



European Securities and  
Markets Authority

## Reply form for the Addendum 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 Addendum Consultation Paper on MiFID II/MiFIR, published on the ESMA website.

### *Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA\_QUESTION\_MIFID\_ADD\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider

### **Naming protocol**

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

ESMA\_MiFID\_ADD\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

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

ESMA\_MiFID\_ADD\_ESMA\_REPLYFORM or

ESMA\_MiFID\_ADD\_ESMA\_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

### **Deadline**

Responses must reach us by **20 March 2015**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.



### ***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

### ***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings 'Legal notice' and 'Data protection'.



## General information about respondent

Name of the company / organisation	Deutsche Börse Group
Confidential <sup>1</sup>	<input type="checkbox"/>
Activity	Regulated markets/Exchanges/Trading Systems
Are you representing an association?	<input type="checkbox"/>
Country/Region	Germany

## Introduction

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

< ESMA\_COMMENT\_MIFID\_ADD\_1 >

Deutsche Börse Group (DBG) welcomes the opportunity to contribute to the recent consultation and to support ESMA in its efforts to develop implementing measures for the revised Markets in Financial Instruments Directive (MiFID) as well as the encompassing Regulation (MiFIR). DBG is strongly committed to the political aims of the decisions taken by the European legislators to increase transparency; to enhance stability, integrity and efficiency of financial markets and to increase the share of trading on regulated markets in all classes of financial instruments. We kindly ask ESMA to provide for an adequate and consistent set of implementing measures, thereby taking into account the implications for the functioning of financial markets in Europe, in particular with regards to the following aspects.

Transparency regime for foreign exchange derivatives (Q1; Q2):

At the heart of the G20 aims is to increase transparency for OTC derivatives and to incentivise the usage of regulated market infrastructure. While DBG fully supports the Level 1 intentions to increase transparency, the proposals under Level 2 will fail to achieve this aim: Instead they would lead to a mid- to long-term reduction of transparency for exchange traded derivatives (already provided by exchanges today) and limit the potential for OTC derivatives to be traded on transparent multilateral trading platforms, which contradicts the G20 goals and the trading obligation as foreseen by MiFIR.

With regard to the liquid market definition, it is recommended to clearly differentiate between the determination of the trading obligation for OTC derivatives and the development of criteria for transparency for exchange-traded derivatives (ETD). ETDs can be declared liquid for the purposes of multilateral trading and clearing, but are not always liquid for transparency purposes. Thus, the setting of pre- and post-trade transparency thresholds needs to be more sophisticated to accommodate ETD specifics.

< ESMA\_COMMENT\_MIFID\_ADD\_1 >

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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.

- Q1. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer detailed per asset class identified (deliverable forwards, non-deliverable forwards, options, swaps, spread betting contracts and futures) addressing the following points:**
- (1) Would you use different qualitative criteria to define the sub-classes? Please also specify if you agree in distinguishing or not distinguishing between deliverable and non-deliverable contracts. If you would distinguish between deliverable and non-deliverable contracts for other classes besides forwards, please provide your feedback as specific as possible with regard to the sub-classes that should be deemed liquid for deliverable contracts and those for non-deliverable contracts, pointing out the differences between the two sub-groups.**
  - (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 some specific classes declared as liquid in ESMA's proposal as illiquid (and vice versa)? Please provide reasons for your answer.**

<ESMA\_QUESTION\_MIFID\_ADD\_1>

Deutsche Börse Group to some extent agrees with ESMA's proposal for the definition of a liquid market. Exchange traded derivatives (ETDs) are already characterized by high pre- and post-trade transparency, by providing price, size and depth towards the market, and trade reporting close to real time, or with sufficient delay to capture market needs, but never later than after the end-of-day batch run of 't', i.e. the same day. Batch produced reports already contain information subject to non-disclosure limits. It needs to be acknowledged that liquidity formation in ETDs is different and exchanges have put frameworks, rules and processes in place, in order to create and support a public order-book. The very first step hereby is to introduce 'mature' products to a central clearing environment. The dynamic procedure established under the discretion of exchanges ensures that product specific steps are taken, when attracting formerly bilaterally traded products into a multilateral clearing and trading environment.

