FESE

Final FESE Response to the ESMA Call for Evidence on the Review of RTS 1 and RTS 2

29th October 2020, Brussels

RTS 1

Description of the issue	Legal reference Article and/or table in annex (insert manually)	How to address this issue?	
		Preferred tool	Description of the solution or envisaged action by the Regulators
Very long-term transparency calculations can negatively affect the resulting values and trading venues which are the most relevant market in terms of liquidity but where the instrument was not first admitted to trading.	Article 17	Level 2 change	Increase the periodicity in which the transparency calculations are made so that they reflect better the market situation at each point in time (e.g. twice a year or less). The same should apply to the calculation of the Average Daily Number of Transactions.
SI and OTC data quality, reliability, and consistency are poor.	Table 4 in Annex I	Level 2 change	OTC and on-venue transactions should reach the same level of quality in post-trade reporting to facilitate the *consolidatability* of data. All transaction types defined in Article 2 and Article 6 shall be reflected in individual flags.
The volume of transactions subject to deferred publication in relation to the total volume of ETFs executed on-venue is significantly high.	Table 5 in Annex II	Level 2 change	Increase the applicable 60 minutes deferred publication threshold for ETFs to 20,000,000 EUR, so that transactions below that threshold would be subject to real-time publication.
Consistency in the ESMA database and criteria modifications since the entry into force of MiFID II hinder the capacity of trading venues to comply with the transparency and reference data requirements. Furthermore, some transparency data has been erased from the database.	Article 17	Level 2 change	In order to avoid new updates and cancellations of previous data, when the data is not definitive (for example due to some issue in the collected data from the market participants), "Status" information should be provided so that in case of temporary data the register could be updated without erasing the previous info and maintaining the coherence of the data.
For ETFs, there has been a significant shift of trading volumes from lit order book trading systems to request-for-quote trading systems. The market share of value traded on EMEA RFQ MTFs in ETPs increased from 34.3% in December 2017 to 55.6% in December 2018 and to 58.6% in December 2019. This development is worrisome as RFQ trading systems provide less transparency than lit order book trading systems due to their very nature of facilitating non-public requests. The transparency level is significantly lower than that of lit order book trading systems which continuously provide investors with actionable price information. We believe that transparency in European ETF trading has actually suffered from this shift in volumes following the introduction of MiFID II.	Table 1 in Annex I	Level 2 change	To improve transparency in European ETF trading and to level the playing field between RFQ trading systems and lit order book trading systems, ESMA may consider implementing a pre-trade transparency regime for RFQ trading systems similar to that for lit order book trading systems. This would require the publication and dissemination of each quote submitted in response to a sub-LIS RFQ immediately after the reception of the quote by the RFQ trading system. This would require a Level 2 change in particular with regard to Annex 1 Table 1, but may also require to add a new article in RTS 1 regarding the level of transparency (it may even a change on Level 1 be necessary). It is important, for energy derivatives markets, to make it clear that the text regarding the RFQ system is only related to ETFs since the RFQ system, as defined today, is working as intended for energy derivatives markets. We see that the RFQ system brings volumes to our market that could end up outside the exchange and clearing space, contrary to the findings on ETF's.
While the decline in transparency for ETFs presents an issue in itself, we also believe that this development may have a detrimental impact on the accessibility and liquidity of the		Level 2 change	From the perspective of ETFs, introducing a minimum transaction size for RFQ executions could serve as an effective mitigating measure to ensure that lit order book trading can continue to play its pivotal role in enabling efficient and cost-effective access to ETFs for all types of investors. Such a minimum transaction size could be

