

02 March 2015

European Securities and Markets Authority  
103 Rue de Grenelle  
75007 Paris  
France

**Reply to Consultation Paper on MiFID II / MiFIR (ESMA/2014/1570)**

Dear Madams/Sirs,

CFA Institute appreciates the opportunity to respond to Consultation Paper ESMA/2014/1570 that ESMA issued in advance of drafting Regulatory Technical Standards and Implementing Technical Standards on MiFID II / MiFIR.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behaviour in investment markets and a respected source of knowledge in the global financial community. The end goal of the Institute is to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has 128,000 members in 150 countries and territories, including 121,000 Chartered Financial Analyst charter holders, and 145 member societies.

By reason of the technical input sought by ESMA, CFA Institute has responded to selected sections of the Consultation Paper, in relation to the topics of (a) investor protection, (b) transparency, (c) microstructural issues, and (d) data publication and access.

Our responses to the Consultation Paper are set out in the attached ESMA response form.

Yours faithfully,



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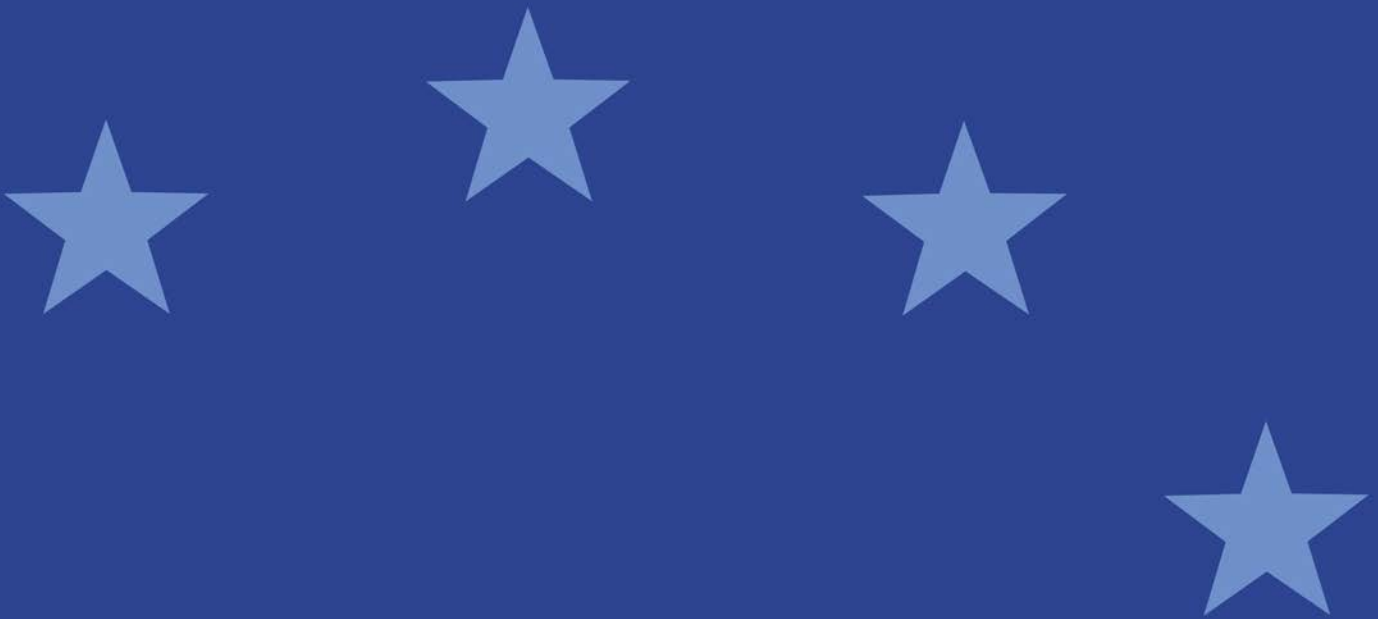
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European Securities and  
Markets Authority

# Reply form for the Consultation Paper on MiFID II / MiFIR



## Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on MiFID II / MiFIR (reference ESMA/2014/1570), 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. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- i. use this form and send your responses in Word format (do not send pdf files except for annexes);
- ii. do not remove the tags of type <ESMA\_QUESTION\_CP\_MIFID\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- iii. 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:

- i. if they respond to the question stated;
- ii. contain a clear rationale, and
- iii. describe any alternatives that ESMA should consider.

To help you navigate this document more easily, bookmarks are available in "Navigation Pane" for Word 2010.

### ***Naming protocol:***

In order to facilitate the handling of stakeholders responses please save your document using the following format: ESMA\_CP\_MIFID\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

**E.g.** if the respondent were ESMA, the name of the reply form would be ESMA\_CP\_MIFID\_ESMA\_REPLYFORM or ESMA\_CP\_MIFID\_ESMA\_ANNEX1

### ***Deadline***

Responses must reach us by **2 March 2015**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your in-put/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	CFA Institute
Confidential <sup>1</sup>	<input type="checkbox"/>
Activity:	Investment Services
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

## Introduction

*Please make your introductory comments below, if any:*

< ESMA\_COMMENT\_CP\_MIFID\_1 >

TYPE YOUR TEXT HERE

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<sup>1</sup> The field will be used for consistency checks. If its value is different from the value indicated during submission on the website form, the latest one will be taken into account.

## 2. Investor protection

**Q1. Do you agree with the list of information set out in draft RTS to be provided to the competent authority of the home Member State? If not, what other information should ESMA consider?**

<ESMA\_QUESTION\_CP\_MIFID\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_1>

**Q2. Do you agree with the conditions, set out in this CP, under which a firm that is a natural person or a legal person managed by a single natural person can be authorised? If no, which criteria should be added or deleted?**

<ESMA\_QUESTION\_CP\_MIFID\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_2>

**Q3. Do you agree with the criteria proposed by ESMA on the topic of the requirements applicable to shareholders and members with qualifying holdings? If no, which criteria should be added or deleted?**

<ESMA\_QUESTION\_CP\_MIFID\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_3>

**Q4. Do you agree with the approach proposed by ESMA on the topic of obstacles which may prevent effective exercise of the supervisory functions of the competent authority?**

<ESMA\_QUESTION\_CP\_MIFID\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_4>

**Q5. Do you consider that the format set out in the ITS allow for a correct transmission of the information requested from the applicant to the competent authority? If no, what modification do you propose?**

<ESMA\_QUESTION\_CP\_MIFID\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_5>

**Q6. Do you agree consider that the sending of an acknowledgement of receipt is useful, and do you agree with the proposed content of this document? If no, what changes do you proposed to this process?**

<ESMA\_QUESTION\_CP\_MIFID\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_6>

**Q7. Do you have any comment on the authorisation procedure proposed in the ITS included in Annex B?**



<ESMA\_QUESTION\_CP\_MIFID\_7>

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<ESMA\_QUESTION\_CP\_MIFID\_7>

**Q8. Do you agree with the information required when an investment firm intends to provide investment services or activities within the territory of another Member State under the right of freedom to provide investment services or activities? Do you consider that additional information is required?**

<ESMA\_QUESTION\_CP\_MIFID\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_8>

**Q9. Do you agree with the content of information to be notified when an investment firm or credit institution intends to provide investment services or activities through the use of a tied agent located in the home Member State?**

<ESMA\_QUESTION\_CP\_MIFID\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_9>

**Q10. Do you consider useful to request additional information when an investment firm or market operator operating an MTF or an OTF intends to provide arrangements to another Member State as to facilitate access to and trading on the markets that it operates by remote users, members or participants established in their territory? If not which type of information do you consider useful to be notified?**

<ESMA\_QUESTION\_CP\_MIFID\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_10>

**Q11. Do you agree with the content of information to be provided on a branch passport notification?**

<ESMA\_QUESTION\_CP\_MIFID\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_11>

**Q12. Do you find it useful that a separate passport notification to be submitted for each tied agent the branch intends to use?**

<ESMA\_QUESTION\_CP\_MIFID\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_12>

**Q13. Do you agree with the proposal to have same provisions on the information required for tied agents established in another Member State irrespective of the establishment or not of a branch?**

<ESMA\_QUESTION\_CP\_MIFID\_13>

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<ESMA\_QUESTION\_CP\_MIFID\_13>

**Q14. Do you agree that any changes in the contact details of the investment firm that provides investment services under the right of establishment shall be notified as a change in the particulars of the branch passport notification or as a change of the tied agent passport notification under the right of establishment?**



<ESMA\_QUESTION\_CP\_MIFID\_14>

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<ESMA\_QUESTION\_CP\_MIFID\_14>

**Q15. Do you agree that credit institutions needs to notify any changes in the particulars of the passport notifications already communicated?**

<ESMA\_QUESTION\_CP\_MIFID\_15>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_15>

**Q16. Is there any other information which should be requested as part of the notification process either under the freedom to provide investment services or activities or the right of establishment, or any information that is unnecessary, overly burdensome or duplicative?**

<ESMA\_QUESTION\_CP\_MIFID\_16>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_16>

**Q17. Do you agree that common templates should be used in the passport notifications?**

<ESMA\_QUESTION\_CP\_MIFID\_17>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_17>

**Q18. Do you agree that common procedures and templates to be followed by both investment firms and credit institutions when changes in the particulars of passport notifications occur?**

<ESMA\_QUESTION\_CP\_MIFID\_18>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_18>

**Q19. Do you agree that the deadline to forward to the competent authority of the host Member State the passport notification can commence only when the competent authority of the home Member States receives all the necessary information?**

<ESMA\_QUESTION\_CP\_MIFID\_19>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_19>

**Q20. Do you agree with proposed means of transmission?**

<ESMA\_QUESTION\_CP\_MIFID\_20>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_20>

**Q21. Do you find it useful that the competent authority of the host Member State acknowledge receipt of the branch passport notification and the tied agent passport notification under the right of establishment both to the competent authority and the investment firm?**





<ESMA\_QUESTION\_CP\_MIFID\_21>

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<ESMA\_QUESTION\_CP\_MIFID\_21>

**Q22. Do you agree with the proposal that a separate passport notification shall be submitted for each tied agent established in another Member State?**

<ESMA\_QUESTION\_CP\_MIFID\_22>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_22>

**Q23. Do you find it useful the investment firm to provide a separate passport notification for each tied agent its branch intends to use in accordance with Article 35(2)(c) of MiFID II? Changes in the particulars of passport notification**

<ESMA\_QUESTION\_CP\_MIFID\_23>

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<ESMA\_QUESTION\_CP\_MIFID\_23>

**Q24. Do you agree to notify changes in the particulars of the initial passport notification using the same form, as the one of the initial notification, completing the new information only in the relevant fields to be amended?**

<ESMA\_QUESTION\_CP\_MIFID\_24>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_24>

**Q25. Do you agree that all activities and financial instruments (current and intended) should be completed in the form, when changes in the investment services, activities, ancillary services or financial instruments are to be notified?**

<ESMA\_QUESTION\_CP\_MIFID\_25>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_25>

**Q26. Do you agree to notify changes in the particulars of the initial notification for the provision of arrangements to facilitate access to an MTF or OTF?**

<ESMA\_QUESTION\_CP\_MIFID\_26>

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<ESMA\_QUESTION\_CP\_MIFID\_26>

**Q27. Do you agree with the use of a separate form for the communication of the information on the termination of the operations of a branch or the cessation of the use of a tied agent established in another Member State?**

<ESMA\_QUESTION\_CP\_MIFID\_27>

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<ESMA\_QUESTION\_CP\_MIFID\_27>

**Q28. Do you agree with the list of information to be requested by ESMA to apply to third country firms? If no, which items should be added or deleted. Please provide details on your answer.**



<ESMA\_QUESTION\_CP\_MIFID\_28>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_28>

**Q29. Do you agree with ESMA's proposal on the form of the information to provide to clients? Please provide details on your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_29>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_29>

**Q30. Do you agree with the approach taken by ESMA? Would a different period of measurement be more useful for the published reports?**

<ESMA\_QUESTION\_CP\_MIFID\_30>

CFA Institute believes that all execution venues – which for shares include Regulated Markets, Multilateral Trading Facilities, and Systematic Internalisers – should provide data on execution quality. We are not able to opine on the applicability of execution quality reporting for non-equity markets.

