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FIA response to ESMA consultation on transparency for derivatives

ABOUT FIA

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA's membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers. FIA's mission is to:

- support open, transparent and competitive markets,
- protect and enhance the integrity of the financial system, and
- promote high standards of professional conduct.

As the principal members of derivatives clearinghouses worldwide, FIA's clearing firm members play a critical role in the reduction of systemic risk in global financial markets.

General comments

FIA appreciates the opportunity to provide feedback on ESMA's proposed transparency regime for Exchange Traded Derivatives (ETDs). FIA Members are supportive of maintaining a high degree of transparency for ETDs and welcome the simpler and streamlined approach to post trade transparency for ETDs. Where deferrals are justified, we recommend all information should be provided on a deferred basis. For ETDs, a deferral of 1-2 days is sufficient – there is no utility in having longer deferrals. The longer the time between a trade being concluded and published in the market, the more risk liquidity providers face.

We note it is essential to take into account how the specific market is being used, by understanding the central limit order book, the size of business that can be executed in that order book in a short amount of time without causing price slippage. Moreover, it is important to distinguish between ETD and OTC product specificities.

Question 1: Do you agree with the proposals regarding pre-trade transparency?

FIA notes the clarification of and welcomes the legal certainty regarding the scope of pre-trade transparency obligations. FIA supports the general intent of pre-trade transparency regime and the fostering of transparency and trading on Central Limit Order Books (CLOBs), and highlights that it is important that any requirements are tailored to the relevant markets and execution systems. Exchanges avoid the creation of any liquidity gaps in terms of transparency standards.

Some FIA members highlight the need to ensure transparency standards are maintained as part of this new regime as in the absence of regulation consisting of tailored pre-trade transparency requirements also for execution channels that are neither CLOB nor periodic auction, trading venues can decide whether to apply pre-trade transparency/limits or not. It is important to maintain a high-degree of transparency in a context where derivatives exchanges operate complex hybrid systems covering different execution channels.

Question 2: Do you agree with the proposed amendments to Table 2 (fields) and Table 3 (flags) of Annex II of RTS 2? Please explain.

FIA supports the proposed amendments to Table 2 (fields) and Table 3 (flags) of Annex II of RTS 2 due to their technical feasibility.

Question 3: Do you agree not to change the concept of "as close to real-time as technically possible"? If not, what would be in your view the maximum permissible delay?

FIA believes that the current definition of the concept of "as close to real-time as technically possible" works well and as intended for ETDs. We do not see a need or reason to change it.

Question 4: Do you agree with the general approach described above?

FIA overall appreciates the general approach in granting the possibility of maintaining a similar post-trade transparency regime for many venues due to sufficient granularity and a floor-orientation in case of instrument categories being bundled together. Nevertheless, in certain equity derivatives, the new regime, in absence of Average Daily Notional Amount (ADNA) ranges, has led to substantial increases in the size thresholds for interday deferrals. Particularly for products with low ADNAs and short time to maturities, the new regime impedes the deferral handling substantially. Thus, either a floor orientation of the size thresholds, similar to the one in the interest rate, FX, or credit derivatives or more granularity is warranted. It is crucial to ensure liquidity is maintained on-screen by only applying deferrals where necessary.

Question 5: Which option do you prefer for the liquidity assessment for equity exchange-traded derivatives, option A, option B, option C or another alternative?

FIA agrees with ESMA's preference for **option C** for the liquidity assessment for equity ETDs. Ultimately, opting for the more granular assessment leaves more flexibility to the trading venues which can react swiftly to changing customer demand while the regulation sets the boundaries of the flexibility. However, we find it fundamental to apply granularity in an adequate way. Market capitalization of firms and thus ADNA of single stock products vary substantially. Among the three options considered, none assesses this dimension. In the past post-trade deferral regime, LIS and SSTI thresholds had different granularity bands depending on the ADNA of a given product class. In the new regime, granularity stems entirely from the liquidity assessment. Thus, **we find it essential to consider ADNA ranges in the liquidity assessment**, even if not with the same granularity as before.

