



MiFID II/MiFIR

On 20 March, in view of the extraordinary circumstances precipitated by the spread of COVID-19, ESMA announced that the deadlines to all consultations initially due to close on, or after, 16 March would be extended by a period of 4 weeks. This includes the ESMA [consultation](#) on the transparency regime for non-equities and the derivative trading obligation (DTO) under MiFID II/MiFIR which opened on 10 March 2020. The deadline for the submission of responses has now been extended until **17 May 2020**. By way of background, the consultation assesses the level of transparency in non-equity markets, the share of trading in standardised OTC derivatives that takes place on exchanges and electronic trading platforms, and the appropriateness of lowering liquidity thresholds so as to boost transparency under Article 17 of RTS 2.

BMR

On 9 March, ESMA opened a [consultation](#) on draft Regulatory Technical Standards (RTS) under the Benchmarks Regulation (BMR) relating to governance arrangements, methodology, and oversight functions for benchmark administrators, and the powers of competent authorities in the context of benchmark transition or cessation. On 20 March, ESMA extended the deadline for the submission of responses until **8 June 2020**, citing the disruption caused by COVID-19.

SFTR

On 19 March, due to the extraordinary measures introduced in response to the spread of COVID-19, ESMA issued a public [statement](#) announcing the deferral of reporting obligations for securities financing transactions (SFTs) under the SFTR and MiFIR. ESMA has instructed national supervisors to take no actions penalising counterparties, entities responsible for reporting, and investment firms for failure to comply with SFT reporting obligations from the go-live date of 13 April 2020 to 13 July 2020.

EMIR

On 25 March, the CMCE was among the co-signatories to a letter addressed to the Basel Committee on Banking Supervision (BCBS) requesting that the implementation of Phase 5 of the Initial Margin (IM) requirements for uncleared derivatives transactions be delayed in view of the disruption caused by the spread of COVID-19. The letter was also sent to a host of supervisory authorities and central banks in multiple jurisdictions, including the ECB, ESMA, EBA, EIOPA, as well as the European Commission.

On 26 March, ESMA opened a [consultation](#) on a series of draft Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) covering reporting to Trade Repositories (TRs), procedures to reconcile and validate data, data access by relevant authorities, and registration of TRs under EMIR Refit. The consultation will remain open until **19 June 2020**.

I. ACTIVE PRIORITIES

Brexit	
<i>CMCE priorities: Ancillary activity test, access to UK and EU trading venues, CCPs and TRs</i>	
Latest developments & CMCE action	Next steps
<p>The progress of the negotiations on the EU-UK future relationship has halted as the EU institutions and the UK Government divert their attention to the more urgent matter of containing the spread of COVID-19 and managing the economic repercussions.</p> <p>The second round of negotiations, scheduled to begin on 18 March and to be conducted via videoconference, was cancelled entirely. Members of both the UK and EU negotiating teams have tested positive for the virus and communications between negotiators has been disrupted.</p> <p>Solutions to overcome the practical challenges of convening for negotiations remotely still have to be identified. In the meantime, high-level calls between senior negotiators to discuss the substance of each sides respective legal texts will take the place of formal negotiating rounds.</p> <p>Negotiators are currently comparing the EU and UK texts in order to identify any material divergences and/or omissions. The UK text has not yet been made public, nor has it been shared with the devolved administrations.</p> <p>While work continues to some degree, the priorities of both the EU and the UK have shifted in view of the current health crisis.</p>	<p>High-level talks between senior negotiators will continue until formal negotiating rounds can recommence.</p>
MiFID II	
<i>CMCE priorities: AA exemption, position limits, reporting, physical forwards</i>	
Latest developments & CMCE action	Next steps
<p>On 20 March, in view of the extraordinary circumstances precipitated by the spread of COVID-19, ESMA announced that the deadline to all consultations initially due to close</p>	<p>31 March 2020 – Deadline for ESMA to provide input to the European Commission MiFID II/MiFIR review report on position limits</p>

on, or after, 16 March would be extended by a period of 4 weeks. This includes the ESMA [consultation](#) on the transparency regime for non-equities and the derivative trading obligation (DTO) under MiFID II/MiFIR which opened on 10 March 2020. The deadline for the submission of responses has now been extended until **17 May 2020**.