ESMA believes that it would be appropriate to segregate the execution venue reporting requirements along the market mechanism they operate. CFA Institute agrees and maintains that the ability for all execution venues to report comparable data may be constrained by the fact that some execution venues (such as systematic internalisers or trading venues operating under a pre-trade transparency waiver) may not display quotations. Consequently, for non-displayed venues, execution quality metrics such as effective spread and realised spread would need to make reference to the bid-offer spread on a specified reference market, absent a venue-specific quotation or a consolidated benchmark to reference such as a European Best Bid and Offer (EBBO).

Other dimensions of execution quality, namely speed, costs, and likelihood of execution, would also differ according to the type of orders accepted by different venues. To ensure the data are comparable, the order types used for the basis of calculating execution quality metrics should be limited. Following the approach in the United States under Reg. NMS Rule 605, the order types referenced could include market orders, marketable limit orders, inside-, at-, and near-the-quote orders.

Overall, CFA Institute believes that variation in standardised execution quality metrics across venues would serve a valuable purpose by illustrating to investors the relative merits of different market structures for order execution. To the extent possible, we agree with ESMA that all execution venues should provide standardised data on execution quality under standardised reporting conventions. As to the period of measurement, CFA Institute agrees with ESMA in that the data should be presented on the basis of daily averages.

<ESMA\_QUESTION\_CP\_MIFID\_30>

**Q31. Do you agree that it is reasonable to split trades into ranges according to the nature of different classes of financial instruments? If not, why?**

<ESMA\_QUESTION\_CP\_MIFID\_31>

CFA Institute agrees with ESMA that it is appropriate to split trades into several ranges for the reporting of execution quality metrics. These ranges should vary according to the different types and classes of financial instruments.

<ESMA\_QUESTION\_CP\_MIFID\_31>

**Q32. Are there other metrics that would be useful for measuring likelihood of execution?**

<ESMA\_QUESTION\_CP\_MIFID\_32>

CFA Institute agrees with ESMA that the volume of orders received and executed would be a useful metric to provide. Measures such as average bid-offer spreads (quoted, effective and realised) are also important to provide, and it is acceptable for such spread measures to be based upon the Venue Best Bid and Offer (VBBO). Where a VBBO is not available (e.g. where the venue is dark), the relevant spread measures (effective and realised) should be based upon a suitable reference market. We also agree with ESMA that execution venues should publish a description of each component of the costs incurred.

Other measures relevant for order book markets include market depth (e.g. value of shares at the bid and the offer within x basis points of the top of the order book) and depth-weighted spreads (e.g. the difference between the weighted average bid price and offer price for a €25,000 order). However, these depth-based metrics may not be applicable for non-order-book markets. Consequently, where appropriate, ESMA may wish to allow exemptions or to require depth-based disclosures only for RMs and MTFs (in respect of shares).

Other possible metrics for all execution venues include the average transaction size, average order-to-transaction ratio, and average speed of execution from receipt of order (e.g. proportion of orders filled within fixed time buckets).

Data on the average ratio of orders to transactions is useful. This metric gives an appropriate indication of the intensity of message traffic on a given venue. Data on cancelled orders in absolute terms is of limited use.

<ESMA\_QUESTION\_CP\_MIFID\_32>

**Q33. Are those metrics meaningful or are there any additional data or metrics that ESMA should consider?**

<ESMA\_QUESTION\_CP\_MIFID\_33>

CFA Institute believes that the likelihood of execution can be combined with the speed of execution. For example, the reports could present the proportion of orders received that were filled within set time periods. The data should be presented for standard order types (market, marketable limit, inside- at-, and near-the quote) and for standardised order sizes in monetary terms. This follows the current approach in the U.S. With regard to order modifications, it would be appropriate to only take into consideration genuine intentions to trade (i.e. exclude cancelled orders).

CFA Institute believes that VBBO is an acceptable basis for the calculation of execution quality metrics (absent an official EBBO); for non-displayed venues, relevant metrics such as effective and realised spread should be based upon the quotations in a suitable reference market. Depth-based metrics may only be applicable for order book markets.

<ESMA\_QUESTION\_CP\_MIFID\_33>

**Q34. Do you agree with the proposed approach? If not, what other information should ESMA consider?**

<ESMA\_QUESTION\_CP\_MIFID\_34>

Yes, we agree with ESMA's proposed approach. CFA Institute believes that the investment firms should publish the data relating to their execution of orders with a minimum of specific reporting details and in a compatible format of data based on a homogeneous calculation method. Quarterly publication by investment firms of their order routing and execution practices for the quarter would be acceptable.

<ESMA\_QUESTION\_CP\_MIFID\_34>

**Q35. Do you agree with the proposed approach? If not, what other information should ESMA consider?**

<ESMA\_QUESTION\_CP\_MIFID\_35>

CFA Institute agrees with the proposed approach. We believe that additional data relevant to the assessment of firms' order routing practices includes disclosures of third party payments, including payment for order flow arrangements or other inducements, and close links such as where a broker is affiliated with an OTC market maker (e.g. two vertically integrated subsidiaries belonging to the same group). We are not able to comment on the feasibility of standardised execution quality reporting beyond shares absent a pre-trade transparency framework for non-equities.

We concur that firms should give an appropriate picture of the different venues and ways in which orders are executed, and agree with ESMA that firms should report the identity of the top 5 venues (including systematic internalisers and OTC market makers) to which they direct their order flow, according to aggregate payments made in respect of payment for order flow and other third-party arrangements.

CFA Institute agrees that this information is valuable when analysing the factors influencing order routing behaviour. At a minimum, narrative disclosures detailing the nature and extent of these arrangements could be provided in firms' execution quality reporting.



<ESMA\_QUESTION\_CP\_MIFID\_35>

**Q36. Do you agree with the proposed approach? If not, what other information should ESMA consider?**

<ESMA\_QUESTION\_CP\_MIFID\_36>

As noted in our answer to Q35, CFA Institute agrees that additional data relevant to the assessment of firms' order routing practices includes disclosures of third party payments, including payment for order flow arrangements or other inducements, and close links such as where a broker is affiliated with an OTC market maker (e.g. two vertically integrated subsidiaries belonging to the same group).

CFA Institute agrees that this information is valuable when analysing the factors influencing order routing behaviour. At a minimum, narrative disclosures detailing the nature and extent of these arrangements could be provided in firms' execution quality reporting. We agree with ESMA that best practice could be for firms to list the top 5 execution venues according to aggregate payments made in respect of payment for order flow and other third-party arrangements.

For the purposes of public disclosure, it may not be relevant to report data separately according to category of client. Such disclosure is unlikely to add much value. However, firms should retain adequate records so that they can produce, upon request by the regulator, the requisite data by category of client.

We agree that trading venues should publish the data relating to the quality of execution, and that the data to be provided should be precisely defined, published in standardised and comparable format, and be appropriate for firms already using the execution venue as well as for firms considering doing so.

<ESMA\_QUESTION\_CP\_MIFID\_36>

### 3. Transparency

**Q37. Do you agree with the proposal to add to the current table a definition of request for quote trading systems and to establish precise pre-trade transparency requirements for trading venues operating those systems? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_37>

CFA Institute agrees that a definition of request for quote should be added to the current table. Furthermore, ESMA's proposal to subject actionable indications of interest to the pre-trade transparency regime is reasonable. However it may be appropriate to use "financial instrument" in place of "share" in the definition given the wider scope of the MiFID II regime.

<ESMA\_QUESTION\_CP\_MIFID\_37>

**Q38. Do you agree with the proposal to determine on an annual basis the most relevant market in terms of liquidity as the trading venue with the highest turnover in the relevant financial instrument by excluding transactions executed under some pre-trade transparency waivers? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_38>

CFA Institute agrees with ESMA's proposal that the most relevant market in terms of liquidity for a share should be the trading venue with the highest turnover for that share. It is appropriate to exclude transactions executed under pre-trade transparency waivers from the determination of the most relevant market in terms of liquidity, as those trade volumes are dependent upon the activity in the primary (lit) market. We agree that an annual calculation frequency and period facilitates operational simplicity and fosters stability within the framework.

<ESMA\_QUESTION\_CP\_MIFID\_38>

**Q39. Do you agree with the proposed exhaustive list of negotiated transactions not contributing to the price formation process? What is your view on including non-standard or special settlement trades in the list? Would you support including non-standard settlement transactions only for managing settlement failures? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_39>

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<ESMA\_QUESTION\_CP\_MIFID\_39>

**Q40. Do you agree with ESMA's definition of the key characteristics of orders held on order management facilities? Do you agree with the proposed minimum sizes? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_40>

CFA Institute believes that ESMA's definition of the main features of stop orders and iceberg/reserve orders is sufficient, leaving judgment to be made subsequently (following the notification process) on whether the order type is compliant with the order management facility classification. A non-prescriptive approach to order types allows for innovation and ensures the regulation stays relevant as market practices evolve.

<ESMA\_QUESTION\_CP\_MIFID\_40>

**Q41. Do you agree with the classes, thresholds and frequency of calculation proposed by ESMA for shares and depositary receipts? Please provide reasons for your answers.**



<ESMA\_QUESTION\_CP\_MIFID\_41>

CFA Institute agrees with ESMA's proposal. Given the large number and increasing proportion of stocks with ADT less than €100,000, as noted in ESMA's analysis in the 2014 MiFID II Discussion Paper, CFA Institute agrees that there is merit in creating a new ADT class for the LIS waiver framework of €0 to €100,000, followed by an ADT class of €100,000 to €500,000 (replacing the current class of 0 to €500,000). The LIS thresholds for these ADT classes proposed by ESMA seem reasonable (€30,000 and €60,000 respectively).

CFA Institute agrees that it would be useful to split the current ADT class of €1m to €25m into two further classes, namely €1m to €5m and €5m to €25m. Splitting this class in the way suggested would reduce the dispersion of stocks and increase the homogeneity of stocks within the respective buckets. The LIS thresholds proposed by ESMA appear reasonable (€200,000 for the €1m to €5m ADT class and €300,000 for the €5m to €25m class).

CFA Institute agrees that it would be useful to split the current ADT class of >€50m into two classes, namely €50m to €100m, and >€100m. As ESMA notes, there is currently a wide dispersion of shares within the >€50m ADT class, with a large jump in the number of stocks around the €100m ADT level. Therefore, splitting the current ADT class of >€50m in the way suggested would reduce the dispersion of stocks and increase the homogeneity of stocks within the respective buckets. The LIS thresholds proposed by ESMA appear reasonable (€500,000 for the €50m to €100m ADT class and €650,000 for the >€100m class).

However, we caveat our support for the recalibrated ADT framework by noting that it is unknown what proportion of trading would fall under the LIS waiver as a result of the recalibration. This is a significant and perhaps the most important criterion on which to assess the efficacy of the new LIS framework.

Whilst we recognize the legitimate concerns of market participants that the thresholds should be reflective of current trading sizes and should not needlessly expose large orders, we also believe that the overall quality and integrity of the market must take precedence over the concerns of individual market participants.

