European Securities and Markets Authority

Reply form for the Consultation Paper on MiFID II/ MiFIR review report on the transparency regime for non-equity and the trading obligations for derivatives

10 March 2020

European Securities and Markets Authority

Date: 10 March 2020

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the Consultation Paper on the transparency regime for non-equity instruments and the trading obligations for derivatives MiFID II/ MiFIR review report published on the ESMA website.

Instructions

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

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_CP_MIFID_NQT_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

Naming protocol

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

ESMA_CP_MIFID_NQT_NAMEOFCOMPANY_NAMEOFDOCUMENT.

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

ESMA_CP_MIFID_NQT_ESMA_REPLYFORM or

ESMA_CP_MIFID_NQT_ANNEX1

Deadline

Responses must reach us by **19 April 2020.**

All contributions should be submitted online at www.esma.europa.eu 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 under the headings 'Legal notice' and 'Data protection'.

General information about respondent

Name of the company / organisation	International Capital Market Association
Activity	Banking sector
Are you representing an association?	☒
Country/Region	Europe

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_CP_MIFID_NQT_1>

On behalf of the International Capital Market Association (ICMA), we are pleased to provide feedback regarding ESMA's consultation paper on "MiFID II/ MiFIR review report on the transparency regime for non-equity instruments and the trading obligation for derivatives". ICMA's Transparency Taskforce is grateful for the opportunity to respond to ESMA's consultation paper.

The ICMA Taskforce member response is based on consensus view from a varied group of buy-side and sell-side investment firms and also trading venues, representing Germany, France, Austria, Denmark, Sweden, Spain, Italy, UK, Australia, and the United States. There is a unique value in conveying broad view from across the industry and we hope this response is informative and useful.

The Taskforce members welcome the efforts of ESMA to seek out stakeholder views concerning ESMA's conclusions and proposals regarding effective application of transparency rules and whether the provisions have delivered on their objectives. In particular, the Taskforce welcomes the opportunity to provide market participant feedback regarding transparency regime (pre- and post), verifiable data sets and liquidity assessment methodology. **This response is solely in relation to cash bonds.**

<ESMA_COMMENT_CP_MIFID_NQT_1>

Q1. What benefits or impacts would you see in increased pre-trade transparency in the different non-equity markets? How could the benefits/impacts of such pre-trade transparency be achieved/be mitigated via changes of the Level 1 text?.

<ESMA_QUESTION_CP_MIFID_NQT_1>
The ICMA Taskforce considers increasing MiFIR-based pre-trade transparency would not bring any benefits to either institutional or retail market participants. Currently, market participants source liquidity through axes and inventory. This seems to be working for institutional investors.

Instead, the Taskforce view is the focus should be on MiFIR post-trade transparency as post-trade transparency would benefit institutional investors and retail investors more than MiFIR based pre-trade transparency. Retail end users could have access to a consolidated view of prices in bond markets and institutional investors will have this important tool in its toolbox for price formation and transaction cost analysis.

Furthermore, today, retail investors trade liquid bonds so any illiquid waivers that mask prices for pre-trade transparency would not be detrimental to retail end users. Whereas, increased post-trade transparency through phased liquidity stage progression and a consolidated view of post-trade bond data through a consolidated tape (CT) would benefit retail investors.

Again, the Taskforce considers any transparency change focus should be placed on post-trade market structure and practices.

Taskforce members perceive in order to improve transparency, assist decision-making and provide market insights to end-investors, large or small, appropriate post-trade practices and market structure should be put in place. Adoption of a workable post-trade market structure, including consolidated tape would benefit the whole market, by providing a centralised, high quality, affordable, trustworthy data source, offering a comprehensive market view. This would bring immediate benefits to professional bond markets and the retail sector as well, such as:

- **Levelling the playing field with respect to access to information.** A post-trade CT removes existing information asymmetries, where certain market participants may have greater visibility regarding ongoing trading activity than other investors. This enables investors to assess more accurately current market dynamics, increasing overall investor confidence, particularly during times of market volatility.

- **Promoting market resilience.** The removal of existing information asymmetries contributes to market resiliency by ensuring that changes in supply and demand are more efficiently reflected in current price levels. In addition, without a neutral and reliable source of current market trading activity, investors may be more likely to pull back during times of volatility.

