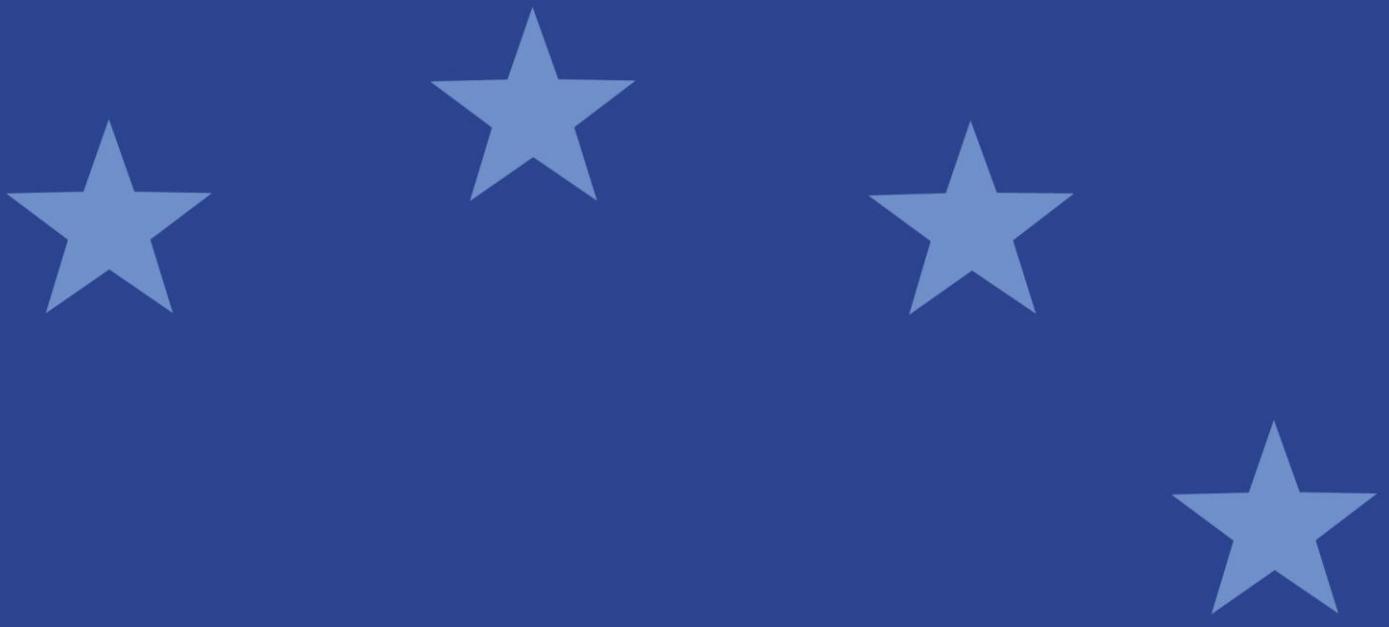




European Securities and
Markets Authority





Reply form for the Discussion Paper on the trading obligation for derivatives under MiFIR

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Discussion Paper on the trading obligation for derivatives under 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_TO_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_TO_NAMEOFCOMPANY_NAMEOFDOCUMENT.

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

ESMA_MiFID_TO_ESMA_REPLYFORM or

ESMA_MiFID_TO_ESMA_ANNEX1

Deadline

Responses must reach us by **21 November 2016**.

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'.



Introduction

Please make your introductory comments below, if any:

< ESMA_COMMENT_MIFID_TO_0 >

[The Wholesale Markets Brokers' Association (WMBA) and the London Energy Brokers' Association (LEBA) (jointly referred to in this document as the 'WMBA') are the European industry associations for the wholesale intermediation of Venue traded and Over-the-Counter (OTC) markets in financial, energy, commodity and emission markets and their traded derivatives. Our members, in addition to operating some twenty MTFs and eight SEFs, will almost all apply to have OTF permissions and act solely as intermediaries in wholesale financial markets and do not undertake any proprietary trading. As a result, they are classified in the UK as Limited Activity and Limited Licence Firms in respect of the current Financial Conduct Authority classification.