overall ETF market in the long term. From our perspective, RFQ systems primarily add value when it comes to facilitating the execution of large block orders in ETFs. However, as RFQ systems become more widely adopted even for very small ETF transaction sizes, the liquidity and price quality provided on lit order book systems may decrease as a consequence of the declining demand for this type of trading system. While this would have a negative impact on all types of investors, we believe that retail investors would likely suffer the most from this development as alternative trading systems such as RFQ systems are typically not readily accessible to this investor group.			based on the LIS threshold for ETFs. This would also require a change on Level 2, by potentially adding a new article in RTS 1 (or potentially even lead to a Level 1 change). It is important, for energy derivatives markets, to make it clear that the suggestion regarding introducing a minimum transaction size for RFQ executions is not fit for purpose. There should not be an introduction "one-size fits all" regime, as the regulated markets behave differently. Exchanges may in their own rule books introduce minimum transaction sizes, as they see fit, in our opinion.
Frequent Batch Auctions (FBAs) should be defined separately from periodic auctions.	Table 1 in Annex I	Level 2 and Level 3 change	The specificities of FBAs compared to traditional auctions are listed by ESMA in the final report on their Call for Evidence on periodic auctions. The latter resulted in the Opinion on FBAs (ESMA70- 156-1355), as well as a Q&A on the tick size regime to apply for periodic auctions (ESMA Q&A on MiFID II and MiFIR market structures topics). FESE supports ESMA's decision to add a Frequent Batch Auctions category in RTS 1 Annex 1 Table 1 with specific definition and transparency requirements. The definition of FBAs shall include the characteristics identified by ESMA in their initial call for evidence (duration, trigger). Regarding the pre-trade transparency requirements, while we do understand that FBAs shall not provide a full order book visibility starting with the entry of a single order, we believe that indicative price and volume shall be provided as well a the indication that an auction is currently ongoing (for FBAs triggering pre-trade transparency requirements only when a matching is identified). Volume imbalance after the price determination could be useful information to market participants. ESMA may also want to consider to rename "Periodic Auction Trading System" into "Conventional Periodic Auction Trading System" or "Traditional Periodic Trading Systems" to avoid any confusion with FBAs to which the industry may still refer to as periodic auctions. Additionally,FESE has observed that the Level 3 Guidelines are applied differently across EU jurisdictions with for example some NCAs having forbidden midpoint order pegging as opposed to other jurisdictions where the Level 3 guidelines have not been applied. Although FESE understands that Level 3 regulation is not mandatory, we also notice distortion to the benefit of some players. In this instance, FESE advises moving the Level 3 measures with respect to forbidding midpoint order pegging by FBAs to Level 2 to avoid competition distortion.
With regard to publishing post-trade information in general, FESE believes that a 1-minute delay is not sensible for electronic order book systems. The maximum delay should be equal for all execution venues including SIs.	Article 14, Table 3 in Annex I	Level 2 change	FESE fully supports the ESMA Q&As from October 2017 stating that transactions should be published "as close to real time as technically possible".
The timestamps for trading venues and other execution venues should be aligned.	Table 3 in Annex I	Level 2 change	The trading date and time field identifier should be harmonised to be in accordance with RTS 25 irrespective of the execution venue.
Transactions not contributing to the price discovery process: In the ESMA MiFID II/MiFIR Review Report on the transparency regime for equity and equity-like instruments, the double volume cap mechanism and the trading obligations for shares (ESMA70-156-2682), ESMA concludes that "to ensure a consistent approach towards non-price forming transactions and being mindful that RTS 1 already provides for three lists of non-price forming transactions (under Article 4(1)(b), 20 and 23 of MiFIR), ESMA recommends streamlining those lists. For instance, one list could cover technical transactions and another list could cover price-taking transactions. Transactions on both lists would be considered non-price forming and could only be executed under a waiver from pre-trade transparency." (see paragraph 148, page 27). FESE does support the proposal from ESMA and would understand that the different lists would have to be reviewed. However, regarding Article 2 which lists all "transactions not contributing to the price discovery process", we deem it important that ESMA considers carefully new definitions of non-price forming transactions which will lead to less transparency to	Article 2	Level 2 change	Article 2 shall be reviewed to encompass all "non-price forming transactions" which would be of the same meaning as "transactions not contributing to the price discovery". This would be our understanding since the list provided in Article 2 is similar to the list provided in Article 6 (Negotiated transactions subject to conditions other that the current market price). It would be important to distinguish here between technical trades and price taking transactions as suggested by ESMA. We do understand that special attention is required for so-called "non-addressable liquidity". It is also our understanding that the list set currently under Article 2, which provides all transactions not contributing to price discovery, would also cover transactions that are non-price forming albeit do not fall under the exemption (a) of Article 23 MiFIR. In accordance with ESMA70-156-2682, transactions resulting from systems matching pegged orders to the midpoint of the reference market or with price band limitations pegged at the BBO of the reference market would fall under the definition of non-price forming transactions. Hence there might be a need for an additional list of non-price forming transactions for the purpose of Article 4(1)(a) MiFIR and new flags for those transactions. We would like in this context underline that time frames for the technical implementation of regulatory requirements have been overly short in various cases, and we would ask ESMA to give the industry sufficient time for any technical implementation.