- **Promoting competition.** By enabling investors to compare the prices they receive from liquidity providers with concurrent (and anonymous) trading activity across the market, a post-trade CT promotes price competition as investors are able to demand more accountability from their liquidity providers. In addition, new liquidity providers are more likely to enter the market, as they are able to access information regarding current market dynamics, including trading volumes and pricing, on an equal basis as existing liquidity providers.

- **Supporting the CMU.** A post-trade CT for bonds strengthens EU capital markets by linking together the disparate trading venues and APAs across the EU, enhancing retail and institutional investor confidence due to increased transparency in the market. Stronger and more liquid EU capital markets promotes economic growth.

<ESMA_QUESTION_CP_MIFID_NQT_1>

Q2. What proposals do you have for improving the level of pre-trade transparency available? Do you believe that the simplification of the regime for pre-trade transparency waivers would contribute to the improvement of the level of pre-trade transparency available?

<ESMA_QUESTION_CP_MIFID_NQT_2>
The Taskforce does not believe a full-scale change is needed in regard to pre-trade transparency. A few small changes may be required to make the current system more workable but that is all. One suggestion for a targeted change or 'tweak' follows:

- ICMA members believe there is a lack of anonymity for individual SI quotes compared with trading venues where published quotes are at the venue level rather than the individual risk-taker level. ICMA members propose SIs should have the possibility to anonymise their quotes should they wish to. Also worth noting that the SI pre-trade reporting could only be anonymised if the additional obligations under Article 18 (5), Article 18 (6) and Article 18 (7) are deleted.

ICMA Taskforce members have observed pre-trade transparency, from an investor perspective point of view, use market pre-trade transparency such as axes and inventory for price discovery and not MiFIR based pre-trade quotes e.g SI quotes

There is concern amongst Taskforce members in regard to the term 'simplification'. A waiver regime or rule could be simplified in such a way that the obligation is so simplified that it damages liquidity provision with the consequence of reversing what the regulation intended.

Pre-trade transparency waivers in review, MiFIR Article 9 (1) (b), MiFIR recognises the role and existence of RFQ and voice trading systems and defines the SSTI waiver to protect liquidity providers from undue risks. Similarly, for trading with systematic internalisers, MiFIR Article 18 (10) limits the quote transparency requirement when dealing in sizes above SSTI, itself referring to MiFIR Article 9 (5) (d), to protect liquidity providers from undue risks.

Therefore, waiver simplification change, for change sake, is not needed as market participants and particularly investors are getting the pre-trade quote-based information they need, and liquidity providers are protected. Just a few targeted changes as the one mentioned above are required. .
<ESMA_QUESTION_CP_MIFID_NQT_2>

Q3. Are you supportive of ESMA's proposal to delete the pre-trade SSTI-waiver? Would you compensate for this by lowering the pre-trade LIS-thresholds across all asset classes or only for selected asset classes? What would be the appropriate level for such adjusted LIS-thresholds? If you do not support ESMA's proposal to delete the pre-trade SSTI-waiver, what should be the way forward on the SSTI-waiver in your view?

<ESMA_QUESTION_CP_MIFID_NQT_3>
ICMA Taskforce members do not agree with the proposal to delete pre-trade SSTI-waiver. As mentioned in the answer to question 1, MiFIR Article 9 (1) (b), MiFIR recognises the role and existence of RFQ and voice trading systems and defines the SSTI waiver to protect liquidity providers from undue risks.

Similarly, for trading with systematic internalisers, MiFIR Article 18 (10) limits the quote transparency requirement when dealing in sizes above SSTI, itself referring to MiFIR Article 9 (5) (d), to protect liquidity providers from undue risks.

As mentioned, ICMA members are not supportive of deleting the pre-trade SSTI waiver. As per ICMA's answer in Q2, Taskforce members believe the MiFIR principle to protect liquidity providers from undue risk is sensible and guarantees the provision and access to liquidity.

Market participants would like ESMA's focus to be aimed at necessary changes to the post-trade transparency regime instead of pre-trade transparency regime. ESMA should adopt sensible, workable post-trade practices and market structure that would benefit the whole market, including small and/or retail investors by providing a centralised, high quality, affordable, trustworthy data source, offering a comprehensive market view. The way forward is an EU bond consolidated tape.