<ESMA\_QUESTION\_CP\_MIFID\_41>

**Q42. Do you agree with the classes, thresholds and frequency of calculation proposed by ESMA for ETFs? Would you support an alternative approach based on a single large in scale threshold of €1 million to apply to all ETFs regardless of their liquidity? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_42>

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<ESMA\_QUESTION\_CP\_MIFID\_42>

**Q43. Do you agree with the classes, thresholds and frequency of calculation proposed by ESMA for certificates? Please provide reasons for your answers.**



<ESMA\_QUESTION\_CP\_MIFID\_43>

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<ESMA\_QUESTION\_CP\_MIFID\_43>

**Q44. Do you agree with the proposed approach on stubs? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_44>

CFA Institute disagrees with ESMA's revised position on the pre-trade transparency rules for stubs. We believe that to provide additional pre-trade transparency exemptions for stubs that fall below the LIS thresholds is unnecessarily accommodative.

Users of large in scale orders are typically sophisticated investors (including professional investors and eligible counterparties within the MiFID framework). It is the role of the professional trader, acting on behalf of such investors, to use his/her skill to navigate the challenges presented by the display of stubs and other large orders. We believe that it is the role of market professionals to minimise market impact and manage risks accordingly.

<ESMA\_QUESTION\_CP\_MIFID\_44>

**Q45. Do you agree with the proposed conditions and standards that the publication arrangements used by systematic internalisers should comply with? Should systematic internalisers be required to publish with each quote the publication of the time the quote has been entered or updated? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_45>

CFA Institute agrees with the proposed conditions and standards on publication arrangements that systematic internalisers should comply with. We also agree that it is appropriate for systematic internalisers' quotes to include a timestamp. As ESMA notes, without a timestamp assigned by the systematic internaliser itself, market participants would potentially need to rely on the information provided by data vendors.

<ESMA\_QUESTION\_CP\_MIFID\_45>

**Q46. Do you agree with the proposed definition of when a price reflects prevailing conditions? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_46>

CFA Institute believes that the proposed definition is reasonable. Quotes reflecting prevailing markets conditions were already defined under the MiFID I implementing regulation as "a quote or quotes which are close in price to comparable quotes for the same share in other trading venues", hence the changes proposed by ESMA are minimal.

<ESMA\_QUESTION\_CP\_MIFID\_46>

**Q47. Do you agree with the proposed classes by average value of transactions and applicable standard market size? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_47>

CFA Institute disagrees with the proposed classes. Instead, CFA Institute favours the simplicity of retaining the current AVT classes and standard market sizes (Option 3 in the 2014 MiFID II Discussion Paper). Given that over 95% of shares fall within the first AVT class, and that over 75% of shares have an AVT below the standard market size for this class (€7,500), merely maintaining the existing calibration would lead to an increase in the



transparency of SI quotes. Based on these figures, we do not see any real economic benefit from changing the thresholds.

<ESMA\_QUESTION\_CP\_MIFID\_47>

**Q48. Do you agree with the proposed list of transactions not contributing to the price discovery process in the context of the trading obligation for shares? Do you agree that the list should be exhaustive? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_48>

CFA Institute agrees with the list of transactions not contributing to the price discovery process as proposed by ESMA. OTC transactions have often been inflated or double counted due to the inclusion of technical (non-price-forming) trades and we believe that the new proposed list will give more certainty and a clearer picture of the actual volume of OTC trading. We accept ESMA's view that an exhaustive list, albeit less flexible, would bring greater legal certainty to the market and thus guarantee more consistent application of the rules.

<ESMA\_QUESTION\_CP\_MIFID\_48>

**Q49. Do you agree with the proposed list of information that trading venues and investment firms shall made public? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_49>

CFA Institute agrees with the proposed list. We believe that the existing post-trade transparency regime is sufficient.

<ESMA\_QUESTION\_CP\_MIFID\_49>

**Q50. Do you consider that it is necessary to include the date and time of publication among the fields included in Table 1 Annex 1 of Draft RTS 8? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_50>

CFA Institute believes that the date and time of transaction are important pieces of information for market participants when evaluating the price of a financial instrument (including whether the price is current or stale and whether it is reflective of fair value). Accordingly, we believe it is appropriate to include the date and time of publication in the content of post-trade transparency information.

<ESMA\_QUESTION\_CP\_MIFID\_50>

**Q51. Do you agree with the proposed list of flags that trading venues and investment firms shall made public? Please provide reasons for your answers.**



<ESMA\_QUESTION\_CP\_MIFID\_51>

CFA Institute broadly supports the list of identifiers and trade flags proposed by ESMA. These identifiers will facilitate the capture of different types of dark trades under the pre-trade transparency waiver framework, and will enable the identification of technical trades and non-addressable liquidity within the OTC sphere. The accuracy and utility of OTC trade data should therefore improve.

Nonetheless, we question the value of flagging all algorithmic trades, as algorithms are used for the vast majority of trade executions. While all the other items ESMA has listed for flagging are for exceptional trades, algorithmic trades are the norm.

<ESMA\_QUESTION\_CP\_MIFID\_51>

**Q52. Do you agree with the proposed definitions of normal trading hours for market operators and for OTC? Do you agree with shortening the maximum possible delay to one minute? Do you think some types of transactions, such as portfolio trades should benefit from longer delays? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_52>

CFA Institute believes that ESMA's definitions of normal trading hours for market operators and for OTC are reasonable.

Consistent with our response to the 2014 MiFID II Discussion Paper, we disagree with the proposal to shorten the maximum possible delay to one minute. In CESR's technical advice to the European Commission in the context of the MiFID review on equity markets (2010), CESR commented that some investment firms routinely used the full 3 minutes (the permissible delay for real-time reporting under MiFID I) to publish a transaction rather than on an exceptional basis. The risk with ESMA's proposal is that firms would simply substitute 3 minutes for 1 minute, notwithstanding the revised language in MiFIR to report trades "as close to real-time as technically possible".

We also note that in the United States, the Financial Industry Regulatory Authority (FINRA) requires firms to report trades as soon as practicable, but no later than 10 seconds following trade execution. We therefore see no reason why the same maximum permissible delay could not be introduced in Europe.

<ESMA\_QUESTION\_CP\_MIFID\_52>

**Q53. Do you agree that securities financing transactions and other types of transactions subject to conditions other than the current market valuation of the financial instrument should be exempt from the reporting requirement under article 20? Do you think other types of transactions should be included? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_53>

**Q54. Do you agree with the proposed classes and thresholds for large in scale transactions in shares and depositary receipts? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_54>

CFA Institute supports greater alignment of the deferred publication framework with the large-in-scale pre-trade transparency waiver framework. Specifically, we support ESMA's proposal to create 8 ADT classes for deferred publication that equate to the same 8 ADT classes under the LIS pre-trade transparency waiver framework. This would bring more consistency and coherence to the transparency framework for large trades.

However, the quality of post-trade transparency information would be improved by simplifying the deferred publication thresholds and reducing the number of potential delays. The calibration proposed by ESMA is complex, with three size thresholds within each ADT class, equating to a total of 24 different thresholds. Moreover, the level of the thresholds is confusing – some are lower than the equivalent LIS threshold (i.e. for the same ADT class), while some are higher than the equivalent LIS threshold.

The proposed calibration risks damaging the usefulness of a consolidated tape – with such an array of deferrals for trade reporting, the resulting tape could be distorted such that it may not accurately reflect market activity. In general, minimising the exemptions from immediate trade reporting is necessary to uphold the reliability of consolidated post-trade data.

<ESMA\_QUESTION\_CP\_MIFID\_54>

**Q55. Do you agree with the proposed classes and thresholds for large in scale transactions in ETFs? Should instead a single large in scale threshold and deferral period apply to all ETFs regardless of the liquidity of the financial instrument as described in the alternative approach above? Please provide reasons for your answers.**

<ESMA\_QUESTION\_CP\_MIFID\_55>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_55>

**Q56. Do you agree with the proposed classes and thresholds for large in scale transactions in certificates? Please provide reasons for your answers**

<ESMA\_QUESTION\_CP\_MIFID\_56>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_56>

**Q57. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer for SFPs and for each of type of bonds identified (European Sovereign Bonds, Non-European Sovereign Bonds, Other European Public Bonds, Financial Convertible Bonds, Non-Financial Convertible Bonds, Covered Bonds, Senior Corporate Bonds-Financial, Senior Corporate Bonds Non-Financial, Subordinated Corporate Bonds-Financial, Subordinated Corporate Bonds Non-Financial) addressing the following points:**

**(1) Would you use different qualitative criteria to define the sub-classes with respect to those selected (i.e. bond type, debt seniority, issuer sub-type and issuance size)?**

**(2) Would you use different parameters (different from average number of trades per day, average nominal amount per day and number of days traded) or the same parameters but different thresholds in order to define a bond or a SFP as liquid?**



**(3) Would you define classes declared as liquid in ESMA's proposal as illiquid (or viceversa)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_57>

CFA Institute broadly agrees with the Classes of Financial Instruments Approach (COFIA) for establishing liquidity parameters in bond markets, and the liquid classes of bonds set out in Table 1 Annex III draft RTS 9 appear reasonable. The qualitative criteria included in the table (bond type, debt seniority, issuer sub-type, and issuance size) are sufficient for grouping classes of bonds.

The quantitative parameters for the liquid market definition – namely, a bond is deemed to be liquid if it trades on at least 200 days per year, has at least 400 trades per year, and at least EUR 100,000 of nominal traded on each of these days – are reasonable, with the exception of the size parameter. The EUR 100,000 threshold is very low and not suitable for all bond classes.

We recognise that there is a balance to be achieved between granularity/precision and simplicity in the COFIA approach. Whilst a more granular approach would likely result in greater precision (a smaller level of misclassification of liquid or illiquid bonds), it would also be difficult to apply, maintain, and monitor over time. Finding the right balance between granularity and operational simplicity therefore hinges on finding an acceptable level of misclassification within the COFIA framework. In this respect, the key issue is the number and proportion of bonds that are classified as liquid (being above the respective issuance size threshold) but that are, in fact, illiquid (according to the liquid market definition parameters, such as having fewer than 200 traded days and less than 400 trades). Incorrectly classifying illiquid bonds as liquid would discourage market making in these issues and further reduce turnover. In contrast, incorrectly classifying liquid bonds as illiquid (being below the respective issuance size threshold) is less of a concern for market participants because liquidity in these issues will be at least maintained.

The most relevant criterion in assessing the suitability of the liquidity framework, therefore, is the number and proportion of bonds above the issuance size threshold but below the liquidity thresholds. Based on the data presented in paragraph 55, table 5 in the Consultation, approximately half (and in some cases more than half) of the bonds above the issuance size threshold are actually below the liquidity thresholds. We suggest that ESMA devotes further analysis to the data to see if a more precise calibration (a lower proportion of misclassification of bonds above the issuance size thresholds) can be found.

Conversely, there are relatively few bonds below the issuance size thresholds that are in fact liquid and thus incorrectly classified (the degree of such misclassification ranges from less than 1% to 7.96%), so that overall, the total level of misclassification within the framework is acceptable: as ESMA notes (paragraph 48 of the Consultation), approximately 85% to 99.7% of the instruments are correctly classified overall. However, we stress that the most relevant assessment of precision is the extent to which illiquid bonds are incorrectly classified as liquid (above the issuance size threshold); further work should be undertaken to examine this result and to refine the framework where possible.

It is also important to undertake regular reviews of the framework to ensure its continued appropriateness. Bond liquidity is also a function of time, with the vast majority of turnover taking place in the weeks and months after issuance. Over time, even bonds with high

issuance could become illiquid, potentially increasing the classification error. To the extent possible, ESMA should review the framework frequently to ensure its accuracy and appropriateness.