the public; for any additional proposed non-price forming transaction a clear definition should be provided, to avoid unclear interpretation by users and potential misunderstandings.			
Negotiated transactions subject to conditions other than the current market price: In Article 6, the list of negotiated transactions subject to conditions other than the current market price is mostly redundant with the list provided in Article 2. Given the point raised above regarding Article 2, there will be a need to realign the lists.	Article 6	Level 2 change	As per Article 4 MiFIR, ESMA shall provide "the negotiated transactions that do not contribute to price formation". The list provided under Article 6 includes both price taking transactions and technical trades and is largely similar to Article 2. We would suggest that this list is established as a reference to the list defined in Article 2.

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<u>For commodity derivative contracts, the illiquid ("IL") and Large in Scale ("LIS") waiver thresholds are ill-calibrated</u> Calculations based on insufficiently granular sub-asset classes, besides arbitrarily selected and inappropriately calibrated parameters, result in disproportionately low LIS thresholds for highly liquid products and overly high thresholds for developing markets. These calculation flaws result in many illiquid derivative contracts being wrongly classified as liquid and thus made subject to unduly high LIS thresholds and very low for liquid derivative products. This severely limits the development of niche and nascent contracts traded on secure and transparent exchanges and cleared through risk mitigating CCP clearing houses. This pushes trades that were previously agreed bilaterally, and registered with the exchange for clearing, to the opaque OTC space.	Annex III and Tables 7.1, 7.2 & 7.3	Level 2 change	We recommend a re-calibration of the IL and LIS waiver thresholds, in accordance to the recommendations made in our response to the ESMA public consultation on the transparency regime for non-equity instruments. These build on the proposals made by Europex in their position papers from 25 April 2018 and 25 June 2018. We believe it would be redundant to elaborate the description of the issue, as well as our recommendations to solve the issue, here, as ESMA's Review Report on transparency for non-equity suggests that the comments have been well understood by ESMA and there is a concrete plan to resolve them. In summary, our suggested amendments to the methodology are the following: 1) Exclusion of price factor from the calculation of Illiquid and LIS thresholds; 2) A sufficiently high daily number of trades for a market to be liquid; 3) Trade frequency and standards size rather than volume as liquidity indicators; 4) Replace the percentile-based approach with multiple approaches or a scaled approach based on variations in distribution, and 5) Decrease the LIS threshold floor. Alternatively, Table 7.1 of Annex III of RTS 2 is amended taking into account the values provided in our response to the public consultation on the transparency regime for non-equity instruments.
<u>Conflict of the application date with the expiry week of derivatives</u> According to Article 13(17) RTS 2, the effective date of newly published transparency thresholds shall be 1st June. However, the recent history has shown that this date might also change. For example, following the publication of the 2020 ESMA pre- and post-trade transparency thresholds on 15th July 2020, ESMA initially announced as effective date of the new threshold 15th September. This date was directly within the expiry week, a time of high market volatility and market activity. Implementing new thresholds within the expiry week would have exposed market participants to additional stress. Thankfully, ESMA recognised this and allowed trading venues to postpone the application of the new transparency thresholds to 21st September.	Article 13	Level 2 change	We would like to ask ESMA to take the expiry weeks of derivatives into account when setting effective dates for the application of new transparency thresholds. For future calculations, it would be helpful to have the application date on a Monday but not (i) during the monthly expiring week or (ii) on the Mondays straight after the monthly expiry week.
<u>Definition of trading systems</u> The definitions in Annex I of RTS 2 do not capture all available trading systems, resulting in several systems being classified as hybrid systems.	Annex I	Level 2 change	We welcome the proposal of ESMA in its report on the transparency regime for non-equity instruments to further engage with stakeholder to revise the table in Annex I RTS 2 and potentially extend the definition of trading systems. The existing definitions of trading systems of Annex I should be extended in such a way that they cover variations of the initial system types which might share main characteristics but are also partly innovative. This seems particularly beneficial as for the five clearly defined trading systems concrete pre-trade transparency requirements are defined by ESMA, whereas there is a level of discretion with respect to what information is to be made pre-trade transparent for hybrid systems. As such, an extension of the current definition of trading systems would, *ceteris paribus*, lead to more concrete pre-trade transparency requirements being applicable to a wider range of trading systems.