The WMBA welcomes the opportunity to respond to the ESMA's discussion paper as our members have significant market share in the markets and instruments being considered for the Trading Obligation ['TO']. We are therefore responding in support of the general principal of the implementing the trading obligation for derivatives as described in Article 28 and 32 of the Regulation (EU) No 600/2014.

We emphasise however that because our members currently and will offer going forward all standardised markets and instruments, both inside the EU and also around the globe, the particular perimeter of the Trading Obligation should be agnostic to our ongoing activities as a whole, although it may have significant impact on particular market structures and locations because liquidity tends to node or congregate to create the most efficient utility.

In light of the above the WMBA makes four overarching comments:

1. Role of Venues

Whilst it could be superficially commercially appealing for venues to wish to mandate themselves a greater market share by supporting any TO, we emphasise that the detriment to market health and efficiency that can be made by inappropriate legislation and rulemaking would very quickly countermand that logic. Rather it is always in the vital interests of trading venues to host healthy and effective market places. We answer this discussion in that context.

One of the lessons learnt from operating SEFs under the CEA Dodd Frank is that the different obligation and treatment of 'Required Transactions' versus those voluntarily traded on SEFs as 'Permitted Transactions' has split liquidity and created unnecessary burdens upon venues and participants alike. Simply because an instrument has a TO, it should not be subject to different requirements or workflows.

2. Context of the Trading Obligation and Trading on a Trading Venue ['ToTV'].

Whilst we warmly welcome all debate around the role and perimeter of market structure in general and of venues in particular, we would remind ESMA that currently the common understanding or definitions of what it means to fulfil any TO by ToTV is absent and empty. This is not only the case in the EU, but more broadly around the global wholesale financial markets where the frequently quoted statistic that 96% of all listed futures have zero traded volume is likely now an understatement, whilst SEF trading under the CEA Dodd Frank act remains polarised between 'Required' and 'Permitted' instruments and their contrasting workflows and obligations.

Where 'trading' simply constitutes a form of registration or post-trade process the concept of a TO becomes blurred. Conversely the transaction may very frequently occur down a chain of venues or split across them, perhaps also across legal regimes, here again in these cases the particular venue nominated to fulfil any obligation can quickly become partial, complex and obscure.

In the case of global wholesale instruments, we caution ESMA not to commend any rules around the TO until there is a commonly understood G20 or IOSCO recognition of the venue perimeter, a common deferential approach to substituted compliance between the major trading centres and general agreement on the scope of the types of counterparties, as well as the instruments under any obligation.



3. Risks to Liquidity of Fragmentation

Simply put, the vast majority of non-equity instruments, particularly derivatives, trade as co-dependant sets of transactions or 'packages'. In general, the role or utility of the venue is to provide volume discovery and standardisation of contractual (commercial and legal) terms across the different legs. In light of this the concept of a TO that covers part and partial segments of package legs, or worse still, denies the sourcing and distribution of liquidity in the constituent legs by application to 'liquid packages', would be very detrimental.

Therefore, whilst we welcome the discussion, we would urge caution from ESMA and the EU authorities in proceeding with any rule making around the TO until there is a common and general understanding around the role, recognition and treatment of packages within the application of MiFIR.

4. Cross Border Harmonisation

Whilst the WMBA understands and welcomes the depth and the broad nature of the discussion set out by ESMA, we would emphasise that one of the key differences between non-equity markets and the existing MiFID is the global nature of the liquidity pools by dint of the types of products and of participants. Therefore, we would urge ESMA to begin the considerations with prima facie given to matching the pre-existing regime in place in the US under CEA Dodd Frank.]

< ESMA_COMMENT_MIFID_TO_0 >

Q1. Do you agree that the level of granularity for the purpose of the trading obligation should apply at the same level as the one used for calibrating the transparency regime of non-equity instruments? If not, which level of granularity for the TO would you recommend and why? Would that differ by asset class and type of instrument?