<ESMA\_QUESTION\_CP\_MIFID\_57>

**Q58. Do you agree with the definitions of the bond classes provided in ESMA's proposal (please refer to Annex III of RTS 9)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_58>

The definitions of bond classes in Section 1 of Annex III draft RTS 9 appear reasonable.

<ESMA\_QUESTION\_CP\_MIFID\_58>

**Q59. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer per asset class identified (investment certificates, plain vanilla covered warrants, leverage certificates, exotic covered warrants, exchange-traded-commodities, exchange-traded notes, negotiable rights, structured medium-term-notes and other warrants) addressing the following points:**

**(1) Would you use additional qualitative criteria to define the sub-classes?**

**(2) Would you use different parameters or the same parameters (i.e. average daily volume and number of trades per day) but different thresholds in order to define a sub-class as liquid?**

**(3) Would you qualify certain sub-classes as illiquid? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_59>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_59>

**Q60. Do you agree with the definition of securitised derivatives provided in ESMA's proposal (please refer to Annex III of the RTS)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_60>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_60>

**Q61. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer for each of the asset classes identified (FRA, Swaptions, Fixed-to-Fixed single currency swaps, Fixed-to-Float single currency swaps, Float -to- Float single currency swaps, OIS single currency swaps, Inflation single currency swaps, Fixed-to-Fixed multi-currency swaps, Fixed-to-Float multi-currency swaps, Float -to-Float multi-currency swaps, OIS multi-currency swaps, bond options, bond futures, interest rate options, interest rate futures) addressing the following points:**

**(1) Would you use different criteria to define the sub-classes (e.g. currency, tenor, etc.)?**

**(2) Would you use different parameters (among those provided by Level 1, i.e. the average frequency and size of transactions, the number and type of market participants, the average size of spreads, where available) or the same parameters but different thresholds in order to define a sub-class as liquid (state also your preference for option 1 vs. option 2, i.e. application of the tenor criteria as a range as in ESMA's preferred option or taking into account broken dates. In the latter case please also provide suggestions regarding what should be set as the non-broken dates)?**

**(3) Would you define classes declared as liquid in ESMA's proposal as illiquid (or vice versa)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_61>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_61>

**Q62. Do you agree with the definitions of the interest rate derivatives classes provided in ESMA's proposal (please refer to Annex III of draft RTS 9)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_62>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_62>

**Q63. With regard to the definition of liquid classes for equity derivatives, which one is your preferred option? Please be specific in relation to each of the asset classes identified and provide a reason for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_63>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_63>

**Q64. If you do not agree with ESMA's proposal for the definition of a liquid market, please specify for each of the asset classes identified (stock options, stock futures, index options, index futures, dividend index options, dividend index futures, stock dividend options, stock dividend futures, options on a basket or portfolio of shares, futures on a basket or portfolio of shares, options on other underlying values (i.e. volatility index or ETFs), futures on other underlying values (i.e. volatility index or ETFs):**

- (1) your alternative proposal**
- (2) which qualitative criteria would you use to define the sub-classes**
- (3) which parameters and related threshold values would you use in order to define a sub-class as liquid.**

<ESMA\_QUESTION\_CP\_MIFID\_64>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_64>

**Q65. Do you agree with the definitions of the equity derivatives classes provided in ESMA's proposal (please refer to Annex III of draft RTS 9)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_65>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_65>

**Q66. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer detailed per contract type, underlying type and underlying identified, addressing the following points:**

- (1) Would you use different qualitative criteria to define the sub-classes? In particular, do you consider the notional currency as a relevant criterion to define sub-classes, or in other words should a sub-class deemed as liquid in one currency be declared liquid for all currencies?**

**(2) Would you use different parameters or the same parameters (i.e. average number of trades per day and average notional amount traded per day) but different thresholds in order to define a sub-class as liquid?**

**(3) Would you define classes declared as liquid in ESMA's proposal as illiquid (or vice versa)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_66>

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<ESMA\_QUESTION\_CP\_MIFID\_66>

**Q67. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer detailed per contract type, underlying type and underlying identified, addressing the following points:**

**(1) Would you use different qualitative criteria to define the sub-classes? In particular, do you consider the notional currency as a relevant criteria to define sub-classes, or in other words should a sub-class deemed as liquid in one currency be declared liquid for all currencies?**

**(2) Would you use different parameters or the same parameters (i.e. average number of trades per day and average notional amount traded per day) but different thresholds in order to define a sub-class as liquid?**

**(3) Would you define classes declared as liquid in ESMA's proposal as illiquid (or vice versa)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_67>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_67>

**Q68. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer detailed per contract type and underlying (identified addressing the following points:**

**(1) Would you use different qualitative criteria to define the sub-classes?**

**(2) Would you use different parameters or the same parameters (i.e. average number of trades per day and average notional amount traded per day) but different thresholds in order to define a sub-class as liquid?**

**(3) Would you define classes declared as liquid in ESMA's proposal as illiquid (or vice versa)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_68>

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<ESMA\_QUESTION\_CP\_MIFID\_68>

**Q69. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer per asset class identified (EUA, CER, EUAA, ERU) addressing the following points:**

**(1) Would you use additional qualitative criteria to define the sub-classes?**

**(2) Would you use different parameters or the same parameters (i.e. average number of trades per day and average number of tons of carbon dioxide traded per day) but different thresholds in order to define a sub-class as liquid?**

**(3) Would you qualify as liquid certain sub-classes qualified as illiquid (or vice versa)? Please provide reasons for your answer.**





<ESMA\_QUESTION\_CP\_MIFID\_69>

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<ESMA\_QUESTION\_CP\_MIFID\_69>

**Q70. Do you agree with ESMA's proposal with regard to the content of pre-trade transparency? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_70>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_70>

**Q71. Do you agree with ESMA's proposal with regard to the order management facilities waiver? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_71>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_71>

**Q72. ESMA seeks further input on how to frame the obligation to make indicative prices public for the purpose of the Technical Standards. Which methodology do you prefer? Do you have other proposals?**

<ESMA\_QUESTION\_CP\_MIFID\_72>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_72>

**Q73. Do you consider it necessary to include the date and time of publication among the fields included in Annex II, Table 1 of RTS 9? Do you consider that other relevant fields should be added to such a list? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_73>

CFA Institute believes that the date and time of transaction are important pieces of information for market participants when evaluating the price of a financial instrument (including whether the price is current or stale and whether it is reflective of fair value). Accordingly, we believe it is appropriate to include the date and time of publication in the table specifying the content of post-trade transparency information for non-equity financial instruments in Annex II of draft RTS 9.

<ESMA\_QUESTION\_CP\_MIFID\_73>

**Q74. Do you agree with ESMA's proposal on the applicable flags in the context of post-trade transparency? Please provide reasons for your answer.**



<ESMA\_QUESTION\_CP\_MIFID\_74>

CFA Institute broadly supports the list of trade flags proposed by ESMA. These identifiers will enable the identification of technical trades via the non-price-forming flag, as well as trades benefitting from pre-trade transparency waivers.

Give-up/give-in trades are technical in nature and do not reflect underlying liquidity. Consequently, whilst it is useful to capture these trades with an appropriate flag, they should be excluded from public post-trade data in order to present an accurate reflection of true trading activity and avoid inflating volumes.

The use of a flag for trades published with a time delay is useful for investors to determine if the trade price is stale.

<ESMA\_QUESTION\_CP\_MIFID\_74>

**Q75. Do you agree with ESMA's proposal? Please specify in your answer if you agree with:**

- (1) a 3-year initial implementation period**
- (2) a maximum delay of 15 minutes during this period**
- (3) a maximum delay of 5 minutes thereafter. Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_75>

ESMA proposes to prescribe a maximum permissible delay of 15 minutes for real-time post-trade reporting for a period of 3 years after entry into application of the Regulation, and to shorten the maximum permissible delay to 5 minutes after this 3 year period lapses. ESMA also notes that the maximum permissible delay should only be used by market participants who for technical reasons cannot achieve real-time publication as promptly as a fully automated process.

CFA Institute believes that a 5 minute maximum permissible delay for real-time trade reporting is desirable; however, a transition to this standard over a three-year period is ultimately acceptable.

Over time, and analogous to the approach under the US TRACE system for bonds, we envisage that the time limit for real-time reporting, as well as delayed reporting, could be shortened as market practices, liquidity characteristics and trading modalities evolve.

<ESMA\_QUESTION\_CP\_MIFID\_75>

**Q76. Do you agree that securities financing transactions and other types of transactions subject to conditions other than the current market valuation of the financial instrument should be exempt from the reporting requirement under article 21? Do you think other types of transactions should be included? Please provide reasons for your answers.**



<ESMA\_QUESTION\_CP\_MIFID\_76>

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<ESMA\_QUESTION\_CP\_MIFID\_76>

**Q77. Do you agree with ESMA's proposal for bonds and SFPs? Please specify, for each type of bonds identified, if you agree on the following points, providing reasons for your answer and if you disagree providing ESMA with your alternative proposal:**

- (1) deferral period set to 48 hours**
- (2) size specific to the instrument threshold set as 50% of the large in scale threshold**
- (3) volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9**
- (4) pre-trade and post-trade thresholds set at the same size**
- (5) large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.**

<ESMA\_QUESTION\_CP\_MIFID\_77>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_77>

**Q78. Do you agree with ESMA's proposal for interest rate derivatives? Please specify, for each sub-class (FRA, Swaptions, Fixed-to-Fixed single currency swaps, Fixed-to-Float single currency swaps, Float -to- Float single currency swaps, OIS single currency swaps, Inflation single currency swaps, Fixed-to-Fixed multi-currency swaps, Fixed-to-Float multi-currency swaps, Float -to- Float multi-currency swaps, OIS multi-currency swaps, bond options, bond futures, interest rate options, interest rate futures) if you agree on the following points providing reasons for your answer and, if you disagree, providing ESMA with your alternative proposal:**

- (1) deferral period set to 48 hours**
- (2) size specific to the instrument threshold set as 50% of the large in scale threshold**
- (3) volume measure used to set the large in scale and size specific to the instrument threshold as specified in Annex II, Table 3 of draft RTS 9**
- (4) pre-trade and post-trade thresholds set at the same size**
- (5) large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1), provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2), provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed (c) irrespective of your preference for option 1 or 2 and, with particular reference to OTC traded interest rates derivatives, provide feedback on the granularity of the tenor buckets defined. In**

other words, would you use a different level of granularity for maturities shorter than 1 year with respect to those set which are: 1 day- 1.5 months, 1.5-3 months, 3-6 months, 6 months – 1 year? Would you group maturities longer than 1 year into buckets (e.g. 1-2 years, 2-5 years, 5-10 years, 10-30 years and above 30 years)?

<ESMA\_QUESTION\_CP\_MIFID\_78>

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<ESMA\_QUESTION\_CP\_MIFID\_78>

**Q79. Do you agree with ESMA's proposal for commodity derivatives? Please specify, for each type of commodity derivatives, i.e. agricultural, metals and energy, if you agree on the following points providing reasons for your answer and if you disagree, providing ESMA with your alternative proposal:**

- (1) deferral period set to 48 hours**
- (2) size specific to the instrument threshold set as 50% of the large in scale threshold**
- (3) volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9**
- (4) pre-trade and post-trade thresholds set at the same size**
- (5) large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.**

<ESMA\_QUESTION\_CP\_MIFID\_79>

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<ESMA\_QUESTION\_CP\_MIFID\_79>

**Q80. Do you agree with ESMA's proposal for equity derivatives? Please specify, for each type of equity derivatives [stock options, stock futures, index options, index futures, dividend index options, dividend index futures, stock dividend options, stock dividend futures, options on a basket or portfolio of shares, futures on a basket or portfolio of shares, options on other underlying values (i.e. volatility index or ETFs), futures on other underlying values (i.e. volatility index or ETFs)], if you agree on the following points providing reasons for your answer and if you disagree, providing ESMA with your alternative proposal:**

- (1) deferral period set to 48 hours**
- (2) size specific to the instrument threshold set as 50% of the large in scale threshold**
- (3) volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9**
- (4) pre-trade and post-trade thresholds set at the same size**
- (5) large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e.**

option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.