<ESMA_QUESTION_CP_MIFID_NQT_3>

Q4. What are your views on the use of the SSTI for the SI-quoting obligations. Should it remain (Option 1) or be replaced by linking the quoting obligation to another threshold (e.g. a certain percentage of the LIS-threshold) (Option 2)? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_4>
ICMA supports the retention of SSTI for SI quotes as stated in Option 1. However, ICMA also believes that the concept of SSTI should also be retained for trading venue pre-trade transparency as well, as in this context SSTI and LIS complement each other. Below SSTI, trading venues and SIs provide transparency on individual quotes; while between SSTI and LIS, they provide an aggregate of all quotes provided in response to a given RFQ.
<ESMA_QUESTION_CP_MIFID_NQT_4>

Q5. Would you support turning the hedging exemption into a limited negotiated trade waiver? If so, would you support Option 1 or Option 2? If not, please explain why.

<ESMA_QUESTION_CP_MIFID_NQT_5>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_5>

Q6. Do you agree with ESMA's observations on the emergence of new trading systems and the proposed way forward requiring a Level 1 change and ESMA to issue an Opinion for each new trading system defining its characteristics and the transparency requirements? Would you have suggestions for the timeline and process of such Opinions? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_6>
ICMA considers there is no need for ESMA to issue opinions regarding each new trading system. RTS 2 under MiFID II/R is set out properly. It is the responsibility of individual NCAs to determine if investment firms are not abiding by MiFID II/R obligations and set of practices.
<ESMA_QUESTION_CP_MIFID_NQT_6>

Q7. Do you agree with the proposal for the definition of hybrid system? Are there in your view trading systems currently not or not appropriately covered in RTS 2 on which ESMA should provide further guidance? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_7>
ICMA's Taskforce members believe ESMA does not need to provide further guidance regarding hybrid systems. The trading systems described in RTS 2 are adequate and NCAs determine whether firms are meeting their MiFID II/R obligations. Any further definitions by ESMA could end up stifling innovation and the advancement and evolution of bond market trading practices.

<ESMA_QUESTION_CP_MIFID_NQT_7>

Q8. Do you agree with ESMA's proposal to require SIs to make available data free of charge 15 minutes after publication? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_8>
The ICMA Taskforce understands ESMA's Q&A has provided clear instructions to bond market participants regarding making data available, after 15 minutes: "ESMA expects trading venues, APAs and CTPs to make post-trade data, as well as pre-trade data, available free of charge 15 minutes after publication in an easily accessible manner for all potential users using a format that can be easily read, used and copied." https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-35_qas_transparency_issues.pdf
The Taskforce view is there should be a level playing field for all market participants regarding access to pre- and post-trade data, data should also be both machine readable and downloadable.
Lastly, in regard to post-trade transparency, a centralised view of trustworthy bond data through an affordable consolidated tape will allow bond market end users to have an overview of post-trade bond data, allowing market participants to carry out market analysis to assist in decision making.
<ESMA_QUESTION_CP_MIFID_NQT_8>

Q9. Would you see value in further standardising the pre-trade transparency information to increase the usability and comparability of the information? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_9>
The ICMA Taskforce does not view standardising of pre-trade transparency information as a useful exercise. The focus should be on post-trade transparency.

Furthermore, the Taskforce considers there would not be any benefit to either institutional or retail market participants by increasing MiFIR based pre-trade transparency. Currently, market participants source liquidity through axes and inventory. This seems to be working for institutional investors.

Post-trade transparency would benefit institutional investors and retail investors more than MiFIR based pre-trade transparency. Retail end users could have access to a consolidated view of prices in bond markets and institutional investors will have this important tool in its toolbox for price formation and transaction cost analysis.

Today, retail investors trade liquid bonds so any illiquid waivers that mask prices for pre-trade transparency would not be detrimental to retail end users. Whereas, increased post-trade transparency through phased liquidity stage progression and a consolidated view of post-trade bond data through a consolidated tape (CT) would benefit retail investors.
<ESMA_QUESTION_CP_MIFID_NQT_9>

Q10. Do you agree with ESMA's assessment of the level of post-trade transparency and with the need of a more streamlined and uniform post-trade regime which does not

include options at the discretion of the different jurisdictions? If not, please explain why and, where available, support your assessment with data.