<ESMA_QUESTION_MIFID_TO_1>

[The TO should be limited to the most liquid derivatives subject to the CO and be limited to benchmark tenors for the market standard spot starting swap (i.e. fixed notional, standard payment frequency, day count convention, floating rate index, etc.) in the most liquid currencies.

It is very important to delay introducing the TO until SEF venues are considered third country equivalent. In Europe, a material part of transactions in instruments being considered for the TO are currently executed on a SEF. If SEFs are not considered third party equivalent, our understanding is this execution would not be allowed and therefore would put this liquidity at serious risk.

Specifically, a greater level of granularity in order to harmonise the TO, to the greatest possible extent, with the US MAT regime. WMBA broadly does agree the specifications set out in the table on pages 11 and 12 of the Discussion Paper. This approach would also be consistent with the [political commitment](#) made by the EC and the CFTC in July 2013, in their agreement on a “Common Path Forward on Derivatives”.]

<ESMA_QUESTION_MIFID_TO_1>

Q2. Do you agree that all derivatives currently subject to or considered for the CO are admitted to trading or traded on at least one trading venue? If not, please explain which classes of derivatives are not available for trading on at least one trading venue.

<ESMA_QUESTION_MIFID_TO_2>

[No the WMBA substantially disagrees as there is no concept nor general understanding of ToTV under MiFID2, nor are there any OTFs. Concisely, the classes of derivatives subject to the clearing obligation are not sufficiently granular and consequently, it is not clear that all derivatives currently subject to or considered for the CO are admitted to trading or traded on at least one trading venue.]

<ESMA_QUESTION_MIFID_TO_2>

Q3. How should ESMA determine the total number of market participants trading in a class of derivatives? Do you consider it appropriate to carry out this assessment with TR data or would you recommend other data sources?

<ESMA_QUESTION_MIFID_TO_3>

[No the WMBA understands that it is not feasible to use TR data as exemplified several times in the MiFIR RTS process to date. Simply because TR data may be the only data simply available, a sufficiency test would not be passed. As an alternative ESMA might consider using transaction data from the CCPs given all derivatives in scope are subject to the CO.]

<ESMA_QUESTION_MIFID_TO_3>

Q4. In your view, what should be the minimum total number of market participants to consider the following classes of derivatives as sufficiently liquid for the purpose of the trading obligation? i) OTC interest rate derivatives denominated in EUR, USD, GBP and JPY; ii) OTC interest rate derivatives denominated in NOK, PLN and SEK; iii) Credit default swaps (CDS) indices? Should you consider that this assessment



should be done on a more granular level, please provide your views on the relevant subsets of derivatives specified in 1.-3.

<ESMA_QUESTION_MIFID_TO_4>

[The WMBA understands that for a market to be considered liquid, it should be supported by a certain fraction of the clearing member community. Given there are of the order of 100 clearing members in LCH for instance, our suggested minimum should be set at around a quarter, or 25 participants. This criterion should be in addition to a minimum volume threshold.]

<ESMA_QUESTION_MIFID_TO_4>

Q5. Do you agree with this approach? Do you consider alternative ways to identify the number of trading venues admitting to trading or trading a class of derivatives as more appropriate?

<ESMA_QUESTION_MIFID_TO_5>

[The WMBA agrees that the defined approach seems reasonable. However, it should be considered that some venues such as those run by multiple interdealer brokers [WMBA member firms] may have participant eligibility criteria which, for example, restrict access to Category 1 counterparties (perhaps even direct clearing members). With this in mind, the number of trading venues that an investment firm can access will be different by category.]

<ESMA_QUESTION_MIFID_TO_5>

Q6. On how many trading venues should a derivative or a class of derivatives be traded in order to be considered subject to the TO?

<ESMA_QUESTION_MIFID_TO_6>

[The WMBA understands that in order for effective competition, there should be at least two trading venues available for each category of counterparty. Otherwise, there is a risk of the development of a monopoly in transactions for particular derivatives or classes of derivatives. We caution against the competitive and operational risks in mandating a single venue. Again we note that this behoves a more competent understanding of ToTV, as opposed to simple trade registration under venue rules.]