<ESMA\_QUESTION\_CP\_MIFID\_80>

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<ESMA\_QUESTION\_CP\_MIFID\_80>

**Q81. Do you agree with ESMA's proposal for securitised derivatives? Please specify if you agree on the following points providing reasons for your answer and if you disagree, providing ESMA with your alternative proposal:**

**(1) deferral period set to 48 hours**

**(2) size specific to the instrument threshold set as 50% of the large in scale threshold**

**(3) volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9**

**(4) pre-trade and post-trade thresholds set at the same size**

**(5) large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.**

<ESMA\_QUESTION\_CP\_MIFID\_81>

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<ESMA\_QUESTION\_CP\_MIFID\_81>

**Q82. Do you agree with ESMA's proposal for emission allowances? Please specify if you agree on the following points providing reasons for your answer and if you disagree, providing ESMA with your alternative proposal:**

**(1) deferral period set to 48 hours**

**(2) size specific to the instrument threshold set as 50% of the large in scale threshold**

**(3) volume measure used to set the large in scale threshold as specified in Annex II, Table 3 of draft RTS 9**

**(4) pre-trade and post-trade thresholds set at the same size**

**(5) large in scale thresholds: (a) state your preference for the system to set the thresholds (i.e. annual recalculation of the thresholds vs. no recalculation of the thresholds) (b) in the case of a preference for a system with no recalculation (i.e. option 1) provide feedback on the thresholds determined. In the case of a preference for a system with recalculation (i.e. option 2) provide feedback on the thresholds determined for 2017 and on the methodology to recalculate the thresholds from 2018 onwards including the level of granularity of the classes on which the recalculations will be performed.**



<ESMA\_QUESTION\_CP\_MIFID\_82>

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<ESMA\_QUESTION\_CP\_MIFID\_82>

**Q83. Do you agree with ESMA's proposal in relation to the supplementary deferral regime at the discretion of the NCA? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_83>

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<ESMA\_QUESTION\_CP\_MIFID\_83>

**Q84. Do you agree with ESMA's proposal with regard to the temporary suspension of transparency requirements? Please provide feedback on the following points:**

**(1) the measure used to calculate the volume as specified in Annex II, Table 3**

**(2) the methodology as to assess a drop in liquidity**

**(3) the percentages determined for liquid and illiquid instruments to assess the drop in liquidity. Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_84>

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<ESMA\_QUESTION\_CP\_MIFID\_84>

**Q85. Do you agree with ESMA's proposal with regard to the exemptions from transparency requirements in respect of transactions executed by a member of the ESCB? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_85>

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<ESMA\_QUESTION\_CP\_MIFID\_85>

**Q86. Do you agree with the articles on the double volume cap mechanism in the proposed draft RTS 10? Please provide reasons to support your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_86>

CFA Institute believes that the proposed draft RTS 10 would introduce significant changes in reporting requirements for investment firms. While CFA Institute maintains that the financial markets will benefit from further transparency, we believe that the proposed monitoring regime with the outlined reporting requirements may bring unnecessary legal uncertainty to the markets.

CFA Institute would welcome further clarifications and simplifications to the pre-trade transparency regime in particular regarding the threshold monitoring system and on the collection of the data (paragraphs 9 and 10 of the Proposal, pp.323-234). As the new European CTP regime is not yet in place, CFA Institute is concerned of the legal certainty that the collected data is accurate and sent to ESMA on a timely basis. We would like to have further information on how ESMA proposes to collect the information from the CTPs and to guarantee that the collected data is of high enough quality. CFA Institute would also like to have further certainty over what happens if the data provided by the trading venues is delayed and/or submitted only partially.

In paragraphs 11 and 12 of the Proposal (p.324), ESMA notes that it will perform the threshold calculations for the use of the waivers twice a month. CFA Institute is concerned

that if the threshold quotas are filled already during the first week of the two-week reference period, how will the trading during the second week of the reference period be affected, if at all. ESMA's proposal (paragraph 15, p.325) to occasionally ask trading venues for ad-hoc information is not convincing, as these requests would only be done intermittently and would not guarantee that the waiver regime is based on continuously updated data. Only up-to-date data would guarantee to the markets that the thresholds of 4% and 8% have not been met yet. Not having the clarity over the updated percentages will make trading under the waivers unnecessarily uncertain. The requirement for trading venues to submit huge volumes of information for the ad-hoc requests by close of business on the next working day also seems overly burdensome.

CFA Institute believes that the proposed draft RTS 10 should be modified to better reflect the need in the financial markets for further legal certainty by simplifying and clarifying the operational mechanics of the data collection.

<ESMA\_QUESTION\_CP\_MIFID\_86>

**Q87. Do you agree with the proposed draft RTS in respect of implementing Article 22 MiFIR? Please provide reasons to support your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_87>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_87>

**Q88. Are there any other criteria that ESMA should take into account when assessing whether there are sufficient third-party buying and selling interest in the class of derivatives or subset so that such a class of derivatives is considered sufficiently liquid to trade only on venues?**

<ESMA\_QUESTION\_CP\_MIFID\_88>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_88>

**Q89. Do you have any other comments on ESMA's proposed overall approach?**

<ESMA\_QUESTION\_CP\_MIFID\_89>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_89>

**Q90. Do you agree with the proposed draft RTS in relation to the criteria for determining whether derivatives have a direct, substantial and foreseeable effect within the EU?**

<ESMA\_QUESTION\_CP\_MIFID\_90>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_90>

**Q91. Should the scope of the draft RTS be expanded to contracts involving European branches of non-EU non-financial counterparties?**

<ESMA\_QUESTION\_CP\_MIFID\_91>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_91>

**Q92. Please indicate what are the main costs and benefits that you envisage in implementing of the proposal.**



<ESMA\_QUESTION\_CP\_MIFID\_92>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_92>



## 4. Microstructural issues

**Q93. Should the list of disruptive scenarios to be considered for the business continuity arrangements expanded or reduced? Please elaborate.**

<ESMA\_QUESTION\_CP\_MIFID\_93>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_93>

**Q94. With respect to the section on Testing of algorithms and systems and change management, do you need clarification or have any suggestions on how testing scenarios can be improved?**

<ESMA\_QUESTION\_CP\_MIFID\_94>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_94>

**Q95. Do you have any further suggestions or comments on the pre-trade and post-trade controls as proposed above?**

<ESMA\_QUESTION\_CP\_MIFID\_95>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_95>

**Q96. In particular, do you agree with including “market impact assessment” as a pre-trade control that investment firms should have in place?**

<ESMA\_QUESTION\_CP\_MIFID\_96>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_96>

**Q97. Do you agree with the proposal regarding monitoring for the prevention and identification of potential market abuse?**

<ESMA\_QUESTION\_CP\_MIFID\_97>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_97>

**Q98. Do you have any comments on Organisational Requirements for Investment Firms as set out above?**

<ESMA\_QUESTION\_CP\_MIFID\_98>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_98>

**Q99. Do you have any additional comments or questions that need to be raised with regards to the Consultation Paper?**

<ESMA\_QUESTION\_CP\_MIFID\_99>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_99>

**Q100. Do you have any comments on Organisational Requirements for trading venues as set out above? Is there any element that should be clarified? Please provide reasons for your answer.**



<ESMA\_QUESTION\_CP\_MIFID\_100>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_100>

**Q101. Is there any element in particular that should be clarified with respect to the outsourcing obligations for trading venues?**

<ESMA\_QUESTION\_CP\_MIFID\_101>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_101>

**Q102. Is there any additional element to be addressed with respect to the testing obligations?**

<ESMA\_QUESTION\_CP\_MIFID\_102>

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<ESMA\_QUESTION\_CP\_MIFID\_102>

**Q103. In particular, do you agree with the proposals regarding the conditions to provide DEA?**

<ESMA\_QUESTION\_CP\_MIFID\_103>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_103>

**Q104. Do you agree with the proposed draft RTS? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_104>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_104>

**Q105. Should an investment firm pursuing a market making strategy for 30% of the daily trading hours during one trading day be subject to the obligation to sign a market making agreement? Please give reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_105>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_105>

**Q106. Should a market maker be obliged to remain present in the market for higher or lower than the proposed 50% of trading hours? Please specify in your response the type of instrument/s to which you refer.**

<ESMA\_QUESTION\_CP\_MIFID\_106>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_106>

**Q107. Do you agree with the proposed circumstances included as “exceptional circumstances”? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_107>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_107>

**Q108. Have you any additional proposal to ensure that market making schemes are fair and non-discriminatory? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_108>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_108>

**Q109. Do you agree with the proposed regulatory technical standards? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_109>

The order-to-transaction ratio provides valuable supplementary information on the nature and extent of liquidity on a given trading venue. We support calculating the OTR on the basis of the number of orders divided by the number of transactions as well as the volume of orders to transactions.

CFA Institute welcomes the inclusion of exemptions for market makers. Specifically, trading venues will have many market participants with low OTRs (namely, liquidity-taking investors) and many market participants with high OTRs (namely, market makers and firms engaged in arbitrage activities). Consequently, the presence of the former is likely to lower the average OTR for a venue, such that the venue OTR is likely to be too low for market participants engaged in market making activities. This scenario risks inhibiting an important source of liquidity. Accordingly, market makers (notwithstanding the definitional challenges) should either be exempted from the OTR requirement, or the threshold would need to be set higher for these firms (i.e. setting different thresholds for different classes of market participants) so as to not deter liquidity-providing activities.

In addition to derogation for market makers, CFA Institute suggests that when setting the OTR threshold, the level established should be sufficiently high so as not to deter statistical arbitrage activity and HFT envelope liquidity (floating orders used by HFT firms that surround the best bid and offer quotations). Statistical arbitrage and envelope liquidity represent real liquidity to the markets that help to keep prices in line. We also recognize, however, that excessive quote traffic can be disruptive to other market participants, and thus a balance should be struck between these two objectives (reducing quote pollution whilst not inhibiting statistical arbitrage) when ultimately setting the threshold.

ESMA proposes to set the OTR threshold for a given venue at a certain multiplier x of the average observed OTR of its market members over the preceding 12 months. We would like to seek clarification as to the reasoning behind the “-1” term in the definitions presented on page 279 of the Draft Regulatory Technical Standards as there is no apparent reasoning for this term.

Further, the requirement to annually update the OTR based on a rolling historical average would appear to result in a constantly decreasing OTR over time. We question if this is the intention of the OTR requirement.

For example, consider that in the first year of implementation, the initial OTR calculation yields a value of 300 (for the purposes of illustration only). In the following twelve month period, the venue will need to update the OTR threshold (as required by ESMA). However, now the 12-month sample period from which the OTR is calculated will have a distribution capped at the previous OTR threshold of 300, so that the new OTR will, by definition, be less than 300. This process will continue in a recursive manner. CFA Institute would like clarification on whether there is a floor below which the maximum OTR may not fall.

<ESMA\_QUESTION\_CP\_MIFID\_109>

**Q110. Do you agree with the counting methodology proposed in the Annex in relation to the various order types? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_110>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_110>

**Q111. Is the definition of “orders” sufficiently precise or does it need to be further supplemented? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_111>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_111>

**Q112. Is more clarification needed with respect to the calculation method in terms of volume?**

<ESMA\_QUESTION\_CP\_MIFID\_112>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_112>

**Q113. Do you agree that the determination of the maximum OTR should be made at least once a year? Please specify the arguments for your view.**

<ESMA\_QUESTION\_CP\_MIFID\_113>

CFA Institute agrees that determination of the OTR threshold should be made at least once a year.