Accordingly, exchanges (and clearing houses) adjust pre- and post-trade transparency parameters like block sizes and deferred publication sizes along the product life-cycle with the ultimate goal to concentrate liquidity formation in the public central limit order-book. Therefore, in the early stage of the product life-cycle block sizes are kept on low levels to compete with OTC traded markets. In more mature stages of the product life-cycle block sizes are increased, when the market has moved to central clearing and liquidity providers support the transparent public central limit order-book.

Exchange discretion in achieving the steps described above should not be limited by a too generic and static transparency regime.

Deutsche Börse Group cannot agree with ESMA's proposal for the definition of a liquid market, specifically for FX futures and FX options. The initial approach to define liquid market with criteria like i) average notional amount per day and ii) number of days traded and iii) average number of trades per day is applicable but the thresholds have to be increased for at least the average notional amount per day for NDFs, deliverable forwards and options. In order to determine appropriate thresholds for liquid markets the average traded volumes (ADV) published by BIS on a regular basis should be considered as a reference. Referring to ADV published in the recent Triennial Central Bank survey 2013 an average notional amount per day greater than or equal to EUR500 m is far too low for instruments such as deliverable forwards (680 USD billion), NDFs (127 USD billion), swaps (2228 USD billion) and options (approximately 337 billion USD). Deutsche Börse Group therefore recommends ESMA to take a threshold of around 0.5-1% of

the overall average daily FX volume as an appropriate level to decide whether an instrument is deemed to be liquid or illiquid.

Deutsche Börse Group agrees to use the same qualitative criteria to define the sub-classes. It is strongly recommended that the defined criteria apply for all instruments which have very similar product characteristics such as deliverable forwards, NDFs and FX futures which basically have the same tenors.

**Regarding the sub-question Q1 (1)** the split of FX forwards into the classes of NDFs and deliverable forwards is very meaningful. The decision whether an instrument is categorized as deliverable or non-deliverable should clearly refer to the criteria of 'settlement type' of a transaction and thus depending on the key characteristic,

- if the notional principal amount of a transaction has been completely exchanged **or**
- if it was settled against a reference point e.g. an exchange rate fixing and where no physical transfer of the notional amount occurs.

It is strongly recommended to distinguish FX options between non-deliverable options (NDO) and deliverable options (DO) in the same manner as for the described FX forward contracts. This differentiation is common market practice (see industry standards documentation such as Master Confirmation Agreement for non-deliverable currency option transactions provided by the Trade Association for the Emerging Markets (EMTA) in conjunction with the International Swaps and Derivatives Association (ISDA). Therefore the class of NDOs should be included in the ESMA proposal as well. The same criteria (settlement style) and methodology should apply for FX options as for FX forwards. This amendment will anticipate the future development of more currencies becoming fully convertible and in consequence also more liquid.

ETDs should also be differentiated between deliverable and non-deliverable FX futures as well as deliverable and non-deliverable FX options.

Although FX futures at Eurex are in a very early stage with regard to their product life-cycle, market participants and Deutsche Börse Group clearly expect that exchange traded futures liquidity will be predominantly split among the front month contracts and the following two serial contract months (first 2 back month contracts) with time to maturity up to 3 months. This consideration is based on the experience in futures trading in other asset classes such as fixed income and money market as well as the market structure of the foreign exchange market, in specific the liquidity provided in FX forwards and the indicated market interest in FX futures.

Table 8 (page 165 f. in the Addendum consultation paper) differentiates between several maturity buckets and therefore partially reflects the aforementioned condition. From Deutsche Börse Group perspective it is required to differentiate between FX futures with "time to maturity" up to 3 months and FX futures with "time to maturity" greater than 3 months to better reflect the anticipated liquidity profile of this specific instrument. To implement sub-classes within this instrument showing a much higher granularity is therefore not useful.

In order to be consistent among comparable instruments/classes as products having a very similar risk profile such as exchange traded futures, deliverable and non-deliverable forwards ESMA is required to apply the same methodology including parameters and thresholds for those instruments.

**Regarding sub-question Q1 (2)** the defined parameters/ criteria are appropriate, but the thresholds are not applicable for listed exchange traded FX futures and the determined sub-classes. As FX futures are highly standardized products designed to concentrate volume in selected contract months with time to maturity up to 3 months, thresholds of one trade per day and USD 30,000 notional amount on average are too low. Exchange traded FX futures with 1 trade per day and 0.3 contracts traded on average (30,000 EUR = 0.3 \* 100,000 EUR contract value) can only be perceived as illiquid in the light of transparency.