<ESMA_QUESTION_CP_MIFID_NQT_10>
The Taskforce agrees there should be a uniform post-trade deferral regime under MiFID II/R and is in favour of a level 1 change to create a harmonised EU deferral regime, which protects liquidity providers and investors and is consistent with CMU goals. However, the Taskforce believes ESMA should administer the post-trade deferral regime, as the view is it would be easier to administer if it were managed centrally.

Important to note, any harmonisation of deferral regime should not be uniformly set at the lowest level of available post-trade transparency thresholds under MiFID II/R. Instead, the uniform deferral regime should be based on the existing MiFID II/R deferral regime experienced by most market participants today.

Yet, as ESMA set out in point 130, industry participants should be allowed, as an exception, to set up agreements whereby transparency levels are set at higher levels of transparency exposure than the uniform post-trade MiFID II/R based transparency regime across the EU. As the example in point 130 states, the banking industry in Denmark has reached an agreement to 'maintain the level of transparency available before MiFID II' for some instruments. For mortgage bonds, market participants commit to publish information about transactions, as soon as possible after the trade is concluded for trade in sizes below max (DKK 120m, SSTI) and end of day above.

The ICMA Taskforce considers this regional nuanced approach to be a niche country-specific exception to the rule of uniform and harmonised EU post-trade deferral regime based on current MiFID II/R deferrals.
<ESMA_QUESTION_CP_MIFID_NQT_10>

Q11. Do you agree with this proposal? What would be the appropriate level of such a revised LIS-threshold in your view?

<ESMA_QUESTION_CP_MIFID_NQT_11>
As stated in the answers to questions 3 and 4, the Taskforce is not in favour of wholescale deletion of SSTI, nor the SSTI tweaking unlevel options. However, the Taskforce could agree to potentially lowering the post-trade LIS threshold, if the LIS threshold is based on (industry verified and agreed) granular sub-asset class threshold levels. Bond thresholds should be based on (individual) sub-asset class MiFID II/R bond types.

Note: Currently bond sub-asset classes are based on MiFID II/R bond types: corporate, covered, convertible, sovereign and other public bonds.

Furthermore, ICMA Taskforce members would be in favour of carrying out in-depth analysis for a study into the impact on accuracy and potential benefits (or detriments to liquidity providers or investors) of increased transparency for a transparency regime based on investment grade/non-investment grade categories of bonds. In addition, the analysis would cover the impact of technology costs on market participants.

The Taskforce view is that the best transparency regime is one that is not overly complicated or overengineered and is in fact a transparency regime that works for all market participants in practice. Therefore, the Taskforce considers it appropriate to investigate IG/non-IG based LIS thresholds (without SSTI) as this could potentially prove to be a better and more workable transparency regime, easier for both industry participants and regulators.

In future, after proper analysis carried out by a representative group (banks, buy-sides, trading venues/APAs and data providers), MiFIR transparency regime could migrate to bond sub asset classes broken down to granular IG: corporate, sovereign, financial and Non-IG: emerging markets, high yield bonds.

ICMA would welcome working with its members to produce a study for ESMA (and the Commission if requested) into an investment grade/non-investment grade-based transparency regime. Ideally, analysing LIS bond thresholds with the aim of finding a balanced transparency regime, which protects liquidity providers and investors and is simpler to implement, and potentially more accurate.

Nevertheless, any future recommendation for a migration to IG/Non-IG based transparency regime from the current IBIA/COFIA regime would require clear evidence of significant benefits for bond markets.
<ESMA_QUESTION_CP_MIFID_NQT_11>

Q12. In your view, should the real time publication of volume masking transactions apply to transactions in illiquid instruments and above LIS waiver (Option 1) or to transactions above LIS only (Option 2 and Option 3). Please elaborate. If you support another alternative, please explain which one and why.

<ESMA_QUESTION_CP_MIFID_NQT_12>
The Taskforce does not support any real-time volume or price publication for illiquid, SSTI or LIS transactions.