<ESMA\_QUESTION\_CP\_MIFID\_113>

**Q114. Should the monitoring of the ratio of unexecuted orders to transactions by the trading venue cover all trading phases of the trading session including auctions, or just the continuous phase? Should the monitoring take place on at least a monthly basis? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_114>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_114>

**Q115. Do you agree with the proposal included in the Technical Annex regarding the different order types? Is there any other type of order that should be reflected? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_115>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_115>

**Q116. Do you agree with the proposed draft RTS with respect to co-location services? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_116>

CFA Institute broadly agrees with the proposed draft RTS on co-location services. In our view, the following (non-exhaustive) factors should be taken into account when considering what constitutes ‘transparent’, ‘fair’, and ‘non-discriminatory’ provision of co-location services: i) Disclosures regarding the nature of the service and the pricing schedule should be made available to any prospective clients/users/expressions of interest; ii) The same services should be offered to any firm wishing to pay for those services at the price specified; iii) Venues should provide equal proximity to the matching engine within a given service level agreed.

<ESMA\_QUESTION\_CP\_MIFID\_116>

**Q117. Do you agree with the proposed draft RTS with respect to fee structures? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_117>

CFA Institute agrees with ESMA that fee structures should be sufficiently granular to allow market participants to pay for only those services they need. We also agree that a given service should be offered to all market participants at the same price, terms and conditions. Trading venues should make publicly available sufficiently detailed information on their fee structures (e.g. disclosing such details on their website).

With regard to fee penalties for breaches of the OTR, CFA Institute advocates for a uniform fee methodology applied across all exchanges. If penalties are more severe on one exchange than another exchange, it could lead to more order pollution on the exchanges with less severe penalties. We support harmonisation of standards with regard to OTR penalties to provide consistent rules and trading expectations for investors on whichever venue they trade.

<ESMA\_QUESTION\_CP\_MIFID\_117>

**Q118. At which point rebates would be high enough to encourage improper trading? Please elaborate.**

<ESMA\_QUESTION\_CP\_MIFID\_118>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_118>

**Q119. Is there any other type of incentives that should be described in the draft RTS?**

<ESMA\_QUESTION\_CP\_MIFID\_119>

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<ESMA\_QUESTION\_CP\_MIFID\_119>

**Q120. Can you provide further evidence about fee structures supporting payments for an “early look”? In particular, do you agree with ESMA’s preliminary view regarding the differentiation between that activity and the provision of data feeds at different latencies?**

<ESMA\_QUESTION\_CP\_MIFID\_120>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_120>

**Q121. Can you provide examples of fee structures that would support non-genuine orders, payments for uneven access to market data or any other type of abusive behaviour? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_121>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_121>

**Q122. Is the distinction between volume discounts and cliff edge type fee structures in this RTS sufficiently clear? Please elaborate**

<ESMA\_QUESTION\_CP\_MIFID\_122>

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<ESMA\_QUESTION\_CP\_MIFID\_122>

**Q123. Do you agree that the average number of trades per day should be considered on the most relevant market in terms of liquidity? Or should it be considered on another market such as the primary listing market (the trading venue where the financial instrument was originally listed)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_123>

CFA Institute agrees that the calculation of the average number of trades per day to determine the most relevant tick size bucket should be based on trading on the most liquid venue. Clearly the most relevant market in terms of liquidity will yield the most representative trade frequency measure.

<ESMA\_QUESTION\_CP\_MIFID\_123>

**Q124. Do you believe a more granular approach (i.e. additional liquidity bands) would be more suitable for very liquid stocks and/or for poorly liquid stocks? Do you consider the proposed tick sizes adequate in particular with respect to the smaller price ranges and less liquid instruments as well as higher price ranges and highly liquid instruments? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_124>

CFA Institute considers the current tick size table sufficiently granular. More granularity would introduce complexity into the calibration and the implementation of the tick size framework in return for little marginal benefit.

<ESMA\_QUESTION\_CP\_MIFID\_124>

**Q125. Do you agree with the approach regarding instruments admitted to trading in fixing segments and shares newly admitted to trading? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_125>

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<ESMA\_QUESTION\_CP\_MIFID\_125>

**Q126. Do you agree with the proposed approach regarding corporate actions? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_126>

CFA Institute agrees that any corporate action which is likely to cause the average number of trades per day to no longer provide an accurate metric for the liquidity profile of that financial instrument, should result in that financial instrument being treated as if it were admitted to trading for the first time.

For example, in the case of a 1:2 stock split that results in the stock price being cut in half, the tick-size matrix presented in the RTS necessitates an adjustment of the tick-size along the price range dimension (i.e. up the rows) and possibly the liquidity band dimension (i.e.

across the columns). ESMA recommends an annual review of tick sizes but this clearly needs to occur immediately after any corporate action as defined in the RTS independently of the annual review.

<ESMA\_QUESTION\_CP\_MIFID\_126>

**Q127. In your view, are there any other particular or exceptional circumstances for which the tick size may have to be specifically adjusted? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_127>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_127>

**Q128. In your view, should other equity-like financial instruments be considered for the purpose of the new tick size regime? If yes, which ones and how should their tick size regime be determined? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_128>

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<ESMA\_QUESTION\_CP\_MIFID\_128>

**Q129. To what extent does an annual revision of the liquidity bands (number and bounds) allow interacting efficiently with the market microstructure? Can you propose other way to interact efficiently with the market microstructure? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_129>

CFA Institute believes that an annual revision of liquidity bands appears to be a reasonable approach to achieving a balance between the tick size accurately reflecting the liquidity profile of the financial instrument and not unduly burdening the market microstructure (and likely the comprehension of market participants) by continually changing the pricing increments of a financial instrument.

<ESMA\_QUESTION\_CP\_MIFID\_129>

**Q130. Do you envisage any short-term impacts following the implementation of the new regime that might need technical adjustments? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_130>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_130>

**Q131. Do you agree with the definition of the “corporate action”? Please provide reasons for your answer.**

<ESMA\_QUESTION\_CP\_MIFID\_131>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_131>

**Q132. Do you agree with the proposed regulatory technical standards?**

<ESMA\_QUESTION\_CP\_MIFID\_132>

CFA Institute agrees with the proposed RTS defining the material market as the most relevant market in terms of liquidity for a financial instrument or the trading venue where the financial instrument was first admitted to trading. We believe this definition will successfully capture material market(s) in Europe’s fragmented market ecology. We also welcome a



liquidity threshold, which would allow further markets (beyond the listing and most liquid markets) to be defined as material, although we do not have a preferred numerical threshold.

<ESMA\_QUESTION\_CP\_MIFID\_132>

**Q133. Which would be an adequate threshold in terms of turnover for the purposes of considering a market as “material in terms of liquidity”?**

<ESMA\_QUESTION\_CP\_MIFID\_133>

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<ESMA\_QUESTION\_CP\_MIFID\_133>



## 5. Data publication and access

**Q134. Do you agree with ESMA's proposal to allow the competent authority to whom the ARM submitted the transaction report to request the ARM to undertake periodic reconciliations? Please provide reasons.**

<ESMA\_QUESTION\_CP\_MIFID\_134>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_134>

**Q135. Do you agree with ESMA's proposal to establish maximum recovery times for DRSPs? Do you agree with the time periods proposed by ESMA for APAs and CTPs (six hours) and ARMs (close of next working day)? Please provide reasons.**

<ESMA\_QUESTION\_CP\_MIFID\_135>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_135>

**Q136. Do you agree with the proposal to permit DRSPs to be able to establish their own operational hours provided they pre-establish their hours and make their operational hours public? Please provide reasons. Alternatively, please suggest an alternative method for setting operating hours.**

<ESMA\_QUESTION\_CP\_MIFID\_136>

CFA Institute believes that the proposal is reasonable, given that the DRSPs pre-establish their operational hours and make them public. The flexible opening hour proposal seems to strike an appropriate balance between transparency, client needs, and commercial considerations.

<ESMA\_QUESTION\_CP\_MIFID\_136>

**Q137. Do you agree with the draft technical standards in relation to data reporting services providers? Please provide reasons.**

<ESMA\_QUESTION\_CP\_MIFID\_137>

CFA Institute broadly agrees with the draft RTS 20 as proposed by ESMA. We believe that the proposed requirements on data reporting services providers will uphold the principles of safe and transparent financial markets.

<ESMA\_QUESTION\_CP\_MIFID\_137>

**Q138. Do you agree with ESMA's proposal?**

<ESMA\_QUESTION\_CP\_MIFID\_138>

CFA Institute agrees with ESMA. We believe that granting a grace period of up to three months at the inception of a new source is reasonable.

<ESMA\_QUESTION\_CP\_MIFID\_138>

**Q139. Do you agree with this definition of machine-readable format, especially with respect to the requirement for data to be accessible using free open source software, and the 1-month notice prior to any change in the instructions?**



<ESMA\_QUESTION\_CP\_MIFID\_139>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_139>

**Q140. Do you agree with the draft RTS's treatment of this issue?**

<ESMA\_QUESTION\_CP\_MIFID\_140>

CFA Institute believes that it is critical to avoid the duplication of data in reporting and to ensure that the consolidated data is accurate and reliable. We support the efforts to make sure that the data published by different CTPs is consistent.

Given that Article 20(1) of MiFIR does not prevent an investment firm from reporting the same trade to several APAs, we would prefer the second option that ESMA suggests (i.e. requiring investment firms to use identification flags). We believe that the second option would be most appropriate as it would give firms and venues the flexibility to report to the APA they prefer, while ensuring that APAs and CTPs can construct a clean and accurate consolidated tape.

We find the first option (i.e. requiring investment firms to report transactions exclusively to one APA) problematic as it could potentially be anti-competitive.

<ESMA\_QUESTION\_CP\_MIFID\_140>

**Q141. Do you agree that CTPs should assign trade IDs and add them to trade reports? Do you consider necessary to introduce a similar requirement for APAs?**

<ESMA\_QUESTION\_CP\_MIFID\_141>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_141>

**Q142. Do you agree with ESMA's proposal? In particular, do you consider it appropriate to require for trades taking place on a trading venue the publication time as assigned by the trading venue or would you recommend another timestamp (e.g. CTP timestamp), and if yes why?**

<ESMA\_QUESTION\_CP\_MIFID\_142>

CFA Institute agrees with ESMA's proposal on meaningful and reliable timestamping. We believe that when a trade takes place on a trading venue, the timestamp will be most accurate and useful when it is made at that trading venue, not at the CTP. We also note that Article 50(1) of MiFID II requires trading venues to synchronise their clocks, supporting the accuracy, utility, and comparability of the timestamps made by trading venues.

<ESMA\_QUESTION\_CP\_MIFID\_142>

**Q143. Do you agree with ESMA's suggestions on timestamp accuracy required of APAs? What alternative would you recommend for the timestamp accuracy of APAs?**

<ESMA\_QUESTION\_CP\_MIFID\_143>

CFA Institute believes that it is appropriate to require APA timestamp accuracy to the millisecond. Consistent with our reply to Q142, we maintain that the timestamp is the most accurate when it is done when the trade took place. We also believe that given the parallel position on the synchronisation of clocks (Art. 50(1) of MiFID II), there should be no asynchronicity between trading venues with regard to timestamping.