Moreover, Option C provides liquidity metrics for equity derivatives broken down per *contract type* (futures, options), per type of underlying and time to maturity. FIA notes *time to maturity* is not the right metric for risk in the ETD space. Average daily notional amount is an appropriate substitute and more useful metric for the liquidity assessment.

Question 6: Which option do you prefer for the liquidity assessment for interest rate exchange-traded derivatives, Option A, Option B or another alternative?

FIA has a preference for **option B** for the liquidity assessment for interest rate ETDs. In line with our argumentation for the previous question, conducting a more granular assessment of liquidity in instruments strengthens the flexibility that trading venues have in accompanying their customers' needs.

Question 7: Do you agree with the liquidity assessment for commodity and emission allowances exchange traded derivatives?

In general, FIA welcomes the simplified approach to the liquidity assessment for commodity and emission allowances ETDs, and the sought-after balance between complexity of the asset classes and a coherent methodology. It is helpful ESMA acknowledges that, for electricity and gas derivatives for example, different delivery periods have different liquidity profiles. We welcome ESMA to take active steps to factor this into the current and future liquidity analyses.

Moreover, it is worth differentiating between near-dated contracts and far-dated contracts, where near-dated would be liquid whilst far-dated may be less liquid within the same class.

Finally, we highlighting that some contracts will be deemed liquid on any trading venue, despite the significant differences in liquidity across venues.

Question 8: Do you agree with the liquidity assessment for the following ETD asset classes: FX, Credit, securitised derivatives and other derivatives?

FIA welcomes that for FX-, credit-, and other derivatives, the liquidity assessment does not change compared with the currently applicable RTS 2 text. The proposed assessment as illiquid grants the flexibility to decide on this to the exchanges, which we support.

Question 9: Regarding the size thresholds for the deferral regime of Equity exchange traded derivatives, which option do you prefer?

As indicated in question 5, FIA agrees with ESMA's proposal for **option C** for the deferral regime of equity ETDs. However, all options A, B, or C imply the least liquid equity derivatives with remaining time to maturity below the threshold experience substantial size threshold increases for their interday (e.g. T+1 or T+2) deferrals. For instance, each of the stock index or single stock futures and options in the current bottom ADNA ranges would experience between 100% and up to a tenfold increase. Even for the next ADNA range category, for products below the maturity threshold, size thresholds can see between 2/3 and up to a threefold increase. Also, for volatility index futures below 3 months, the interday threshold for the lowest ADNA ranges sees a threefold increase.

As such, we propose to either reinclude ADNA ranges, albeit in a simpler form with only two ranges, or orientate the entire size threshold methodology on the floor thresholds as is done for interest rate, credit, and FX derivatives.

Question 10: What is your view on the size thresholds for the deferral regime of Interest rate exchange traded derivatives?

Congruent to our answer to question 6, FIA has a preference for **option B** for the deferral regime of interest rate ETDs due to the increased flexibility to trading venues. We appreciate the opportunity this creates to react more swiftly to trading member desires than previously with the higher size thresholds accompanied by classifying more instruments as liquid.

Question 11: What is your view on the size thresholds for the deferral regime of commodity and emission allowances exchange traded derivatives?

N/A

Question 12: Do you agree with the size thresholds for the deferral regime of the following ETD asset classes: FX, Credit, securitised derivatives and other derivatives?

As indicated in Q8 on the liquidity assessment, FIA appreciates continuing to classify FX, credit, and other derivatives as illiquid.

However, **we would urge ESMA to clarify the size threshold for "other derivatives".** From our perspective, the new regime implies that any instrument has a size-threshold for deferral after which a transaction may be deferred according to the associated maximum deferral time, while below the threshold a transaction has to be published. As such, it is of utmost importance to specify at least one threshold for every type of instrument. Otherwise, the given instrument without a threshold can never be deferred. Accordingly, we would kindly like to ask ESMA to specify the relevant size threshold for “other derivatives”.