Market perception is that liquid exchange traded futures, in the sense of transparency, must have at least 2.000 trades per day and reach a daily notional amount of EUR 1bn corresponding to 10,000 contracts per day (see also Eurex fixed income products, so called bond futures in previous ESMA consultation papers). A fundamental difference exists between exchange traded futures and options. In futures contracts, a front-month driven nature is visible but in options a clear difference is visible that reflects the relative illiquidity of the broad range of options. Liquidity is not easily bundled in all strikes during the entire trading day in the options even if it is typically concentrated around at the money strikes, and that the instrument as such has long periods of no or low activity in all of the strike prices available.

Due to the nature of FX options ticket sizes are much higher in options than in futures. Currently market makers at Eurex are required to quote at least 50 contracts on the bid and offer in the options order-book. It is perceived by the market that liquid exchange traded FX options must have at least 100 trades per day and reach a daily notional amount of EUR 500 mill corresponding to 5,000 contracts per day.

When adopting this methodology to the FX derivatives products offered by Eurex, certain instruments need to be declared illiquid for the purpose of the transparency regime (please see table below).

Eurex FX Futures and Options 07/2014 – 03/2015	AVG trades per day	AVG Volume per day
FCEP - FX Futures on EURGBP	0	0
FCEU - FX Futures on EURUSD	0.1	0.2
FCEF - FX Futures on EURCHF	0	0
FCPF - FX Futures on GBPCHF	0	0
FCPU - FX Futures on GBPUSD	0	0.1
FCUF - FX Futures on USDCHF	0.1	0.1
OCEP - FX options on EURGBP	0	0
OCEU - FX options on EURUSD	0.9	37.6
OCEF - FX options on EURCHF	0	0
OCPF - FX options on GBPCHF	0.1	0.1
OCPU - FX options on GBPUSD	0.2	5.6
OCUF - FX options on USDCHF	0.9	20.7

*Liquid futures defined as: > 2000 trades per day and > 10,000 contracts per day*

*Liquid options defined as: > 100 trades per day and > 5,000 contracts per day*

Considered illiquid under proposed methodology

The classification of sub-classes by underlying currency pair is meaningful but the proposed number of tenors in FX forwards and options are far too high. Deutsche Börse Group suggests ESMA to pursue a much smaller granularity and in consequence to consolidate the tenors defined for the class of FX forwards and options. The following four maturity buckets should be available i) time to maturity < 1 week, ii) tenors between 1 week and 3 months, iii) tenors larger 3 months and smaller 1 year and iv) tenors greater one year. This approach will increase transparency with regard to provided liquidity and facilitate the comparison across derivatives instruments e.g. between exchange traded futures and deliverable forwards.

The thresholds defined for OTC options are appropriate whereas the defined thresholds for deliverable and non-deliverable forwards set at a notional amount per day of EUR 10,000,000 and 1 trade per day for liquidity classification are far too low and therefore not meaningful. It is recommended to define the liquidity levels similar to the proposed futures thresholds.

**Regarding sub-question Q1 (3)** the suggested classification on an instrument level is appropriate. Notwithstanding, these thresholds which have been defined in order to classify classes as liquid or illiquid



are not meaningful as they are far too low in comparison to the overall average daily turnover within the foreign exchange market (see general remarks above).

In addition table 1 of ESMA Addendum consultation paper should generally also include exchange traded FX Futures.

As a result, tables in RTS 9 shall reflect the suggestions made on the granularity of the instrument level, this holds true for FX futures as well. In addition, liquidity shall be benchmarked against the proposed methodology for what is ultimately seen as liquid in the market, as proposed under the example of Eurex. Liquid futures defined as: > 2000 trades per day and > 10,000 contracts per day and liquid options defined as: > 100 trades per day and > 5,000 contracts per day.

Ultimately, all LIS need to be carefully calibrated, and the SSTI ideally is 95% of LIS and not only 50%. In that respect, RTS 9 Tables 48 to 59 need to be amended as well, a more detailed description is provided in question 2.