<ESMA\_QUESTION\_CP\_MIFID\_143>

**Q144. Do you agree with ESMA's proposal? Do you think that the CTP should identify the original APA collecting the information from the investment firm or the last source reporting it to the CTP? Please explain your rationale.**

<ESMA\_QUESTION\_CP\_MIFID\_144>

CFA Institute agrees with the proposal that the CTP should publish the identification of its source for each trade. This will increase transparency for OTC transactions.

<ESMA\_QUESTION\_CP\_MIFID\_144>

**Q145. Do you agree with the proposed draft RTS? Please indicate which are the main costs and benefits that you envisage in case of implementation of the proposal.**

<ESMA\_QUESTION\_CP\_MIFID\_145>

CFA Institute broadly agrees with the proposed draft RTS 22. We support the proposal to oblige venues to disaggregate pre-trade consolidated data from post-trade consolidated data and believe that the list of four asset classes is acceptable. Such unbundling provides greater flexibility for investors, not all of whom require both pre-trade and post-trade consolidated data. Separating these offerings would also provide greater product transparency, which should place downward pressure on costs.

We believe that the list proposed in Article 2(1) will be a useful additional layer of information for users. However, if there is no demand, it is reasonable to provide firms exemptions as drafted in Article 3.

<ESMA\_QUESTION\_CP\_MIFID\_145>

**Q146. Do you agree with the proposed draft RTS? Please indicate which are the main costs and benefits that you envisage in case of implementation of the proposal.**

<ESMA\_QUESTION\_CP\_MIFID\_146>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_146>

**Q147. With the exception of transaction with SIs, do you agree that the obligation to publish the transaction should always fall on the seller? Are there circumstances under which the buyer should be allowed to publish the transaction?**

<ESMA\_QUESTION\_CP\_MIFID\_147>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_147>

**Q148. Do you agree with the elements of the draft RTS that cover a CCP's ability to deny access? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_148>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_148>

**Q149. Do you agree with the elements of the draft RTS that cover a trading venue's ability to deny access? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_149>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_149>

**Q150. In particular, do you agree with ESMA's assessment that the inability to acquire the necessary human resources in due time should not have the same relevance for trading venues as it has regarding CCPs?**

<ESMA\_QUESTION\_CP\_MIFID\_150>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_150>

**Q151. Do you agree with the elements of the draft RTS that cover an CA's ability to deny access? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_151>

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<ESMA\_QUESTION\_CP\_MIFID\_151>

**Q152. Do you agree with the elements of the draft RTS that cover the conditions under which access is granted? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_152>

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<ESMA\_QUESTION\_CP\_MIFID\_152>

**Q153. Do you agree with the elements of the draft RTS that cover fees? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_153>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_153>

**Q154. Do you agree with the proposed draft RTS? Please indicate which are the main costs and benefits that do you envisage in case of implementation of the proposal.**

<ESMA\_QUESTION\_CP\_MIFID\_154>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_154>

**Q155. Do you agree with the elements of the draft RTS specified in Annex X that cover notification procedures? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_155>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_155>

**Q156. Do you agree with the elements of the draft RTS specified in [Annex X] that cover the calculation of notional amount? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_156>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_156>

**Q157. Do you agree with the elements of the draft RTS that cover relevant benchmark information? If not, please explain why and, where possible, propose an alternative approach. In particular, how could information requirements reflect the different nature and characteristics of benchmarks?**

<ESMA\_QUESTION\_CP\_MIFID\_157>

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<ESMA\_QUESTION\_CP\_MIFID\_157>

**Q158. Do you agree with the elements of the draft RTS that cover licensing conditions? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_158>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_158>

**Q159. Do you agree with the elements of the draft RTS that cover new benchmarks? If not, please explain why and, where possible, propose an alternative approach.**

<ESMA\_QUESTION\_CP\_MIFID\_159>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_159>

## 6. Requirements applying on and to trading venues

**Q160. Do you agree with the attached draft technical standard on admission to trading?**

<ESMA\_QUESTION\_CP\_MIFID\_160>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_160>

**Q161. In particular, do you agree with the arrangements proposed by ESMA for verifying compliance by issuers with obligations under Union law?**

<ESMA\_QUESTION\_CP\_MIFID\_161>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_161>

**Q162. Do you agree with the arrangements proposed by ESMA for facilitating access to information published under Union law for members and participants of a regulated market?**

<ESMA\_QUESTION\_CP\_MIFID\_162>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_162>

**Q163. Do you agree with the proposed RTS? What and how should it be changed?**

<ESMA\_QUESTION\_CP\_MIFID\_163>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_163>

**Q164. Do you agree with the approach of providing an exhaustive list of details that the MTF/OTF should fulfil?**

<ESMA\_QUESTION\_CP\_MIFID\_164>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_164>

**Q165. Do you agree with the proposed list? Are there any other factors that should be considered?**

<ESMA\_QUESTION\_CP\_MIFID\_165>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_165>

**Q166. Do you think that there should be one standard format to provide the information to the competent authority? Do you agree with the proposed format?**

<ESMA\_QUESTION\_CP\_MIFID\_166>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_166>

**Q167. Do you think that there should be one standard format to notify to ESMA the authorisation of an investment firm or market operator as an MTF or an OTF? Do you agree with the proposed format?**



<ESMA\_QUESTION\_CP\_MIFID\_167>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CP\_MIFID\_167>

## 7. Commodity derivatives

**Q168. Do you agree with the approach suggested by ESMA in relation to the overall application of the thresholds? If you do not agree please provide reasons.**

<ESMA\_QUESTION\_CP\_MIFID\_168>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_168>

**Q169. Do you agree with ESMA's approach to include non-EU activities with regard to the scope of the main business?**

<ESMA\_QUESTION\_CP\_MIFID\_169>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_169>

**Q170. Do you consider the revised method of calculation for the first test (i.e. capital employed for ancillary activity relative to capital employed for main business) as being appropriate? Please provide reasons if you do not agree with the revised approach.**

<ESMA\_QUESTION\_CP\_MIFID\_170>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_170>

**Q171. With regard to trading activity undertaken by a MiFID licensed subsidiary of the group, do you agree that this activity should be deducted from the ancillary activity (i.e. the numerator)?**

<ESMA\_QUESTION\_CP\_MIFID\_171>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_171>

**Q172. ESMA suggests that in relation to the ancillary activity (numerator) the calculation should be done on the basis of the group rather than on the basis of the person. What are the advantages or disadvantages in relation to this approach? Do you think that it would be preferable to do the calculation on the basis of the person? Please provide reasons. (Please note that altering the suggested approach may also have an impact on the threshold suggested further below).**

<ESMA\_QUESTION\_CP\_MIFID\_172>

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<ESMA\_QUESTION\_CP\_MIFID\_172>

**Q173. Do you consider that a threshold of 5% in relation to the first test is appropriate? Please provide reasons and alternative proposals if you do not agree.**

<ESMA\_QUESTION\_CP\_MIFID\_173>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_173>

**Q174. Do you agree with ESMA's intention to use an accounting capital measure?**





<ESMA\_QUESTION\_CP\_MIFID\_174>

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<ESMA\_QUESTION\_CP\_MIFID\_174>

**Q175. Do you agree that the term capital should encompass equity, current debt and non-current debt? If you see a need for further clarification of the term capital, please provide concrete suggestions.**

<ESMA\_QUESTION\_CP\_MIFID\_175>

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<ESMA\_QUESTION\_CP\_MIFID\_175>

**Q176. Do you agree with the proposal to use the gross notional value of contracts? Please provide reasons if you do not agree.**

<ESMA\_QUESTION\_CP\_MIFID\_176>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_176>

**Q177. Do you agree that the calculation in relation to the size of the trading activity (numerator) should be done on the basis of the group rather than on the basis of the person? (Please note that that altering the suggested approach may also have an impact on the threshold suggested further below)**

<ESMA\_QUESTION\_CP\_MIFID\_177>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_177>

**Q178. Do you agree with the introduction of a separate asset class for commodities referred to in Section C 10 of Annex I and subsuming freight under this new asset class?**

<ESMA\_QUESTION\_CP\_MIFID\_178>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_178>

**Q179. Do you agree with the threshold of 0.5% proposed by ESMA for all asset classes? If you do not agree please provide reasons and alternative proposals.**

<ESMA\_QUESTION\_CP\_MIFID\_179>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_179>

**Q180. Do you think that the introduction of a de minimis threshold on the basis of a limited scope as described above is useful?**

<ESMA\_QUESTION\_CP\_MIFID\_180>

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<ESMA\_QUESTION\_CP\_MIFID\_180>

**Q181. Do you agree with the conclusions drawn by ESMA in relation to the privileged transactions?**



<ESMA\_QUESTION\_CP\_MIFID\_181>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_181>

**Q182. Do you agree with ESMA's conclusions in relation to the period for the calculation of the thresholds? Do you agree with the calculation approach in the initial period suggested by ESMA? If you do not agree, please provide reasons and alternative proposals.**

<ESMA\_QUESTION\_CP\_MIFID\_182>

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<ESMA\_QUESTION\_CP\_MIFID\_182>

**Q183. Do you have any comments on the proposed framework of the methodology for calculating position limits?**

<ESMA\_QUESTION\_CP\_MIFID\_183>

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<ESMA\_QUESTION\_CP\_MIFID\_183>

**Q184. Would a baseline of 25% of deliverable supply be suitable for all commodity derivatives to meet position limit objectives? For which commodity derivatives would 25% not be suitable and why? What baseline would be suitable and why?**

<ESMA\_QUESTION\_CP\_MIFID\_184>

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<ESMA\_QUESTION\_CP\_MIFID\_184>

**Q185. Would a maximum of 40% position limit be suitable for all commodity derivatives to meet position limit objectives. For which commodity derivatives would 40% not be suitable and why? What maximum position limit would be suitable and why?**

<ESMA\_QUESTION\_CP\_MIFID\_185>

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<ESMA\_QUESTION\_CP\_MIFID\_185>

**Q186. Are +/- 15% parameters for altering the baseline position limit suitable for all commodity derivatives? For which commodity derivatives would such parameters not be suitable and why? What parameters would be suitable and why?**

<ESMA\_QUESTION\_CP\_MIFID\_186>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_186>

**Q187. Are +/- 15% parameters suitable for all the factors being considered? For which factors should such parameters be changed, what to, and why?**

<ESMA\_QUESTION\_CP\_MIFID\_187>

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<ESMA\_QUESTION\_CP\_MIFID\_187>

**Q188. Do you consider the methodology for setting the spot month position limit should differ in any way from the methodology for setting the other months position limit? If so, in what way?**



<ESMA\_QUESTION\_CP\_MIFID\_188>

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<ESMA\_QUESTION\_CP\_MIFID\_188>

**Q189. How do you suggest establishing a methodology that balances providing greater flexibility for new and illiquid contracts whilst still providing a level of constraint in a clear and quantifiable way? What limit would you consider as appropriate per product class? Could the assessment of whether a contract is illiquid, triggering a potential wider limit, be based on the technical standard ESMA is proposing for non-equity transparency?**

<ESMA\_QUESTION\_CP\_MIFID\_189>

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<ESMA\_QUESTION\_CP\_MIFID\_189>

**Q190. What wider factors should competent authorities consider for specific commodity markets for adjusting the level of deliverable supply calculated by trading venues?**

<ESMA\_QUESTION\_CP\_MIFID\_190>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_190>

**Q191. What are the specific features of certain commodity derivatives which might impact on deliverable supply?**

<ESMA\_QUESTION\_CP\_MIFID\_191>

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<ESMA\_QUESTION\_CP\_MIFID\_191>

**Q192. How should 'less-liquid' be considered and defined in the context of position limits and meeting the position limit objectives?**

<ESMA\_QUESTION\_CP\_MIFID\_192>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_192>