<ESMA_QUESTION_MIFID_TO_6>

Q7. What would be in your view the most efficient approach to assess the total number of market makers for a class of derivatives? Where necessary, please distinguish between: i) The phase prior to the application of MiFID II (i.e. before January 2018); ii) The phase after the application of MiFID II (i.e. after January 2018).

<ESMA_QUESTION_MIFID_TO_7>

[WMBA has not answered this question. Neither market-makers, nor formal market-making agreements are not common on non-equity MTFs and IDBs.]

<ESMA_QUESTION_MIFID_TO_7>

Q8. How many market makers and other market participants under a binding written agreement or an obligation to provide liquidity should be in place for a derivative or a class of derivatives to be considered subject to the TO?

<ESMA_QUESTION_MIFID_TO_8>

[WMBA has not answered this question. Neither market-makers, nor formal market-making agreements are not common on non-equity MTFs and IDBs.]



<ESMA_QUESTION_MIFID_TO_8>

Q9. Do you agree with the proposed approach or do you consider an alternative approach as more appropriate?

<ESMA_QUESTION_MIFID_TO_9>

[The WMBA recommends that, in addition to taking in to account high liquidity and a high number of market participants, that consideration of the average spread size and quantity available should be taken into account. We would expect that both number of participants and liquidity should be objectively measured as high for a product to be consider for the TO.]

<ESMA_QUESTION_MIFID_TO_9>

Q10. Do you agree that the criterion of average size of spreads, in particular in case of absence of information on spreads, should receive a lower weighting than the other liquidity criteria? If not, please specify your reasons

<ESMA_QUESTION_MIFID_TO_10>

[Yes, the WMBA does agree. Because many of the products are traded using voice systems, the average size of spreads may be difficult to obtain across all liquidity activity. Where spreads are to be used, it should be clear that these are generated from actual transactions or executable quotes.]

<ESMA_QUESTION_MIFID_TO_10>

Q11. Which sources do you recommend for obtaining information on the average size of spreads by asset class?

<ESMA_QUESTION_MIFID_TO_11>

[The WMBA recommends that ESMA obtains this information from 'Pre Trade Transparency Report' that is required to be produced. There are no other sources and the measureable objective is ephemeral over time and within each day.]

<ESMA_QUESTION_MIFID_TO_11>

Q12. What do you consider as an appropriate proxy in case of lack of information on actual spreads?

<ESMA_QUESTION_MIFID_TO_12>

[The WMBA endorses that any lack of information then this would simply demonstrate that the instrument is not liquid and therefore not subject to trading obligation rules.]

<ESMA_QUESTION_MIFID_TO_12>

Q13. Do you agree with the suggested approach? If not, what approach would you recommend?

<ESMA_QUESTION_MIFID_TO_13>

[Whilst the WMBA does consider the approach cited to be reasonable, it makes sense to consider a phased approach to TO by category of counterparty.]

<ESMA_QUESTION_MIFID_TO_13>



Q14. Do you agree that trades above the post-trade large in scale threshold should not be subject to the TO? If not, what approach would you suggest? Should transactions above the post-trade LIS threshold meet further conditions in order to be exempted from the TO?

<ESMA_QUESTION_MIFID_TO_14>

[Yes, the WMBA does agree with the approach for LIS trades. We continue to expect that large 'block size' trades may be negotiated and then executed on a venue under waivers as, 'off-book' trades and therefore away from the order book. RM and DCM rules already incorporate this approach, so it is one which most closely aligns the TO with the US regime.]

<ESMA_QUESTION_MIFID_TO_14>

Q15. How highly should ESMA prioritise the alignment of the TO with transparency? What would be the main consequences for the market if some instruments are covered by transparency and not by the TO or vice versa? If the two are not fully aligned, would a broader scope for the TO or for transparency be preferable, and why? In case of a broader or narrower scope for the TO (compared with transparency), how should the two liquidity thresholds relate to each other?