It is important to understand why volume as well as price masking is important to market participants. For example, in Sweden there are very few liquidity providers. This makes the volume and price information very sensitive since other market participants can determine which liquidity provider is carrying the position based on the price/volume information. Not having volume and price masking would result in less aggressive pricing to investors. Therefore, these liquidity providers need the protection of having both price and volume masking.
<ESMA_QUESTION_CP_MIFID_NQT_12>

Q13. Do you agree with the publication of the price and volume of all transactions after a certain period of time, such as two calendar weeks (Option 1 and 2) or do you support the two-steps approach for LIS transactions (Option 3)? Please explain why and provide any alternative you would support. Which is the optimal option in case a consolidated tape would emerge in the future?

<ESMA_QUESTION_CP_MIFID_NQT_13>
Regarding the suggestion to publish volume or price information following a transaction, such as two calendar weeks, Taskforce members agree this suggestion would not benefit market participants. Buy-side Taskforce members in particular, believe two-week-old information does not support price formation any better than four-week-old information.

Therefore, ICMA Taskforce members do <u>not</u> support any change in the volume or price publication for illiquid or LIS transactions and that options 1, 2 and 3 are not appropriate for bond market participants.

Furthermore, the Taskforce agrees that any ESMA decisions relating to modifications to the existing transparency regime should be coordinated with ESMA's Data Advisory Group "DAG". This would allow time for the DAG to study and verify ESMA's transparency data in order to work with ESMA to mutually agree the bond market is ready for any proposed changes to transparency practices.

DAG: Independently verify bond liquidity and threshold data output with ESMA's DAG (Data Advisory Group). The 'DAG' as set up by ESMA, has industry 'operational level' experts, including trading venues, APAs, data providers, sell-side banks (global and EU headquartered), Institutional Investors (global and EU headquartered) and intermediaries. In addition, the 'DAG' should make sure the APA representatives are from the top APA providers as listed on ESMA's website, as those data repositories should have the most accurate data sets.

The DAG "informs the DSC* on matters of practical implementation of reporting requirements which require clarifications or adaptations", according to ESMA. ICMA's Taskforce believes the 'DAG' should work alongside Data Standing Committee (DSC) in an interactive actionable manner to collectively produce good quality liquid bond and transparency data.

The Taskforce also believes no liquidity stage advancement should be considered before the liquid bond data universe, data set and liquidity output are verified as accurate by the 'DAG'.

Data quality and universe is a major issue – The Taskforce assumes ESMA is looking at all APA data and trading venue data (which is not reported to APAs) as the universe of trading venue and OTC bond trades to analyse from. If this is not the universe, this could be a problem.

The Taskforce is concerned the data set is based only on trading venue and exchange data and not using relevant APA data, which encapsulates both TV and OTC and SI trades. If this is the case, SI and OTC data is potentially missing from the liquidity calculations and therefore contributing to the liquidity errors the industry has witnessed.

Actions the DAG, working alongside the DSC could take:

i. Be able to detect outliers / data quality errors
   a. For example, by comparing with third party market data
ii. Take action against those outliers
   a. = not taking them into account in calculations
   b. + follow up with outliers data provider (supervision)
iii. Analyse data to detect missing data
   a. For example, compare with third party market data, they could find the top 100 most traded bonds on the data provider with the most bond data.
   b. If not, investigate / challenge TV, APAs, Investment firms

ESMA proactively working alongside the DAG, including taking all necessary actions to resolve data quality issues including using 'outlier advanced analytics' will improve bond data quality and liquidity assessments.

Important to note, if the 'DAG' reviewed the liquidity data output and worked with ESMA to dynamically rectify and correct the data and then verify the data was correct, the industry could rely more on the list of liquid bonds. **This would lead industry to potentially feel more comfortable with simplifying transparency regime, including thresholds and deferral periods.**

*__Data Standing Committee:__ https://www.esma.europea.eu/about-esma/working-methods/standing-committees

In addition, and as mentioned in the answer to question 11, the Taskforce view is that the best transparency regime is one that is not overly complicated or overengineered and in fact is a transparency regime that works for all market participants in practice. Therefore, the Taskforce considers it appropriate to investigate IG/non-IG based LIS thresholds (without SSTI) as this could potentially prove to be a better and more workable transparency regime, easier for both industry participants and regulators. In future, after proper analysis is carried out by a representative group (banks, buy-sides, trading venues/APAs and data providers), MiFIR transparency regime could migrate to bond sub asset classes broken down to granular IG: corporate, sovereign, financial and Non-IG: emerging markets, high yield bonds.