By way of background, the consultation assesses the level of transparency in non-equity markets, the share of trading in standardised OTC derivatives that takes place on exchanges and electronic trading platforms, and the appropriateness of lowering liquidity thresholds so as to boost transparency under Article 17 of RTS 2.

In the consultation:

- ESMA notes that pre-trade transparency in non-equity markets remains limited due to the extensive use of waivers. In particular, ESMA has highlighted the use of the SSTI waiver as problematic and suggests removing it. To compensate for the removal of the SSTI waiver ESMA proposes lowering the pre-trade thresholds for LIS trades.
- Post-trade transparency is also undermined by the use of deferrals, which is not harmonised across the EU. ESMA notes that many NCAs adopt a flexible approach with regard to the use of the deferral regime to the detriment of the internal market.
- The consultation also incorporates ESMA's report on the impact of the DTO and the progress made in concentrating trading volume in standardised OTC derivatives to exchanges or electronic trading platforms. ESMA recommends establishing a possibility for the DTO to be suspended that would mirror the process set out in EMIR Refit for the suspension of the CO.
- Regarding commodity derivatives trading, ESMA observes that 11% of the notional trading volume and 70% in terms of number of transactions is benefiting from the hedging exemption from pre-trade transparency requirements. In the interest of simplicity and legal certainty, ESMA is proposing to expand the waiver for pre-arranged or negotiated transactions in derivatives so as to apply to hedging transactions involving at least one non-financial counterparty.

At present, the deadline for the [consultation](#) launched by the European Commission on MiFID II/MiFIR review remains the **20 April 2020**. However, the possibility of extending the deadline for the submission responses has been discussed between the Commission services.

CMCE action

The MiFID WG has prepared the initial draft of the CMCE's response to the Commission consultation. On 25 March, the MiFID WG held a call to discuss the

and reporting.

20 April 2020 – Deadline for the Commission consultation on the review of MiFID II/MiFIR.

17 May 2020 – Deadline for the ESMA consultation on the transparency regime for non-equities under MiFID II/MiFIR.

<p>CMCE's draft response and reflect upon further additions that could be made. The MiFID WG will have until Friday, 3 April to make comments on the CMCE's draft response. A call will be arranged soon thereafter to further discuss possible changes.</p>	
<p>EMIR</p>	
<p><i>CMCE priorities: reporting, risk mitigation for uncleared trades, calculation of NFC's positions</i></p>	
<p>Latest developments & CMCE action</p>	<p>Next steps</p>
<p>On 26 March, ESMA opened a consultation on a series of draft Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) covering reporting to Trade Repositories (TRs), procedures to reconcile and validate data, data access by relevant authorities, and registration of TRs under EMIR Refit. The consultation will remain open until 19 June 2020.</p> <p>The consultation concerns a number of draft technical standards mandated by EMIR Refit. These include; (i) ITS on reporting of derivatives to TRs; (ii) ITS & RTS on registration of TRs; (iii) RTS on the procedures to be applied by TRs to reconcile and validate data, and; (iv) RTS on the publication and provision of data by TRs to relevant authorities</p> <p>ESMA has amended existing technical standards on reporting to TRs in order to ensure reporting requirements in the EU are consistent with the global guidance on harmonisation of reportable OTC derivatives data elements, developed by the CPMI and IOSCO.</p> <p>ESMA is also extending the current use of the ISO 20022 XML for the purpose of reporting to authorities along the entire reporting chain, whether from reporting entities to TRs or among TRs for reconciliation.</p> <p>CMCE action</p> <p>On 25 March, the CMCE was among the co-signatories to a letter addressed to the Basel Committee on Banking Supervision (BCBS) requesting that the implementation of Phase 5 of the Initial Margin (IM) requirements for uncleared derivatives transactions be delayed in view of the disruption caused by the spread of COVID-19. The letter was also sent to a host of supervisory authorities and central banks in multiple jurisdictions, including the ECB, ESMA, EBA, EIOPA, as well as the European Commission.</p>	

