI are concerned. The effect of this paragraph as well as Article 18 (6) MiFIR is essential to the SI regime and recognises that SI in non-equity instruments are key market participants acting at their own risk. Ultimately, these paragraphs reflect both buy-side and sell-side needs and provide for a balanced framework. Deleting thresholds would in fact amount to an obligation to contract, with the consequence that SIs would have to apply unspecific pricing methods since they would then have to take their risks into account in a non-specific way. This would lead to an overall deterioration of their quotes through a widening of the spreads. When deciding about the way forward, it is imperative to avoid that any changes lead to negative reactions - including unintended ones - which could ultimately have a lasting negative impact on the liquidity of bond trading.

Adjustments of the requirements should also avoid extensive adjustments in the SIs’ systems as the expenditure involved might lead to unjustified results in terms of factual and cost aspects.

Against this background, we would generally prefer Option 1. However, if it were possible to design Option 2 in a way that combines both the intended simplification of the rules and maintaining the effects of Articles 18 (6) and 18 (10) MiFIR, Option 2 could also be acceptable. This means that in any case the required calibration of the relevant LIS-thresholds in RTS 2 (level 2 change) would have to be carried out very carefully, taking into account the interests of all market participants meaning that a reduction in the LIS must fully compensate for the negative effects of a removal of the SSTI.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_4>

1. 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>

In order to avoid an extension of the rather complicated waiver regime and the associated additional bureaucracy, we prefer option 2.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_5>

1. 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 disagree with ESMA’s observations. We strongly oppose, for reasons of principle, changes of the Level 1 text as proposed by ESMA. It is the original task of the European legislators to define the scope of the rules. This naturally includes defining the definitions, in this case the definition of a trading venue. It is not within ESMA's competence to independently establish definitions through the publication of Opinions. Such an approach would both weaken the legislative process as such and increase legal uncertainty for the norm addressees. This must be prevented.

Should ESMA be involved, then only in the form of experience-based input to the legislative process.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_6>

1. 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>

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<ESMA\_QUESTION\_CP\_MIFID\_NQT\_7>

1. 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>

No, we do not agree with ESMA’s proposal to require SIs to make available data free of charge 15 minutes after publication. Article 18 MiFIR specifies, which quotes an SI must make available at which time and under what conditions. These provisions take due into account of the fact that SIs are bilateral business models rather than trading venues. In all considerations, it must always be borne in mind that SI trade at their own risk, while trading venues operate a multilateral platform without risk. SI and multilateral platforms must therefore not be lumped together. The impact on the business model must always be kept in mind. An undifferentiated requirement that SI quotes be made available free of charge within 15 minutes would completely call into question the concept provided for in Article 18, even though there is no market failure. It cannot be a decisive factor that ESMA did not have the desired access to data for its own evaluations; in this respect, appropriate alternatives would have to be considered without attacking the concept as such.

We also should keep in mind that shortening the already rather tight timelines would entail major efforts and costs for SIs. These are disproportionate to the benefits for market participants who already benefit from a relatively high standard of pre-trade transparency.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_8>

1. 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>

We do not see any need for pre-trade transparency (please see our answer to Q2 for details). Therefore, any amendments (entailing costs for market participants) seem superfluous. The sheer amount of data and its poor accessibility limits its use to a great extent. However, if ESMA insists on the requirements to provide pre-trade transparency information, it seems appropriate to follow existing standardisation in the area of post-trade transparency data.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_9>

1. 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>

No, we do not necessarily share ESMA's view on the level of post-trade transparency. The analysis ignores the fact that there are good reasons for deferrals in post-trade transparency, which are mainly due to the type of financial instruments traded and the type of trading - often bilateral at own risk. Many of these measures serve to keep markets liquid at an appropriate price level.

On the other hand, we understand ESMA's considerations regarding greater pan-European standardisation of the rules. It will be crucial though that pan-European harmonisation is carried out with a sense of proportion and differentiated according to asset classes.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_10>

1. 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>

The appropriate level would be one that fully compensates for any negative effects of a removal of the SSTI. In order to determine the concrete level required for the thresholds, comparative model calculations must be carried out. For background information please see our answer to Q4.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_11>

1. 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>

We reject Options 1 to 3 proposed by ESMA, as all options fail to recognise the mechanisms of the market. None of the options is appropriate for motivating market participants to provide liquidity. Especially distressed markets show that liquidity becomes seriously scarce with or without market transparency. ESMA itself states in paragraph 160 that all three options are very likely to have a negative impact on the liquidity of traded financial instruments. As ESMA correctly mentions, liquidity providers would have to take appropriate measures to minimise their risks. These would result in a tightening of the market or deterioration of prices. These consequences would be expected not only in the case of illiquid financial instruments, but in general, since the sell-side must contain its risks in one way or another.

The reference to US rules is also incomprehensible. Instead of initially striving for more convergence in the EU, Option 2 in particular aims for - albeit only partial - convergence with the US. It remains unclear what advantages such an approach would have. Moreover, Option 2 is designed in such a way that the decisive part of the US rule - the indefinite masking of the details of block-size transactions - would not be adopted. This is inconsistent and incomprehensible.