<ESMA_QUESTION_MIFID_TO_15>

[The WMBA recommends a consist approach with the transparency regime which would provide a straight-forward approach for data collection and market behaviour. A bifurcating approach would appear to us to embody rapidly diminishing returns.

Logically, any product deemed liquid enough to qualify for the TO should also be considered liquid for the purposes of transparency. Clearly the reverse does not hold true. If, owing to the way regulations have been drafted, this is not technically guaranteed, our view is the market could live with the anomalies.]

<ESMA_QUESTION_MIFID_TO_15>

Q16. Do you agree with the proposed methodology to eliminate duplicated trades or would you recommend another approach? Do you agree with selecting Option 2?

<ESMA_QUESTION_MIFID_TO_16>

[Yes, the WMBA does agree with the methodology as referred to Option 2.]

<ESMA_QUESTION_MIFID_TO_16>

Q17. Do you agree with the approach taken with regard to calculating tenors?

<ESMA_QUESTION_MIFID_TO_17>

[No, the WMBA does not agree with the approach taken with regard to calculating tenors. We would suggest that ESMA should adopt the standard market conventions for computing the maturity date for a given market's swap tenor. It seems like a crude approximation to use 365.25 +/- 5 days when there is well known financial date calculation method to establish the standard market tenor maturity dates.

The appropriate methodology to calculating tenors should be to measure the time between the effective date and the maturity date, rather than the time between the date that the trade is concluded and the maturity date. We note that 'trade start date' is a specification currently included under the US MAT regime. The TO also needs to differentiate between spot starting swaps and forward starting swaps, because a forward starting swap has different liquidity characteristics.]

<ESMA_QUESTION_MIFID_TO_17>

Q18. Do you agree with the reasons mentioned above or is there another explanation for the significant number of trades outside of benchmark dates?

<ESMA_QUESTION_MIFID_TO_18>

[Yes, the WMBA does agree because swap products are by nature bespoke. There will be trade volume away from standard tenors to match the financial purposes of those swaps.

Furthermore, if ESMA has calculated the tenors on the basis of the difference between the execution date and the maturity date (as opposed to between the effective date and maturity date), then this could also explain why there are swaps a couple of days either side of the benchmark dates.]

<ESMA_QUESTION_MIFID_TO_18>

Q19. Does this result reflect your assessment of liquidity in fixed-float IRS? If not, please explain on which subclasses you disagree and why.

<ESMA_QUESTION_MIFID_TO_19>

[The WMBA understands that the G4 currencies (USD, EUR, GBP & JPY) in standard fixed-float IRS would be the most liquid and suitable for TO. We do not believe it makes any sense at all for one tenor in SEK (e.g. 10y) to be subject to the TO. Rather, at least 3 tenors should be liquid in a given currency to commence TO consideration.]

<ESMA_QUESTION_MIFID_TO_19>

Q20. What thresholds would you propose as the liquidity criteria? What minimum number of counterparties would you consider appropriate for introducing the TO?

<ESMA_QUESTION_MIFID_TO_20>

[The WMBA estimate is that at least 25 participants are necessary – of the order of a quarter of clearing members.]

<ESMA_QUESTION_MIFID_TO_20>

Q21. What further specifications (e.g. payment frequency, reset frequency, day count convention, trade start type) would you consider necessary for specifying the trading obligation for fixed-float IRS? How would you determine these additional specifications?

<ESMA_QUESTION_MIFID_TO_21>

[The WMBA notes that in aligning with the SEF model, only the spot starting standard market swap should be subject to the TO. We concur that the fields outlined in section 3.17 of this DP should be used – e.g. Currency, Float Rate Index, Trade Start Type, Payment Frequency, etc. These details should be obtained in consultation with trading venues in question and sufficient consideration given to being largely consistent with the SEF rules to help global liquidity.]

<ESMA_QUESTION_MIFID_TO_21>

Q22. Does this result reflect your assessment of liquidity in OIS? If not, please explain on which subclasses you disagree and why.

