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**Subject: Notes from the EVIA/LEBA MiFID2/R Working Group**  
**Date: Wednesday, 25<sup>th</sup> April 2018**  
**Time: 10.30 – 11.30am**  
**Venue: Conference Call**

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**1. The live “MiFID2/R” Issues list was run through and member comments made.**

Two more items added to the list:

1. Market Data requested by client prior to 15 minutes publication where it is freely available - can there be a charge for this? There are no clear rules on this other than post-15 minutes, market data must be free. If anyone has any further views, please send them through.
2. Can venues provide research for a fee? AJM had spoken with the FCA to address this on 20<sup>th</sup> April. Most venues provide market colour freely and this is not classified as research. We know there are different approaches taken by other NCAs. FCA comments were that where a venue is providing research to a non -EU firm, then the obligation is on the client to meet their own regulatory obligation, the client is not a MiFID client, even though the broker/venue providing the research is a MiFID firm. Therefore, there is scope to charge for research, but the onus will be on the clients to assess their own regulatory obligation in the jurisdiction they are located in.

Items still outstanding are:

1. *Transaction Reporting Blocks on Exchange*. Remains on the log since our email to the FCA in October 2017. In addition, Europex has written a position paper and requested our support. AJM spoke to them to state our views that any activities on the Exchange are subject to the rules of the exchange and that is how members have always conducted this business.
2. *Treatment of FX swaps*. No further progress on this but await ESMA comments in Q3.
3. *Personal Data Short Coding Initiative*. Follow up from Oliver Haste for venues collaboration. We have not received views or comments for this invitation as there is a concern this initiative would result in further costs to venues after having already imbedded a solution to manage personal information data and therefore are not looking to make any further changes to their systems.
4. *ANNA DSB costings*. EDMA and EVIA working group are looking to get a legal opinion.
5. *Swiss Power*: ESMA Task Force meeting on 26<sup>th</sup> April as FCA has asked for guidance or FAQ on the Swiss Power perimeter to be enforced in May.
6. *Publishing Rate Cards*. We note that other NCA's have a different approach from the FCA's and have emailed FCA's on the issues of the inconsistent approaches.

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## 2. TACC 18 April update hosted by Edwin Schooling- Letter

### a. EU BMR

- i. FCA will have finalised their rules by the end of May 2018 and for those Benchmarks Administrators who have applied for a waiver for the transition will have received an email from the authorisation team requesting consent to extend the waiver till May 2018.
- ii. FCA are undertaking an informal review via EVIA of broker screen bids and offers to assess BMR implication, can those who have not responded please do so.
- iii. FCA undertook an analysis on contributors to benchmarks on platform and broker screen which can be shared one to one. FCA stated that venues are not contributors for the following factors:
  - data provided for the purpose of trading is not a benchmark nor is a venue deemed a contributor.
  - input data that is interactive, i.e quotes, and transaction data which is regulated data is not considered contribution to a benchmark.

### b. MiFID II

- i. ESMA was able to publish equities double volume cap last month and recognise the improvements on the quality and accuracy of the data received from venues but we will continue to monitor this.
- ii. Transparency obligation for shares requiring firms to trade on certain venues and includes SI's. It was noted that there had been a large increase in SI liquidity since 3<sup>rd</sup> January and this has been noticed across all Europe.
- iii. Trade Reports: It had been noted that there is not a consistent approach in trade reporting and the FCA are reaching out to APA's for an explanation. There were no specific areas of where the issues were discussed at this meeting even though we have seen a number of press releases also highlighting the concerns. EVIA will follow up with FCA for more on this.
- iv. EDMA informed FCA of the issues discussed jointly by EVIA around ANNA DSB and personal information cost of implementation as FCA were keen to understand the issues and seek to address these.

## 3. Personal identity Information Data (see 1.)

## 4. Market Abuse monitoring and reporting of suspicious transactions and activity

EVIA will be setting up another forum to discuss Market Abuse monitoring and Financial Crime to discuss some of the topics below but will be led by the forum for a common approach.

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- challenges in monitoring across all products
  - identifying surveillance tools to meet firm requirements
  - identifying effective monitoring
  - Reporting of abuse particularly when there are dual reporting requirements
  - Monitoring financial crime activity

EVIA will reach out to members to seek names of those who wish to participate.

**5. Commodities – Position Limit Monitoring and Reporting clarification on lot sizes and contract delivery dates**

There have been a few enquiries from Banks requesting clarification from venues on sizes and delivery dates in order for them to manage their position limits. The suggestion is to provide a standard response from LEBA to avoid multiple requests on the same subject matter. Action: HP will circulate the draft response for approval

**6. Brexit: Update on City Week on EU Equivalence by Andrew Bailey**

- EVIA will do more Brexit work as this is a live topic on all members' Board agendas
- We will work up an issue list for a meeting with HMT, Richard Knox. List will include:
  - a) venue organisation, location of subsidiary of venue in the EU and implication of interactive between Non EU v EU
  - b) liquidity, concept of arrangement
- *City Week*: AJM circulated some of the EU and UK key speeches. Some of the focus was on:
  - EU policy and business plans
  - Capital Markets Union
  - Green Bond agenda and
  - Equivalence v mutual recognition

**7. AOB**

- a. BoE FXJSC survey on 3 questions: requesting responses. This has been circulated to the FXWG and hope to receive responses by the end of this week to be fed back up to the BoE.
- b. Cybercrime.
- c. Money Laundering big topic on Andrew Bailey's business plans.
- d. RegTeq proceeding to introduce common reporting standards.
- e. Benchmarks: in discussion with some European Banks, general push back on the Euribor and Euribor Administrator.