For illiquid instruments publication should not be mandatory at all. This would ensure that the risk of illiquid instruments could still be digested / hedged by market participants.

All in all, it should be noted that transparency is not an end in itself, but must always be designed in such a way that it has a market-supporting effect. ESMA's considerations in Options 1 to 3 do not support this objective.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_12>

1. 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>

No, we do not agree with the options 1 to 3 proposed by ESMA with regard to the envisaged deferrals. All of ESMA’s proposed options represent a very far-reaching proposal, especially since illiquid titles should also be included. It is a renunciation from the current approach without factual justification.

In principle, it should be noted that a blanket deferral period of two weeks does not take account of market mechanisms with regard to the various asset classes and their sub-groups. It is obvious that different financial instruments should be treated differently. For example, a distinction must be made between illiquid securities usually traded in smaller volumes and (highly) liquid securities with significantly larger trading volumes. ESMA's analysis correctly shows that the different existing time limits are used. A blanket requirement would lead to reactions in trading activity and, for example, cause narrow markets or higher spreads.

Finally, it should be noted that ESMA's analysis refers to a period of only two years. This period was not characterised by any particular market turbulence. However, the quality of regulation is particularly evident in times of crisis. Especially in critical times, when liquid markets are particularly important, appropriate rules are necessary to avoid a worsening of the situation.

See also answer to Q12.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_13>

1. 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>

We support ESMA's approach to put a stronger focus on enforcement to improve the quality of post-trade data. The rules can only be put to the test when they are actually observed. Otherwise, the possibility cannot be ruled out that the shortcomings identified by ESMA are not due to the quality of the rules but to a lack of compliance. It therefore appears to be a priority to focus on enforcement. If "further guidance" would be helpful in this context, we are open to this approach. We would like to stress once again that trading and the most diverse asset classes require a differentiated approach. The complexity of the subject cannot be resolved by simplified rules.

Especially in critical times, when liquid markets are particularly important, appropriate rules are needed to avoid a worsening of the situation. Generally, ESMA should focus on the most liquid products among the non-equity instruments and broaden it from there.

Furthermore, ESMA should keep in mind that what works in calm markets might not work in volatile markets. When markets deliver enough data (many market participants deliver many quotes), transparency is easy to be achieved and provided for many instruments. If markets dry up, transparency is reduced to the basic products. Therefore, it should be considered to design the transparency regime more flexible.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_14>

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

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_15>

There is no need for the establishment of a CTP on the market, otherwise it would already have been established. Market participants would most likely be obliged to build up new interfaces (which would be cost intensive) for the sake of an access to data that is not needed in the market. Hence, any costs incurred would be too much and could not be justified by any purpose whatsoever in the context of a CTP.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_15>

1. Do you agree with ESMA’s above assessment? If not, please explain.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_16>

We advocate retaining the same TOTV concept applicable to both transparency and transaction reporting. However, we should like to point out that while we are aware that MiFiD II was created with the aim of increasing the level of transparency, unnecessary costs and expenses, for example for technical changes, should be avoided. Moreover, unnecessary risks should also be avoided. For example the same day FIRDS systematic internaliser (SI) reporting requirement inadvertently makes public the type of instrument/trade being traded by that SI, by displaying the Market Identifier Code (MIC) of the SI associated with an instrument as well as the country where the SI is located, in the publically available FIRDS database the next day. Having to publish ISINs to FIRDS with the SI’s MIC attached significantly expands transparency for illiquid ToTV instruments (e.g. complex Interest Rate Derivatives). By making public information which is not reported in the post trade reporting requirement, due to its careful calibration based on instrument liquidity status, it risks undermining the transparency regime.  The publication of this instrument activity data enables market participants to identify and observe the trading activity of other firms, and theoretically extends the obligations not just for traded deals but into the pre trade space as well.  The possible identification of an SI as a counterparty allows market participants to extrapolate certain information and can anticipate the hedging position of an SI, thereby inhibiting an SI to trade on normal market terms.  This in turn impacts the ability of the SI to maintain liquidity provision capability to its clients. The possibility to mask the SI MIC and the country when reporting instruments on a same day basis to FIRDs, in order to anonymise the data and provide for consistency with the transparency regime, should be introduced for SIs when reporting to FIRDs.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_16>

1. 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>

Yes, we share the view that it is essential that there is a uniform interpretation of which financial instruments are "TOTV". No distinction should be made here between different purposes of application, as such an approach would cause insoluble practical problems. Only an uniform interpretation can be reflected in the investment firms’ system. Both transparency reports and transaction reports are standardised and automated processes that rely on uniform specifications. Diverging interpretation of TOTV would lead to insoluble operational difficulties. We also would like to point out that divergent interpretations may also be a hindrance for supervisory purposes.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_17>