<ESMA_QUESTION_MIFID_TO_22>

[In the opinion of the WMBA, OIS should be outside the scope of the TO. This is not only a consequence of liquidity considerations, because of utility and the close alignment and usage of OIS by non-financial counterparties active in FX Forwards and located around the world for commercial purposes.]

<ESMA_QUESTION_MIFID_TO_22>

Q23. What thresholds would you propose for the liquidity criteria? What minimum number of counterparties would you consider appropriate for introducing the TO?

<ESMA_QUESTION_MIFID_TO_23>

[In the opinion of the WMBA, OIS should be outside the scope of the TO. This is not only a consequence of liquidity considerations, because of utility and the close alignment and usage of OIS by non-financial counterparties active in FX Forwards and located around the world for commercial purposes.]

<ESMA_QUESTION_MIFID_TO_23>

Q24. What further specifications (e.g. payment frequency, reset frequency, day count convention, trade start type) would you consider necessary for specifying the trading obligation for OIS? How would you determine these additional specifications?

<ESMA_QUESTION_MIFID_TO_24>

[In the opinion of the WMBA, OIS should be outside the scope of the TO. This is not only a consequence of liquidity considerations, because of utility and the close alignment and usage of OIS by non-financial counterparties active in FX Forwards and located around the world for commercial purposes.]

<ESMA_QUESTION_MIFID_TO_24>

Q25. Do you agree that due to the specificities of the FRA-market, FRAs should not be considered for the TO? Do you agree that the majority of FRAs transactions serve post-trade risk reduction purposes rather than actual trades.

<ESMA_QUESTION_MIFID_TO_25>

[In the opinion of the WMBA, the FRA markets should be outside the scope of the TO. This is not only a consequence of low liquidity considerations bifurcated across calendar dates, because the vast majority of activity in FRAs are for risk mitigation purposes and not considered price forming. Much of the usage of FRAs is by non-financial counterparties active in FX Forwards and OIS, who are located around the world for commercial purposes.]

<ESMA_QUESTION_MIFID_TO_25>

Q26. In case you consider FRAs should be considered for the TO, which FRA sub-classes are in your view sufficiently liquid and based on which criteria? How should a TO for FRAs best be expressed? Should it be based on the first (effective date) or the second period (reference date)? Apart from the tenor, which elements do you consider necessary for specifying the TO for FRAs and why?

<ESMA_QUESTION_MIFID_TO_26>

[In the opinion of the WMBA, the FRA markets should be outside the scope of the TO. This is not only a consequence of low liquidity considerations bifurcated across calendar dates, because the vast majority of activity in FRAs are for risk mitigation purposes and not considered price forming. Much of the usage of FRAs is by non-financial counterparties active in FX Forwards and OIS, who are located around the world for commercial purposes.]



<ESMA_QUESTION_MIFID_TO_26>

Q27. Would you consider the two index CDS as sufficiently liquid for being covered by the TO?

<ESMA_QUESTION_MIFID_TO_27>

[Yes, the WMBA does agree that the two 'On-the-Run' series in CDS Index are liquid. However, as an index becomes illiquid as soon as it is off-the-run and we underline that without objective evidence of the liquidity, it might be prudent to defer any CDS series being considered for the TO until such evidence is available.]

<ESMA_QUESTION_MIFID_TO_27>

Q28. Do you agree that the TO for CDS should cover the on-the-run series as well as the first thirty working days of the most recent off-the run-series? If not, please explain why and propose an alternative approach.

<ESMA_QUESTION_MIFID_TO_28>

[No, the WMBA would only concur that the two 'On-the-Run' series in CDS Index are liquid. The first off the run series is not sufficiently liquid and therefore should not be subject to the TO. Setting an arbitrary limit at 30 days would be a random outcome.]

<ESMA_QUESTION_MIFID_TO_28>

Q29. Apart from the tenor, which elements do you consider indispensable for specifying the TO for CDSs and why?