ICMA would welcome working with its members to produce a study for ESMA (and the Commission if requested) into an investment grade/non-investment grade-based transparency regime. Ideally, analysing LIS bond thresholds with the aim of finding a balanced transparency regime, which protects liquidity providers and investors, that is simpler to implement and is potentially more accurate.

Nevertheless, any future recommendation for a migration to IG/Non-IG based transparency regime from the current IBIA/COFIA regime would require clear evidence of significant benefits for bond markets.
<ESMA_QUESTION_CP_MIFID_NQT_13>

Q14. Do you agree with ESMA's proposed way forward to issue further guidance and put a stronger focus on enforcement to improve the quality of post-trade data? Are there any other measures necessary at the legislative level to improve the quality of post-trade data? What changes to the transparency regime in Level 1 could lead to a substantial improvement of data quality?

<ESMA_QUESTION_CP_MIFID_NQT_14>
ICMA's Taskforce disagrees. There should not be a stronger focus on enforcement. Enforcement will not improve the MiFIR reporting field ambiguity that exists today. Instead, ICMA believes ESMA's focus should be on industry interaction and engagement. Currently, there is not enough industry participation with ESMA. The belief is the more input from industry experts and two-way communication, the more dynamic improvement to ESMA specifications and industry participant interpretation. Resulting in more clarity for market participants overall.
<ESMA_QUESTION_CP_MIFID_NQT_14>

Q15. What would be the optimal transparency regime to help with the potential creation of a CTP?

<ESMA_QUESTION_CP_MIFID_NQT_15>
A uniform harmonised deferral regime across the EU would help with the quality of a bond consolidated tape. Data quality and changes to MiFID II/R level one will also improve the workability of a bond consolidated tape.

The responsibility for data feed provision should be changed from the CTP's obligation to 'obtain' data, to stating that trading venues and APAs have an obligation to 'provide' data to the CTP. This obligation would be extended to self-reporting firms as applicable.

Data quality and data standardisation are key elements for a good quality and usable bond consolidated tape. For example, the following data quality improvements need to be addressed in order to create a reliable consolidated tape: misclassification of CFI codes, notional vs quantity field interpretations, flag instructions, publication of zero price trades, incorrect timestamps and publication of aggregated trades.

More information regarding what is required to create an EU bond consolidated tape can be found in ICMA's report to the European Commission on EU CT for bond markets. https://www.icma-group.org/News/news-in-brief/icma-publishes-an-in-depth-report-on-consolidated-tape-for-greater-post-trade-transparency-in-the-eu-bond-markets/
<ESMA_QUESTION_CP_MIFID_NQT_15>

Q16. Do you agree with ESMA's above assessment? If not, please explain.

<ESMA_QUESTION_CP_MIFID_NQT_16>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_16>

Q17. Are you of the view that the interpretation of TOTV should remained aligned for both transparency and transaction reporting? If not, please explain why.

<ESMA_QUESTION_CP_MIFID_NQT_17>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_17>

Q18. Which of the three options proposed, would you recommend (Option 1, Option 2 or Option 3)? In case you recommend an alternative way forward, please explain.

<ESMA_QUESTION_CP_MIFID_NQT_18>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_18>

Q19. What is your view on the proposal to delete the possibility for temporarily suspending the transparency provisions? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_19>
The taskforce view is that this backstop is there for extreme market conditions, while the backstop has never been used, it could be necessary in future and therefore should not be deleted.
<ESMA_QUESTION_CP_MIFID_NQT_19>

Q20. Do you have any remarks on the assessment of Article 28 of MiFIR? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_20>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_20>

Q21. Do you have any views on the above-mentioned criteria and whether the criteria are sufficient and appropriate for assessing the liquidity of derivatives? Do you consider it necessary to include further criteria (e.g. currency)? Do you consider that ESMA should make use of the provision in Article 32(4) for asset classes currently not subject to the trading obligations? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_21>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_21>

Q22. **Do you agree that a procedure for the swift suspension of the trading obligation for derivatives is needed? Do you agree with the proposed procedure? Please explain.**

<ESMA_QUESTION_CP_MIFID_NQT_22>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_22>

Q23. **Do you have a view on this or any other issues related to the application of the DTO?**

<ESMA_QUESTION_CP_MIFID_NQT_23>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_23>