<ESMA\_QUESTION\_MIFID\_ADD\_1>

**Q2. Do you agree with ESMA's proposal for foreign exchange derivatives? Please specify, for each sub-class (non-deliverable forwards (NDF), deliverable forwards (DF), FX options, FX swaps, spread betting and FX 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**

**(6) for non-deliverable forwards (NDF) and spread betting contracts only: express your preference for either "Alternative A" or "Alternative B". If you disagree with both ESMA's proposal provides your alternative proposal for the LIS threshold floor.**

<ESMA\_QUESTION\_MIFID\_ADD\_2>

Deutsche Börse Group agrees with the general direction of ESMA with respect to foreign exchange instruments. Especially the approach chosen by exchanges and exchange traded derivatives ensures the highest level of transparency and this seems to be partly impaired by the ESMA proposals put forward. In particular, the notion ESMA follows that the pre-trade LIS can be equal to the post trade LIS cannot be



supported. Especially not in light of the proposed much lower SSTI levels that are suggested. Clearly this differentiation between pre-trade levels and post trade levels must be made for foreign exchange derivatives contracts. In regards to pre-trade LIS determination, following is crucial to take into consideration and equally applies also to equity derivatives and interest rate derivatives, as consulted in previous consultation papers.

In a mature exchange traded product the different level of liquidity is reflected in a different level of existing exchange block trade levels (similar to the envisaged LIS). Depending on the liquidity of the order-book, the market impact a large order could have is very different. Today, Eurex has set the following block trade levels for FX futures and options:

- FX futures and options on EUR-USD - 1000 contracts (equals a notional of EUR 100mn) and
- 500 contracts for all other FX contracts

Liquidity is formed differently for futures and for options, and certainly for the OTC derivatives captured in this chapter. The goal should be to implement threshold levels for LIS and SSTI in a prudent way that does not diminish the high transparency levels already achieved by exchanges in ETDs. The all-encompassing objective of exchanges is to develop instruments and create readiness for liquidity formation in a public order-book. Thresholds for transparency levels are dynamically addressed, taking into account the nature of the products. In order to ensure the overall goal, it is recommended to consider the approach of exchanges and to also consider existing liquidity levels in the order-books.

Regarding the liquidity in instrument types, futures are mostly front-month traded instruments, with the exception of FX, money market, dividend and volatility derivatives. Futures predominantly trade in electronic order-books. Options trading interest is spread out in the dimensions call/put, strike and expiration. Fragmented liquidity and trading bespoke option and option volatility strategies leads to a higher level of voice negotiation. This can result in qualitative adjustments to block trade sizes to remain attractive over OTC alternatives of bilaterally trading exchange listed look-alikes.

The following outlines to ESMA some of the statistical measures taken into account by an exchange when defining minimum block trade size, hence the pre-trade approaches:

- As a first indicator, the share of block volume is considered in a product to determine thresholds.
- Then, the trade size distribution for screen and block trades are considered separately. Size buckets are set and evaluated for the number of trades at a given size, as well as the cumulative volume and share of overall volume traded at such a size. Both trade frequency and the share of large trade sizes for the instrument overall are considered in the approach.
- While the determination of average trade sizes allows further gauging of common and larger trade sizes, the initial order size must also be considered. In electronic markets, and particularly in options, price guidance is given by quotes. Trade initiators rarely trade at these quoted prices (5-20% of options screen volume), and mostly enter limit orders mid-market. The difference between order and trade sizes is twofold. Firstly, a trade initiator may slice an order into suborders to minimize market impact by trading 500 futures or options via 5 orders at 100 contracts. Trade records provide evidence for this practice as the trade executions feature the same counterparty on the trade at identical prices with subsequent, virtually identical timestamps. Secondly, other market participants respond to incoming orders from trade initiators in a competitive fashion with immediate-or-cancel (IOC) orders. The initial order of 500 contracts placed a tick under the best quoted offer may be traded by, for example, 3 market makers sending IOCs in 100, 100 and 300 contracts.

Whereas a liquid and mature futures contract has a block size of 1000 contracts (lots), for example, products which are perceived as illiquid instruments may have lower block sizes, to attract order flow in such instruments to central infrastructures (CCPs & trading venues). For example, derivatives on less liquid

currency pairs can require a much lower block size of 10 contracts or even 1 contract (lot) as well as products which have been just recently introduced and therefore could not build up the same liquidity compared to a more mature derivatives contract.