**Q193. What participation features in specific commodity markets around the organisation, structure, or behaviour should competent authorities take into account?**

<ESMA\_QUESTION\_CP\_MIFID\_193>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_193>

**Q194. How could the calculation methodology enable competent authorities to more accurately take into account specific factors or characteristics of commodity derivatives, their underlying markets and commodities?**

<ESMA\_QUESTION\_CP\_MIFID\_194>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_194>

**Q195. For what time period can a contract be considered as "new" and therefore benefit from higher position limits?**



<ESMA\_QUESTION\_CP\_MIFID\_195>

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<ESMA\_QUESTION\_CP\_MIFID\_195>

**Q196. Should the application of less-liquid parameters be based on the age of the commodity derivative or the ongoing liquidity of that contract.**

<ESMA\_QUESTION\_CP\_MIFID\_196>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_196>

**Q197. Do you have any further comments regarding the above proposals on how the factors will be taken into account for the position limit calculation methodology?**

<ESMA\_QUESTION\_CP\_MIFID\_197>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_197>

**Q198. Do you agree with ESMA's proposal to not include asset-class specific elements in the methodology?**

<ESMA\_QUESTION\_CP\_MIFID\_198>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_198>

**Q199. How are the seven factors (listed under Article 57(3)(a) to (g) and discussed above) currently taken into account in the setting and management of existing position limits?**

<ESMA\_QUESTION\_CP\_MIFID\_199>

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<ESMA\_QUESTION\_CP\_MIFID\_199>

**Q200. Do you agree with the proposed draft RTS regarding risk reducing positions?**

<ESMA\_QUESTION\_CP\_MIFID\_200>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_200>

**Q201. Do you have any comments regarding ESMA's proposal regarding what is a non-financial entity?**

<ESMA\_QUESTION\_CP\_MIFID\_201>

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<ESMA\_QUESTION\_CP\_MIFID\_201>

**Q202. Do you agree with the proposed draft RTS regarding the aggregation of a person's positions?**

<ESMA\_QUESTION\_CP\_MIFID\_202>

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<ESMA\_QUESTION\_CP\_MIFID\_202>

**Q203. Do you agree with ESMA's proposal that a person's position in a commodity derivative should be aggregated on a 'whole' position basis with those that are under the beneficial ownership of the position holder? If not, please provide reasons.**



<ESMA\_QUESTION\_CP\_MIFID\_203>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_203>

**Q204. Do you agree with the proposed draft RTS regarding the criteria for determining whether a contract is an economically equivalent OTC contract?**

<ESMA\_QUESTION\_CP\_MIFID\_204>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_204>

**Q205. Do you agree with the proposed draft RTS regarding the definition of same derivative contract?**

<ESMA\_QUESTION\_CP\_MIFID\_205>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_205>

**Q206. Do you agree with the proposed draft RTS regarding the definition of significant volume for the purpose of article 57(6)?**

<ESMA\_QUESTION\_CP\_MIFID\_206>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_206>

**Q207. Do you agree with the proposed draft RTS regarding the aggregation and netting of OTC and on-venue commodity derivatives?**

<ESMA\_QUESTION\_CP\_MIFID\_207>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_207>

**Q208. Do you agree with the proposed draft RTS regarding the procedure for the application for exemption from the Article 57 position limits regime?**

<ESMA\_QUESTION\_CP\_MIFID\_208>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_208>

**Q209. Do you agree with the proposed draft RTS regarding the aggregation and netting of OTC and on-venue commodity derivatives?**

<ESMA\_QUESTION\_CP\_MIFID\_209>

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<ESMA\_QUESTION\_CP\_MIFID\_209>

**Q210. Do you agree with the reporting format for CoT reports?**

<ESMA\_QUESTION\_CP\_MIFID\_210>

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<ESMA\_QUESTION\_CP\_MIFID\_210>

**Q211. Do you agree with the reporting format for the daily Position Reports?**



<ESMA\_QUESTION\_CP\_MIFID\_211>

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<ESMA\_QUESTION\_CP\_MIFID\_211>

**Q212. What other reporting arrangements should ESMA consider specifying to facilitate position reporting arrangements?**

<ESMA\_QUESTION\_CP\_MIFID\_212>

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<ESMA\_QUESTION\_CP\_MIFID\_212>

## 8. Market data reporting

**Q213. Which of the formats specified in paragraph 2 would pose you the most substantial implementation challenge from technical and compliance point of view for transaction and/or reference data reporting? Please explain.**

<ESMA\_QUESTION\_CP\_MIFID\_213>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_213>

**Q214. Do you anticipate any difficulties with the proposed definition for a transaction and execution?**

<ESMA\_QUESTION\_CP\_MIFID\_214>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_214>

**Q215. In your view, is there any other outcome or activity that should be excluded from the definition of transaction or execution? Please justify.**

<ESMA\_QUESTION\_CP\_MIFID\_215>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_215>

**Q216. Do you foresee any difficulties with the suggested approach? Please justify.**

<ESMA\_QUESTION\_CP\_MIFID\_216>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_216>

**Q217. Do you agree with ESMA's proposed approach to simplify transaction reporting? Please provide details of your reasons.**

<ESMA\_QUESTION\_CP\_MIFID\_217>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_217>

**Q218. We invite your comments on the proposed fields and population of the fields. Please provide specific references to the fields which you are discussing in your response.**

<ESMA\_QUESTION\_CP\_MIFID\_218>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_218>

**Q219. Do you agree with the proposed approach to flag trading capacities?**

<ESMA\_QUESTION\_CP\_MIFID\_219>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_219>

**Q220. Do you foresee any problem with identifying the specific waiver(s) under which the trade took place in a transaction report? If so, please provide details**



<ESMA\_QUESTION\_CP\_MIFID\_220>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_220>

**Q221. Do you agree with ESMA's approach for deciding whether financial instruments based on baskets or indices are reportable?**

<ESMA\_QUESTION\_CP\_MIFID\_221>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_221>

**Q222. Do you agree with the proposed standards for identifying these instruments in the transaction reports?**

<ESMA\_QUESTION\_CP\_MIFID\_222>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_222>

**Q223. Do you foresee any difficulties applying the criteria to determine whether a branch is responsible for the specified activity? If so, do you have any alternative proposals?**

<ESMA\_QUESTION\_CP\_MIFID\_223>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_223>

**Q224. Do you anticipate any significant difficulties related to the implementation of LEI validation?**

<ESMA\_QUESTION\_CP\_MIFID\_224>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_224>

**Q225. Do you foresee any difficulties with the proposed requirements? Please elaborate.**

<ESMA\_QUESTION\_CP\_MIFID\_225>

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<ESMA\_QUESTION\_CP\_MIFID\_225>

**Q226. Are there any cases other than the AGGREGATED scenario where the client ID information could not be submitted to the trading venue operator at the time of order submission? If yes, please elaborate.**

<ESMA\_QUESTION\_CP\_MIFID\_226>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_226>

**Q227. Do you agree with the proposed approach to flag liquidity provision activity?**

<ESMA\_QUESTION\_CP\_MIFID\_227>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_227>

**Q228. Do you foresee any difficulties with the proposed differentiation between electronic trading venues and voice trading venues for the purposes of time stamping? Do you believe that other criteria should be considered as a basis for differentiating between trading venues?**



<ESMA\_QUESTION\_CP\_MIFID\_228>

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<ESMA\_QUESTION\_CP\_MIFID\_228>

**Q229. Is the approach taken, particularly in relation to maintaining prices of implied orders, in line with industry practice? Please describe any differences?**

<ESMA\_QUESTION\_CP\_MIFID\_229>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_229>

**Q230. Do you agree on the proposed content and format for records of orders to be maintained proposed in this Consultation Paper? Please elaborate.**

<ESMA\_QUESTION\_CP\_MIFID\_230>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_230>

**Q231. In your view, are there additional key pieces of information that an investment firm that engages in a high-frequency algorithmic trading technique has to maintain to comply with its record-keeping obligations under Article 17 of MiFID II? Please elaborate.**

<ESMA\_QUESTION\_CP\_MIFID\_231>

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<ESMA\_QUESTION\_CP\_MIFID\_231>

**Q232. Do you agree with the proposed record-keeping period of five years?**

<ESMA\_QUESTION\_CP\_MIFID\_232>

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<ESMA\_QUESTION\_CP\_MIFID\_232>

**Q233. Do you agree with the proposed criteria for calibrating the level of accuracy required for the purpose of clock synchronisation? Please elaborate.**

<ESMA\_QUESTION\_CP\_MIFID\_233>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_233>

**Q234. Do you foresee any difficulties related to the requirement for members or participants of trading venues to ensure that they synchronise their clocks in a timely manner according to the same time accuracy applied by their trading venue? Please elaborate and suggest alternative criteria to ensure the timely synchronisation of members or participants clocks to the accuracy applied by their trading venue as well as a possible calibration of the requirement for investment firms operating at a high latency.**

<ESMA\_QUESTION\_CP\_MIFID\_234>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_234>

**Q235. Do you agree with the proposed list of instrument reference data fields and population of the fields? Please provide specific references to the fields which you are discussing in your response.**



<ESMA\_QUESTION\_CP\_MIFID\_235>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_235>

**Q236. Do you agree with ESMA's proposal to submit a single instrument reference data full file once per day? Please explain.**

<ESMA\_QUESTION\_CP\_MIFID\_236>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_236>

**Q237. Do you agree that, where a specified list as defined in Article 2 [RTS on reference data] is not available for a given trading venue, instrument reference data is submitted when the first quote/order is placed or the first trade occurs on that venue? Please explain.**

<ESMA\_QUESTION\_CP\_MIFID\_237>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_237>

**Q238. Do you agree with ESMA proposed approach to the use of instrument code types? If not, please elaborate on the possible alternative solutions for identification of new financial instruments.**

<ESMA\_QUESTION\_CP\_MIFID\_238>

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<ESMA\_QUESTION\_CP\_MIFID\_238>

## 9. Post-trading issues

**Q239. What are your views on the pre-check to be performed by trading venues for orders related to derivative transactions subject to the clearing obligation and the proposed time frame?**

<ESMA\_QUESTION\_CP\_MIFID\_239>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_239>

**Q240. What are your views on the categories of transactions and the proposed timeframe for submitting executed transactions to the CCP?**

<ESMA\_QUESTION\_CP\_MIFID\_240>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_240>

**Q241. What are your views on the proposal that the clearing member should receive the information related to the bilateral derivative contracts submitted for clearing and the timeframe?**

<ESMA\_QUESTION\_CP\_MIFID\_241>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_241>

**Q242. What are your views on having a common timeframe for all categories of derivative transactions? Do you agree with the proposed timeframe?**

<ESMA\_QUESTION\_CP\_MIFID\_242>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_242>

**Q243. What are your views on the proposed treatment of rejected transactions?**

<ESMA\_QUESTION\_CP\_MIFID\_243>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP\_MIFID\_243>

**Q244. Do you agree with the proposed draft RTS? Do you believe it addresses the stakeholders concerns on the lack of indirect clearing services offering? If not, please provide detailed explanations on the reasons why a particular provision would limit such a development as well as possible alternatives.**

<ESMA\_QUESTION\_CP\_MIFID\_244>

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<ESMA\_QUESTION\_CP\_MIFID\_244>

**Q245. Do you believe that a gross omnibus account segregation, according to which the clearing member is required to record the collateral value of the assets, rather than the assets held for the benefit of indirect clients, achieves together with other requirements included in the draft RTS a protection of equivalent effect to the indirect clients as the one envisaged for clients under EMIR?**



<ESMA\_QUESTION\_CP\_MIFID\_245>  
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<ESMA\_QUESTION\_CP\_MIFID\_245>