

Opening Statement

Economic and Monetary Committee – Scrutiny of delegated acts and implementing measures - Brussels

Steven Maijoor
Chair
European Securities and Markets Authority

Dear Members of the European Parliament,

Ladies and gentlemen,

I am delighted to have been invited by the Chair and Members of ECON to present the work of ESMA on the implementing measures under MiFID 2/MIFIR.

Let me start by re-iterating that MIFID2/MIFIR is the most significant and voluminous piece of Level 2 regulation that ESMA has ever undertaken. We have now gone through two rounds of public consultation and have received very extensive input from stakeholders. We have also periodically updated the Parliament on our progress, and discussed key issues of the Technical Standards and Technical Advice.

Today I would like to focus on three areas which are receiving the most attention from stakeholders and are also technically complex - non-equity transparency, commodity derivatives and the ancillary activity test for non-financial entities.

Non-equity transparency

The non-equity transparency regime in MiFIR covers a vast range of asset classes and requires setting a very large number of thresholds across those asset classes to ensure that the future system can work in practice. ESMA has analysed large datasets from trading venues and trade repositories in order to find adequate solutions across the board.

Nonetheless, we will not be able to find the ideal system that perfectly balances transparency and liquidity and that will satisfy the preferences of all market participants. Indeed, the views of different market participants as to what such a perfect system should look like are vastly different. What I can assure you of, however, is that we are trying to find reasonable and workable compromises and that we are ready to look at the non-equity rules again, once they are in operation, and react to potential deficiencies.

I can also assure you that we have taken the responses to the consultation to heart and are thinking about a more flexible system that better reflects market developments and that can be based on better quality data. These quality improvements should become a reality once MiFIR applies in practice.

For the controversial item of bond market transparency we are also trying to make our approach more precise and the final output will in all likelihood look different from what you have seen in the consultation.

Position limits

Let me move on to position limits where we are, of course, aware that a wide range of stakeholders have concerns, again with those concerns coming from very different angles. When looking at the issue, we need to all bear in mind that the scope of the Level 1 requirements for position limits is extremely wide. The range of contracts captured varies from highly liquid to completely illiquid. This wide variation implies that ESMA has to tread cautiously and a one-size-fits-all approach cannot be the solution.

Ancillary activity

The third area which is making many waves among stakeholders is the test of whether non-investment firms perform investment services as an ancillary activity to their main business. ESMA has made the two-pronged test, foreseen in Level 1, a focus of its cost benefit analysis and again you can expect to see some major refinements in the ESMA proposal compared to the text that went out for consultation. Lack of high quality data is also a concern here which has stifled ESMA's efforts. We are working on a pragmatic solution but are aware that another look at this standard post-application may be warranted.

Thank you for your attention.