Thus higher transparency thresholds often cannot be justified, because these would contradict the overarching goal to bring instruments onto a multilateral environment and damage transparency, because the order-book cannot absorb such sizes and market participants will not be able to support such sizes.

**Regarding point (1)**, a deferral period of 48 hours will not be acceptable for FX futures and FX option products as market participants are accustomed to a high degree of transparency. In FX futures and FX options for example there are no non-disclosure trades (=potential LIS for post-trade transparency) allowed as the majority of market participants were completely against it. If deferrals are allowed, then 24 hours would be an appropriate level for ETDs. If at all, Eurex would only allow deferred publication in multiples of the block size. In addition, only a small fraction of the trading in block sizes is deferred under non-disclosure till after end-of-day, with reporting after the end-of-day batch run on 't', i.e. the same day. As NDFs and deliverable forwards are very similar instruments to exchange traded futures and options we strongly recommend that the same deferral period will apply for those products.

With respect to the size specific to the instrument threshold **regarding point (2)** the relation is not applicable for FX futures and options. FX futures and options are highly standardized with a high degree of transparency the large in scale threshold for post trade transparency measures must be significantly higher than the pre-trade levels of the size specific to the instrument or pre-trade LIS. Deutsche Börse Group suggestion would be that the levels for post trade LIS should be at least a multiple of 5 the pre-trade LIS thresholds. As NDFs and deliverable forwards are very similar instruments to exchange traded futures and options we strongly recommend that the same threshold will apply for those products which have similar tenors. In regards to SSTI, the same proportionality shall be applicable, whereas SSTI levels shall be 95% of the LIS, and not as proposed by ESMA 50% of the pre-trade LIS.

**In respect to point (3)**, using the volume measure to determine the thresholds of LIS and SSTI, in general, is appropriate.

With regard to the pre-trade and post-trade thresholds **under point (4)**, the pre-trade LIS and post-trade LIS should not be set at the same size, but should be multiples of the pre trade LIS or SSTI. Whereas the SSTI should be defined as 95% of the pre-trade LIS, but at least 75%. Definitely not 50% of LIS, as currently proposed by ESMA.

**Concerning point (5)**, the levels for LIS and SSTI applicable for non-deliverable forwards and deliverable forwards set out in table 48 and 50 are too low, and that to a significant degree. These kinds of levels would endanger a liquid order-book trading which in turn guarantees the high transparency of liquid ETDs. On the other hand LIS threshold determined for liquid FX options outlined in table 52 are set at more appropriate levels.

As ADT can change from year to year an annual recalculation/check is preferable. As mentioned before, levels should be set with an instrument by instrument approach mainly based on the ADT of the product and the level should be set at the trade size larger than 95% of the order book trades.

In order to equip ESMA with an approach pursued by exchanges when determining potential deferrals, hence, post trade levels, some important aspects and principles are listed as follows:

- When considering deferrals, a similar approach is undertaken by exchanges today, called the non-disclosure levels. Non-disclosure thresholds are set as multiples of block trade thresholds. Non-disclosed trades are currently available for equity futures, equity options and select index products resulting in delayed reporting after the end-of-day batch run. These levels are critical from a trading and risk management perspective and must balance the interests of those involved and not involved in such trades. Such, deferred publication allows a market participant involved in very large trades to hedge and risk manage these, and to provide this service as such. The size of

such trades however can impact price levels for the given instrument; hence the non-involved parties are interested in immediate publication to minimize their risk of mispricing.

- As FX products at Eurex have been introduced just recently the main objective is to build up liquidity in the order-book. In consequence non-disclosed trades are not in scope at this point in time. However, once a decent liquidity in FX futures and options will be established Eurex is going to setup appropriate non-disclosure thresholds to serve customer needs to facilitate large trade sizes through an exchange by minimizing market impact. If required Eurex suggests the following threshold as being appropriate for FX futures and options
  - Over 99 % of all trades in FX futures and options should be disclosed
  - Trades of sizes counting for less than 95% of all volumes should be disclosed
  - 5-10 times the Minimum Block Trade size should be appropriate levels for FX Futures and Options to define non-disclosure

***In respect to point (6)*** Alternatively applying a LIS threshold floor of EUR 1,000,000 with an annual recalculation of LIS thresholds from 2018 onwards is clearly preferred for the determination of LIS thresholds in NDFs as this approach will be in line with the threshold floors which are set for other instruments such as deliverable forwards (DF), FX options and FX swaps.