<ESMA_QUESTION_MIFID_TO_29>

[The WMBA understands that the reference index, settlement currency and series are required for specifying the TO for CDSs.]

<ESMA_QUESTION_MIFID_TO_29>

Q30. Do you agree with the proposed application dates? If not, please provide an alternative and explain your reasoning.

<ESMA_QUESTION_MIFID_TO_30>

[No, the WMBA disagrees and rather underlines that it is very important to delay introducing the TO until SEF venues are considered third country equivalent. In Europe, a good proportion of volume of instruments being considered for the TO is executed on SEFs. If SEFs are not considered third country equivalent, this would put this liquidity at serious risk. It would further be appropriate to phase-in the application of the TO for different categories of counterparties.]

<ESMA_QUESTION_MIFID_TO_30>

Q31. Do you consider necessary to provide for an additional phase-in for the TO for operational purposes and to avoid bottlenecks? If yes, please provide a proposal on the appropriate length of such a phase-in for the different categories of counterparties and explain your reasoning.

<ESMA_QUESTION_MIFID_TO_31>

[The WMBA understands that given the interdependence of the TO and the CO, so any phase-ins should be coordinated and proportional, both to the counterparty treatment in EMIR and also to the operational and technological capabilities required to connect and on-board onto trading venues.]

<ESMA_QUESTION_MIFID_TO_31>

Q32. Which types of package transactions are carried out comprising components of classes of derivatives that are assessed for the purpose of the TO, i.e. IRD and/or CDS? Please describe the package and its components as well as your view on the liquidity of those packages.

<ESMA_QUESTION_MIFID_TO_32>

[The WMBA notes that some typical packages include:

- Swap tenors verse other swap tenors - Gap spreads, butterflies and other combinations
- Swaps verses futures contracts
- Swaps verses bonds
- Swaps in one index tenor verses another index tenor – ‘basis swaps’
- Swaps as a delta hedge for another derivative such as a ‘swaption’
- Swaps as resulting from the exercise of a cash settled swaptions
- Swaps in one CCP verse another CCP – ‘basis trades’

Our view is the majority of packages are bespoke and are not considered liquid and should not be subject to the TO regardless of the number of legs. This is because all packages gain their liquidity via their capacity to be re-engineered as the legs, or other packages which include those legs.

WMBA also notes that these packages products were exempted under the US CEA Dodd Frank regime which demonstrates the difficulty that subjecting such products to a trading obligation presented to the markets. For example, CFTC no-action relief provides relief in respect of package trades in the US where the market not been able to accommodate the trading of these packages on SEF.]

<ESMA_QUESTION_MIFID_TO_32>

Q33. Are there packages that only comprise components of classes of derivatives that are assessed for the purpose of the TO? Do you consider those package transactions to be standardised and sufficiently liquid?

<ESMA_QUESTION_MIFID_TO_33>

[The WMBA notes that packages may involve spreads or other combinations of the liquid tenor swaps. However, even in this case there are so many variations and combinations commonly possible, so typically these packages should not ever be considered liquid. Furthermore, some combinations are more commonly traded than others but even these common combinations have at best episodic liquidity.]

<ESMA_QUESTION_MIFID_TO_33>

Q34. Do you agree that package transactions that are comprised only of components subject to the TO should also be covered by the TO or should the TO only apply to categories of package transactions that are considered liquid? If not, please explain.

<ESMA_QUESTION_MIFID_TO_34>

[The WMBA believes that packages should not be considered liquid enough to be subject to the TO. This is because liquidity comes from related products and legs, and fragmenting this would likely lead to trading being removed from the venue or the EU perimeter.



<ESMA_QUESTION_MIFID_TO_34>

Q35. How should the TO apply for package transactions that include some components subject to the TO, whereas other components are not subject to the TO?

<ESMA_QUESTION_MIFID_TO_35>

The WMBA believes that packages should not be considered liquid enough to be subject to the TO. Clearly, any package that has components not subject to the TO should not be subject to the TO.

<ESMA_QUESTION_MIFID_TO_35>