Reply form for the Consultation Paper on MiFID II / MiFIR

19 December 2014

3. Transparency

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.

We agree with the proposed conditions and standards. We believe that the publication of a timestamp for each quote is essential. This is true for the establishment of a new quote, but even more so for the updating or cancelling of an existing quote. We would recommend investigating the implementation of a more complete workflow, comprising the establishing, updating and cancelling of a quote, each with timestamps (akin to the submission of limit orders to an exchange). We can also foresee latency issues with systematic internaliser quotes, and would recommend specifying the definition of a timestamp more rigorously – such as 'time at which quote leaves a systematic internaliser's gateway', akin to the discussion on record keeping in section 8.3 below.

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.

We believe that the date and time of publication is a valuable additional contributor to market transparency, particularly as issues of latency continue to increase in importance. We would suggest defining the time of publication as the time that the message leaves the gateway, compatible with the considerations in section 8.3 below.

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.

We agree with the definition of normal trading hours. We support the shortening of the maximum possible delay to one minute, and believe that there should be no exception for certain types of transactions such as portfolio trades. We encourage the real-time publication of post-trade information where possible, and suggest that ESMA aggressively monitors the delays, as facilitated by implementing a time of publication field in Q 50 above.

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.

We reiterate our view that the merits of segmenting equities into too many different ADT buckets, and specifying separate large-in-scale thresholds for each are limited. In our experience, markets are characterized by a large number of small transactions, and a very small number of truly large transactions. We would advocate a computational approach to determining turnover thresholds (such as the smallest trade that would cover x% of total turnover) as the relevant metric in determining large-in-scale thresholds. We suspect that these thresholds would be quite similar across different ADT buckets.

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:

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

We would like to highlight some concern with regard to the liquid market definition for non-equity financial instruments. According to ESMA's calculations of bonds that will be categorized as liquid, between 42-74% are actual not liquid according to ESMA's own definition (page 104 in Consultation Paper). This means the pre-trade transparency regime will apply for bonds that are not liquid, which in turn will raise the bid/offer cost quoted on these and in the end the cost of trading for the buy side.

For the pre-trade transparency on bonds it would be better to publish an average of dealer quotes on a RFQ, as this will not prevent dealers from showing their best price. Alternatively, pre-transparency should only apply for firmly quoted prices (like MTS and ALLQ prices). A third option that is better than current suggestion, is that there is an asymmetry for pre- and post- trade transparency on size. Keep current sizes for post trade transparency but reduce it to 1/10 (of post-transparency) for pre-trade transparency. We believe post-trade transparency for bonds is the most effective way to enhance transparency and liquidity, and that pre-trade transparency in many cases will have a counter-productive effect on liquidity.

4. Microstructural issues

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.

We believe that a market maker should be obliged to remain present in the market for more than 50% of trading hours in liquid equities.

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

We agree with the proposed circumstances, but would suggest further clarification on the definition of 'extreme volatility'.

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.

NBIM prefers the FIX Protocol format for exchange of transaction and reference data reporting. Any other format is also possible, but leveraging on best practice represented by FIX will be most efficient.

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

LEI validation requires a global standard for LEI identification, but provided this standard is available (cf. clause 183), we do not foresee any issues in respect of implementation of such validation.

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?

It is in our opinion important to establish common understanding on the certainty that the derivative contract is eligible for clearing previous to the execution. This should be electronically verified through order process by functionality delivered by the trading venue. This pre-check should include both contract eligibility for clearing and available credit for client from clearing member.

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

We agree to ESMA's proposal.

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?

We agree to ESMA's proposal.

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

We agree to ESMA's proposal.

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

As a standard rule, we suggest that any decision by the parties to resubmit a rejected transaction should be done on a new trade basis. Exceptions should be very limited.