Q24. **Do you have any views on the functioning of the register? Please explain.**

<ESMA_QUESTION_CP_MIFID_NQT_24>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_24>

Q25. **Do you agree that the current quarterly liquidity calculation for bonds is appropriate or would you be of the view that the liquidity determination of bonds should be simplified and provide for more stable results? Please explain.**

<ESMA_QUESTION_CP_MIFID_NQT_25>
The liquidity calculation for bonds or 'methodology' is not complex per se as you can see below:

'Liquidity Test' (Floors) - (Liquidity test is by Class (COFIA) for new issues)
Above 100k on 80% of days

Phased-in 'liquidity test' (advancement subject to ESMA assessment):

- **Year 1 (2018)**
  -15 trades per/day

- **Year 2 (2019)**
  -10 trades per/day

- **Year 3 (2020)**
  -7 trades per/day

- **Year 4 (2021)**
  -2 trades per/day

The Taskforce believes the complexity lies within data quality, standardisation and unverified data sets. Making these calculations simpler is not necessary. What is necessary is better quality data and a **verifiable data set.**

In order to attain accurate and verifiable liquidity calibration for bonds, ESMA should consider verifying the liquidity data output and data set with ESMA's Data Advisory Group (DAG). More detail follows on 'DAG':

DAG: Independently verify bond liquidity and threshold data output with ESMA's DAG (Data Advisory Group). The 'DAG' as set up by ESMA, has industry 'operational level' experts, including trading venues, APAs, data providers, sell-side banks (global and EU headquartered), Institutional Investors (global and EU headquartered) and intermediaries. In addition, the 'DAG' should make sure the APA representatives are from the top APA providers as listed on ESMA's website, as those data repositories should have the most accurate data sets.

The DAG "informs the DSC* on matters of practical implementation of reporting requirements which require clarifications or adaptations", according to ESMA. ICMA's Taskforce believes the 'DAG' should work alongside Data Standing Committee (DSC) in an interactive actionable manner to collectively produce good quality liquid bond data.

The Taskforce also believes no liquidity stage advancement should be considered before the liquid bond data universe, data set and liquidity output are verified as accurate by the 'DAG'.

Data quality and universe is a major issue – The Taskforce assumes ESMA is looking at all APA data and trading venue data (which is not reported to APAs) as the universe of trading venue and OTC bond trades to analyse from. If this is not the universe, this could be a problem.

The Taskforce is concerned the data set is based only on trading venue and exchange data and not using relevant APA data, which encapsulates both TV and OTC and SI trades. If this is the case, SI and OTC data is potentially missing from the liquidity calculations and therefore contributing to the liquidity errors the industry has witnessed.

Actions the DAG, working alongside the DSC could take:

i. Be able to detect <u>outliers</u> / data quality errors
    a. for example, by comparing with third party market data

ii. <u>Take action</u> against those outliers
    b. = not taking them into account in calculations
    c. + follow up with outlier data provider (supervision)

iii. Analyse data to <u>detect missing data</u>
    d. For example, compare with third party market data, they could find the top 100 most traded bonds on the data provider with the most bond data.
    e. If not, investigate / challenge TV, APAs, Investment firms

ESMA proactively working alongside the DAG, including taking all necessary actions to resolve data quality issues including using 'outlier advanced analytics will improve bond data quality and liquidity assessments.

Important to note, if the 'DAG' reviewed the liquidity data output and worked with ESMA to dynamically rectify and correct the data and then verify the data was correct, the industry could rely more on the list of liquid bonds. **This would lead industry to potentially feel more comfortable with simplifying transparency regime, including thresholds and deferral periods.**

***Data Standing Committee:** https://www.esma.europa.eu/about-esma/working-methods/standing-committees

In addition, the Taskforce view is that the best liquidity assessment method is one that is not overly complicated or overengineered and is in fact a methodology that is accurate and works for all market participants in practice. Therefore, the Taskforce considers it appropriate to investigate whether an IG/non-IG based liquidity assessment methodology could potentially prove to be a better and more workable liquidity calculation regime, easier for both industry participants and regulators.

ICMA would welcome working with its members to produce a study for ESMA (and the Commission if requested) into an investment grade/non-investment grade-based liquidity assessment regime. Ideally, analysing liquidity bond threshold levels (granular IG: corporate, sovereign, financial and Non-IG: emerging markets, high yield).