All tables in RTS 9, shall reflect the suggestions made on the granularity of the instrument level, this holds true for FX futures as well. In addition, liquidity shall be benchmark against the proposed methodology for what is ultimately seen as liquid in the market, as proposed under the example of Eurex. Liquid futures defined as: > 2000 trades per day and > 10,000 contracts per day and liquid options defined as: > 100 trades per day and > 5,000 contracts per day.

Ultimately, all LIS need to be carefully calibrated, and the SSTI ideally is 95% of LIS and not only 50%. In that respect, RTS 9 Tables 48 to 59 need to be amended.

<ESMA\_QUESTION\_MIFID\_ADD\_2>

**Q3. Which is your preferred option for the definition of a liquid market of single name CDS? Please provide an answer detailed per underlying issuer type identified (sovereign and corporate), 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\_MIFID\_ADD\_3>

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**Q4. For all the other classes (CDS Index, Bespoke basket CDS, CDS index options and Single name CDS options): do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer detailed per contract type (CDS and**

CDS options), underlying type (index, single name, bespoke basket) 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.**

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**Q5. Do you agree with ESMA's proposal for credit derivatives? Please specify, for each sub-class (single name CDS, CDS index, bespoke basket CDS, single name CDS options, CDS index options) 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.**

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**Q6. Do you agree with ESMA's proposal for the definition of a liquid market? Please provide an answer detailed per class of derivatives (freight derivatives, emissions derivatives, weather derivatives and other exotic derivatives) and contract type identified (options, futures, forwards, swaps, others). If you do not agree with ES-**

**MA's proposal for the definition of a liquid market, please specify per class of derivatives and contract type identified:**

- (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. Please, provide reasons for your answer.**

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**Q7. Which is your preferred option? Please express your preference either for "Alternative A" or for "Alternative B". If you disagree with both ESMA's proposals provide your alternative proposal by answering the following question.**

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**Q8. Please specify, for each class (defined as follows if you have stated your preference for Alternative A: freight derivatives, emissions derivatives, weather derivatives and other exotic derivatives. Defined as combination of underlying type and contract type if you have stated a preference for Alternative B: freight options, freight futures, freight forwards, etc.) 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.**



<ESMA\_QUESTION\_MIFID\_ADD\_8>  
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**Q9. Do you agree with the approach taken for shares where any CFD based on a liquid share would be considered as having a liquid market? More specifically, please provide feedback on the following:**

- (1) Would you prefer to follow a similar approach as that proposed in option 2 on liquidity for equity derivatives (paragraph 90 page 132 of December CP), i.e. qualify all CFDs on equity as liquid irrespectively of the liquidity of the underlying?**
- (2) Would you have used different criteria to define the classes or sub-classes?**
- (3) Would you have used 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?**
- (4) Would you support extending the approach taken for shares to other equity (ETFs, depositary receipts and certificates) and equity-like instruments?**

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**Q10. Do you agree with ESMA's proposal for the definition of a liquid market for CFDs on currencies? Please provide a feedback on the following in your answer:**

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

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**Q11. Do you agree that CFDs on instruments other than equities and currencies are illiquid? If you do not agree with ESMA's proposal for the definition of a liquid market for those classes, please provide your alternative proposal specifying the following:**

- (1) How would you define the sub-classes, i.e. which qualitative criteria would you use?**

**(2) Which parameters and related thresholds would you use to classify a sub-class as liquid?**

**(3) Which sub-classes would you define as liquid?**

<ESMA\_QUESTION\_MIFID\_ADD\_11>  
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**Q12. Do you agree with ESMA's proposal for CFDs? Please specify, for each sub-class (CFDs on equity, CFDs on currency, CFDs on commodity, CFDs on bonds, CFDs on futures on equity and CFDs on options on equity, others) if you agree on the following points providing reasons for your answer and, if you disagree providing ESMA with an alternative proposal regarding:**

**(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.**

<ESMA\_QUESTION\_MIFID\_ADD\_12>  
TYPE YOUR TEXT HERE  
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