FESE response to the ESMA consultation on transparency for derivatives

2nd July 2025, Brussels

Section 3: Transparency regime for derivatives

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

FESE is in favour of moving towards a more static definition of liquidity to simplify the regime. In some cases, exchanges already apply higher LIS thresholds for pre-trade transparency, as the liquidity aspect of certain asset classes is deemed satisfactory. Overall, this increases market transparency.

We note that ESMA has clarified the limitations of its Level 1 mandate and welcome the resulting legal certainty regarding the scope of pre-trade transparency obligations. FESE strongly supports the general objectives of the pre-trade transparency regime, particularly the promotion of trading via CLOBs. Exchanges would be able to calibrate their multitude of systems to support this aim, setting parameters that would foster transparency. In addition to the above, we would like to voice a similar critique to the size thresholds in pre-trade transparency as later on in more detail for post-trade transparency. The proposed 50% of post-trade threshold as a pre-trade threshold would substantially increase the size thresholds for equity derivatives with a low average daily notional amount. For equity instruments with the lowest ADNA ranges, the proposed thresholds for pre-trade LIS waivers would be 50x of the current LIS threshold, effectively banning those products from waiving pre-trade transparency in a CLOB. Consequently, we strongly suggest reintroducing ADNA-ranges for equity products as a granularity predictor for pre-trade size thresholds as a means to maintain the same size of pre-trade LIS waivers. Conversely, we suggest orienting on the old floor thresholds for pre-trade CLOB-only interest rate derivatives waivers. Here, the proposed LIS thresholds are substantially lower than the previous LIS waivers, with decreases down to a tenth of the previous threshold.

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.

FESE supports the proposed amendments to Table 2 (Fields) of Annex II of RTS 2. Regarding Table 3 (Flags) of Annex II of RTS 2, FESE agrees that the post-trade transparency flags for derivatives should be aligned with the new post-trade transparency regime established by the MiFIR review. We are in favour of standardising and aligning the post-trade deferral flags, which were already introduced for bonds, to include derivatives as well.

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?

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

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

FESE 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 (EDs), the new regime, in the absence of ADNA ranges, has led to substantial increases in the size thresholds for interday deferrals. Particularly for products with low ADNAs and short time to maturity, 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.

With reference to section 3.4.3.3.10, FESE would like to stress that it fully supports ESMA's proposal concerning the deferral durations for each category. T+2 should, indeed, be the maximum time allowed for deferred publication of post-trade data. FESE also welcomes very much the understanding that deferrals should be used by market participants to allow them time to hedge their positions. Deferrals should not be understood as a tool for participants to fully trade out their positions.

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?

The currently applicable transparency regime for ETDs is considered satisfactory, especially on the equity derivatives side. FESE is in favour of a much simpler regime to be applied, which would bring clarity for exchanges' members and increase transparency.

FESE agrees with ESMA's preference for option C. 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 capitalisation 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.

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

FESE has a preference for option B. 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?

We support ESMA's simplified proposal on liquidity assessment for commodity and emission derivatives and the sought after balance between complexity of asset classes and a coherent methodology.

FESE nonetheless highlights challenges in applying it uniformly. Commodity, and especially electricity and gas, derivatives markets are highly dynamic in their development and liquidity profiles. Uniform metrics and static assessments may not reflect true liquidity in all markets. Therefore, we caution against an overly static approach and encourage ESMA to allow for timely re-assessments of a specific category, when relevant.

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

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

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

As indicated in Q5, FESE agrees with ESMA's proposal for option C. However, either option between A, B, or C implies 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 increases beyond 100% and up to tenfold. Even for the next ADNA range category, for products below the maturity threshold can be between 2/3 increases and threefold. Also, for volatility index futures below 3 months, the intraday threshold for the lowest ADNA ranges increases to threefold. As such, FESE proposes to either reinclude ADNA ranges, albeit in a simpler form with only two ranges, or orient the entire size threshold methodology on the floor thresholds as are 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 Q6, **FESE has a preference for option B** 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?

FESE agrees with ESMA’s proposed size thresholds for the deferral regime of commodity and emission derivatives. We support using the current LIS threshold for liquid classes and a cap for less liquid ones. For illiquid classes, we welcome the simplified 200,000 EUR threshold.

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 of the liquidity assessment, FESE appreciates the continued classification of FX, Credit, and other derivatives as illiquid. However, we would encourage 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 encourage ESMA to specify the relevant size threshold for other derivatives.

Question 13: Do you agree with the proposed liquidity assessment for OTC interest rate derivatives? Should you support a different assessment for spot-starting and forward-starting interest rate derivatives, please support your response with a data analysis.

Question 14: Do you agree with the proposed liquidity assessment for OTC single-name credit derivatives?

Question 15: Do you agree with the proposed liquidity assessment for OTC index credit derivatives?

Question 16: Do you agree with the proposed deferral framework for OTC interest rate derivatives?

Question 17: Do you agree with the proposed deferral framework for OTC single-name CDSs?

Question 18: Do you agree with the proposed deferral framework for OTC index CDSs?

Question 19: Do you have suggestions on the way to implement the volume masking in the post-trade reports, including the application of flags?

Section 4: The European System of Central Banks (ESCB) Exemption

Question 20: Do you agree with the proposed amendments to Articles 14 and 15 of RTS 2? Please explain.

Section 5: Package Orders RTS

Question 21: Do you agree with the proposed amendments to CDR 2017/2194, the RTS on package orders? Please explain.

In relation to ESMA's approach to package orders, the revised scope of pre-trade transparency would imply that package orders identified as pre-arranged would fall outside the scope of the pre-trade transparency obligations.

FESE believes that if pre-trade transparency is limited exclusively to CLOBs, its practical relevance in cases involving, for example, on-screen strategies for package orders, must be questioned because, from a technical point of view, it is dubious whether pre-trade waivers in CLOB-only can be implemented. Furthermore, with the proposed removal of the liquidity assessment for pre-trade transparency, FESE considers it crucial to provide clarity on how the proposed framework would technically apply to package orders under the post-trade transparency regime.

Section 6: RTS on input/output data for OTC derivatives CTP

Question 22: Do you agree with the proposals on regulatory data for OTC derivatives? Please distinguish in your reply between regulatory data per instrument vs. regulatory data per system matching order.

Question 23: Do you agree with the proposals on core market data for OTC derivatives?