Benchmarks

CMCE priorities: commodity benchmarks, critical benchmarks, third-country equivalence

Latest developments & CMCE action

ESMA has extended the deadline for the submission of responses to the [consultation](#) on draft Regulatory Technical Standards (RTS) under the Benchmarks Regulation (BMR) relating to governance arrangements, methodology, and oversight functions for benchmark administrators, and the powers of competent authorities in the context of benchmark transition or cessation launched on 9 March. The deadline for the submission of responses is now **8 June 2020**.

By way of background, the ESAs Review introduced changes to the BMR that require and mandate ESMA to provide draft RTS to further specify and elaborate on provisions relevant to benchmark administrators, methodology, oversight functions and competent authorities. These include;

1. The requirements to ensure that the governance arrangements of an administrator are sufficiently robust;
2. The conditions that ensure that the methodology used by an administrator to determine whether a benchmark complies with the relevant requirements in Article 12(1) of the BMR;
3. The characteristics of the systems and controls established by an administrator to ensure the integrity of input data in order to be able to identify and report to the competent authority any conduct that may involve manipulation or attempted manipulation of a benchmark;
4. The criteria that the competent authority applies when assessing how the benchmark is transitioned to a new administrator or ceases to be provided, and;
5. The criteria under which competent authorities may require changes to the compliance statement.

Next steps

1 October 2020 – Deadline for the Commission to adopt the draft RTS on governance arrangements, methodology, oversight functions and the power of competent authorities in the context of benchmark transition or cessation.

7 December 2020 – Application of the SM&CR regime to benchmark administrators.

II. WATCHING BRIEF

IFR	
<i>CMCE priorities: commodity dealer IF regime, scope of class I, changes to MiFID II/MiFIR third-country regime</i>	
Latest developments & CMCE action	Next steps
<p>The IFR/IFD texts were published on 5 December 2019 in the EU Official Journal. IFR will apply from 26 June 2021, except points (2) and (3) of Article 63 on tick sizes and systematic internalisers, which will apply from 26 March 2020, and point 30 of Article 62 on which will apply from 25 December 2019. Concerning IFD, Member States shall adopt the national transposition measures by 26 June 2021.</p>	<p>26 June 2021 – Application of IFR</p>
MAR	
<i>CMCE priorities: Insider dealing, MM indicators</i>	
Latest developments & CMCE action	Next steps
<p>There were no significant developments in the past 2 weeks.</p> <p>CMCE action CMCE submitted its response to the ESMA consultation on MAR review on 28 November 2019. ESMA published on 13 December 2019 the responses received to this consultation.</p>	<p>Spring 2020 – ESMA to submit the final report providing technical advice to the European</p>
SFTR	
<i>CMCE priorities: reporting obligations</i>	
Latest developments & CMCE action	Next steps

<p>On 19 March, in view of the extraordinary circumstances precipitated by the spread of COVID-19, ESMA released a public statement announcing the deferral of reporting obligations for securities financing transactions (SFTs) under the SFTR and MiFIR.</p> <p>In the statement, ESMA acknowledged that the precautionary measures introduced by national authorities and individual firms in response to the COVID-19 pandemic are impairing firms ability to ensure their readiness for the application of SFT reporting obligations in time for the deadline on 13 April 2020.</p> <p>ESMA has therefore instructed competent authorities to take no supervisory actions penalising counterparties, entities responsible for reporting, and investment firms for failure to comply with SFT reporting obligations from the go-live date of 13 April 2020 until 13 July 2020. This effectively makes the 13 July 2020 the effective date of application for SFT reporting obligations for investment firms.</p>	<p>13 July 2020 – Reporting obligation for investment firms</p> <p>11 January 2021 – Reporting obligation for non-financial counterparties</p>	
<p>Other relevant developments</p>		
<p>International role of the euro</p>	<p>There were no significant development in the past 2 weeks.</p>	
<p>REMIT</p>	<p>There were no significant development in the past 2 weeks.</p>	