1. 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>

We strongly recommend Option 1; Options 2 and 3 would raise a host of new questions and difficulties of interpretation. They would also create difficulties that cannot be solved from an operational point of view. Even the implementation of the current requirements, i.e. Option 1, has already caused considerable implementation difficulties for transparency and reporting obligations. It is in the interest of all market participants and of the NCAs and ESMA to ensure stable conditions instead of imposing new, complex and insufficiently thought-out requirements. Already with a view to Option 2, the question arises as to which standards ESMA intends to specify, as post-trade information and transaction reporting are already highly standardised. We also would like to stress that it is always crucial that a "golden source" is required for the classification of transparency or reporting obligations. Without a clear link, insoluble operational problems arise. The daily publication of financial instruments subject to transparency/reporting by the relevant trading venues would require transparency/reporting parties to be able to process this data directly in their systems. This is utopian. Such an approach would overburden both the norm addressees and the supervisory authorities and would considerably reduce the quality of transparency and transaction data. This is neither in the interest of the market nor of supervisory authorities

Option 2 and Option 3 would, as ESMA itself notes, represent a completely new approach. This would require substantial legislative changes and a complete overhaul of the systems used for transparency and reporting obligations concerning OTC derivatives. Similar work would also be needed at the NCAs and ESMA. At the same time, a host of unresolved issues would arise. There is no evidence that such an approach would be in the market interest or would improve supervision. It should also be noted that the US regulation referred to (section 727 Dodd Frank Act, 17 CFR part 43) only refers to swaps. However, swaps are only a subset of OTC derivatives. ESMA's approach would therefore go significantly beyond the US approach.

Also in light of the reporting requirements under EMIR for derivatives, we see no need to extend the TOTV concept for the purpose of transaction reporting under MiFIR

We would like to stress once again that we strongly support Option 1 because of the unmanageable amount of difficulties that Options 2 and 3 would create for all stakeholders.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_18>

1. 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>

We would like to recall that the possibility of exempting financial instruments from the transparency obligations in the event of a significant loss of liquidity was created in the light of the sovereign debt crisis resulting from the financial crisis. There was concern that government bonds in particular could become illiquid in the short term without being able to immediately reflect this fact in liquidity calculations. Without this possibility, the transparency obligations would apply to originally liquid securities, although these would have to be classified as illiquid by then. The fact that no NCA has used this possibility may be due to the fact that no such crisis situations have occurred so far. Whether this will continue to be the case in the future remains to be seen. In addition, it could be questioned whether an equivalent effect could be guaranteed by suspending trading (Art. 52 MiFID). The decision to suspend trading must be taken by the respective trading venue, whereas the liquidity classification would be made by the NCA. Against this background, we suggest retaining the possibility for temporarily suspending the transparency provisions, but applying them throughout the EU if the case arises.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_19>

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

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_20>

No, we don´t have any remarks considering the assessment of Article 28 of MiFIR and agree with the assessment.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_20>

1. 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, we share the opinion that the current approach takes into account the criteria set out in Article 32 MiFIR and RTS 2 appropriately. There is no need to make use of the provision in Article 32(4) for asset classes currently not subject to the trading obligations

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_21>

1. 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 with the proposed approach, because we also recognise the need for a swift suspension of the DTO in particularly to lean cases. However, it should be specified what is meant by “without undue delay”.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_22>

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

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_23>

No further comments to the DTO.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_23>

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

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_24>

We do not consider it necessary to change the register

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_24>

1. 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>

We agree that the current basis for liquidity calculations is appropriate and should therefore be maintained. The analysis confirms that certain liquidity patterns often occur in the life cycle of bonds. Any calculation methodology should take this cyclical behaviour into account appropriately. It seems questionable whether a methodology that would bring "more stability" to the calculation results could adequately take these bond life cycle characteristics into account. The current method should therefore be retained.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_25>

1. 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>

In the interest of all market participants, it should be thoroughly analysed whether the approach proposed by ESMA might have a negative market impact since the bond market is not particularly liquid. ESMA’s intention to have more bonds qualified as liquid seems to follow a political objective. However, if the assessment shows that moving to stage 2 for the determination of the liquidity assessment is harmless we would agree with the proposal. With regard to the considerations made in the analysis on the possible extension of transparency by changing parameters, we would like to emphasise that high data quality is always of crucial importance. Only high-quality data can guarantee correct calculation results. It might be appropriate to rely on stricter enforcement in this respect.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_26>

1. 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>

We agree not to move to stage 2 for the determination of the pre-trade SSTI thresholds for all non-equity instruments.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_27>

1. 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>

It is in the interest of all market participants to thoroughly analyse whether the approach proposed by ESMA might have a negative market impact since the bond market is not particularly liquid. If this assessment were positive, we would agree with the proposal to move to stage 2 when calculating the percentiles

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_28>

1. 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>

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<ESMA\_QUESTION\_CP\_MIFID\_NQT\_29>

1. 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>

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<ESMA\_QUESTION\_CP\_MIFID\_NQT\_30>

1. 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.

<ESMA\_QUESTION\_CP\_MIFID\_NQT\_31>

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