The aim of the study would be to find a more accurate, viable, and easier to implement liquidity assessment system. A balanced bond liquidity determination regime, which protects liquidity providers while providing investors with necessary information for price formation would benefit EU bond markets.

As the IG/Non-IG rating assessment methodology would be based on credit rating and sub-asset class thresholds, the scope of the study would disregard average daily number of trades and trade percentiles. The scope of the proposed study would be both pre- and post-trade.

In future, after proper analysis is carried out by a representative group (banks, buy-sides, trading venues/APAs and data providers), and analysis proves IG/Non-IG based liquidity assessment meets the needs of EU bond markets better and is more robust than existing liquidity assessment methods, MiFIR liquidity calculation methodology could migrate from IBIA/COFIA liquidity determination to credit rating based MiFID II/R liquidity based determination.

Nevertheless, any future recommendation for a migration to IG/Non-IG based liquidity determination regime from the current IBIA/COFIA regime would require clear evidence of significant benefits for bond markets.
<ESMA_QUESTION_CP_MIFID_NQT_25>

Q26. Do you agree with ESMA proposal to move to stage 2 for the determination of the liquidity assessment of bonds? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_26>
Providing ESMA's 'DAG' independently verifies calculations, the Taskforce would agree to move to stage 2 but **absolutely not before independent verification from the 'DAG' for accuracy** (see Q.25 for more information on ESMA's 'DAG'). The Taskforce believes no liquidity stage advancement should be considered before the liquid bond data universe, data set and liquidity output are verified as accurate by the 'DAG'.

Furthermore, as Stage 2 will incorporate the Covid-19 period of volatility, verifiable liquid bond data is considered mandatory. This is particularly the case for corporate bonds. Please see ICMA's report on "The European IG corporate bond secondary market & COVID-19 Crisis report" (May 2020). https://www.icma-group.org/assets/documents/Regulatory/Secondary-markets/The-European-investment-grade-corporate-bond-secondary-market-and-the-COVID-19-crisis-280520.pdf
<ESMA_QUESTION_CP_MIFID_NQT_26>

Q27. Do you agree with ESMA proposal not to move to stage 2 for the determination of the pre-trade SSTI thresholds for all non-equity instruments except bonds? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_27>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_27>

Q28. Do you agree with ESMA proposal to move to stage 2 for the determination of the pre-trade SSTI thresholds for bonds (except ETCs and ETNs)? Please explain.

<ESMA_QUESTION_CP_MIFID_NQT_28>
The ICMA taskforce does not agree with ESMA's proposal to move to stage 2 for determination of pre-trade SSTI thresholds for bonds. Any stage 2 assessment would cover the stressed Covid-19 unique market conditions. This assessment would be atypical and would not reflect post-Coronavirus normal market conditions.

Similarly, the UK is in a transition period before what could likely be a disruptive cliff edge Brexit. Post-Brexit market conditions are unknown, but most believe conditions will be stressed. Any assessment carried out today would be based on pre- market stressed conditions, this would be unwise.
<ESMA_QUESTION_CP_MIFID_NQT_28>

Q29. What is your view on the current calibration of the ADNA and ADNT for commodity derivatives? Are there specific sub-asset classes for which the current calibration is problematic? Please justify your views and proposals with quantitative elements where available.

<ESMA_QUESTION_CP_MIFID_NQT_29>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_29>

Q30. In relation to the segmentation criteria used for commodity derivatives: what is your view on the segmentation criteria currently used? Do you have suggestions to amend them? What is your view on ESMA's proposals SC1 to SC3? In your view, for which sub-asset classes the "delivery/cash settlement location" parameter is relevant.

<ESMA_QUESTION_CP_MIFID_NQT_30>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_30>

Q31. What is your view on the analysis and proposals related to the pre-trade LIS thresholds for commodity derivatives? Which proposal to mitigate the counterintuitive effect of the current percentile approach do you prefer (i.e. keep the current methodology but modify its parameters, or change the methodology e.g. using a different metric for the liquidity criteria)? Please justify your views and proposals with quantitative elements where available.

<ESMA_QUESTION_CP_MIFID_NQT_31>
N/A
<ESMA_QUESTION_CP_MIFID_NQT_31>