Removal of powers of national competent authorities to further extend the deferred publication period (derivatives) ESMA's recent proposal to allow for volume masking of illiquid and LIS transactions and for the publication of the volume, e.g. after two calendar weeks, will not be sufficient to significantly improve available post-trade transparency data. Post-trade transparency data without disclosing traded volumes (or with a significant delay in diclosing traded volumes) dramatically reduces the value of such data for market participants.	Article 11	Level 2 Change	We suggest reducing the complexity of the current framework by only allowing one timeframe for deferred publication, no matter which waiver was used. Deferral periods of up to four weeks significantly decrease the value of the respective data for market participants, as data will be outdated and thus irrelevant. We therefore suggest introducing a single regime, requiring the publication of all transaction related data at the end of the day. This deferral period should uniformly apply across all asset classes.
Recalibration of LIS-threshold determination for ETDs FESE achnowledges ESMA's recent Report on transparency for non-equity and welcomes the suggestion to engage with stakeholders in order to determine new appropriate pre- and post-trade thresholds. Most of the current LIS-thresholds are appropriately set to strike a sensible balance between high levels of transparency and unwanted market effects. However, we would like to hihglight that the LIS-thresholds for certain ETD products or sub-asset classes have detrimentally impacted the liquidity of these products. Higher thresholds for off-book on-exchange trading, compared to pre-MiFID II conditions, have moved trading volumes away from exchanges and into the OTC market. In particular in the Single Stock Future segment, ESMA thresholds have led to significantly higher pre-and post-trade thresholds at trading venues. This impaires the liquidity for products and forces market participants to trade above the LIS thresholds. The low order book liquidity for Single Stock Futures negatively impacts especially smaller market participants, who rely on high order book liquidity as they do not trade in blocks.	Article 13	Level 2 change	We suggest to reclaibrate the applicabe methodology as it follows: • One possibility would be to increase the level of granularity on which thresholds are calculated, e.g. from the current sub-asset class level to a product/ underlying level. • Another possibility, for fixed income related derivatives, for example, would be to re-evaluate applicable trade-percentiles and volume-percentiles for specific sub-asset classes including a potential switch from trade-percentiles to volume-percentages where appropriate. Overall the distribution between orderbook and other trading systems should be factored into the definition of thresholds for the concerned ETD products, as well as the total number of transactions executed in a specific ETD product. This would facilitate the launch of new products, for example in equity derivatives like single stock futures. It should be considered whether (temporarily) lower thresholds can be established where orderbook trading accounts for a minimal percentage of overall trading volumes in the respective product on the respective trading venue, and where the total number of trades executed in the respective product on the respective trading venue is very low.
Formula for the conversion of the LIS/SSTI thresholds into lots Article 13(9) RTS2 allows trading venues to convert pre- and post-trade transparency thresholds into lot sizes. The formula for the conversion is provided in the answer to question 19 of the Q&As on MiFID II and MiFIR transparency. The formula for futures and options relies, amongst others, on the arithmetical average closing price of the underlying. If the price of the underlying drops significantly, it may happen that the nominal value of the threshold in lots falls below the in Annex II RTS 2 provided threshold.	Article 13	ESMA Q&A	We kindly invite ESMA to provide regulatory guidance, preferably in its Q&As on MiFID II and MiFIR transparency, on whether any action is required - and, if so, what time frame is required by trading venues - for the scenario in which a significant price drop in the underlying pushes the nominal value of the calculated threshold in lots below the respective RTS 2 threshold.
Missing Q&A provision We would like to point ESMA's attention to the fact that in its response to question 19 of the Q&As on MiFID II and MiFIR transparency, one bullet point remains unspecified. The third bullet point on page 42 states: " - be defined for the respective sub-class of:" However, nothing is following after the colon.	Article 13	ESMA Q&A	We kindly ask ESMA to either clarify or to delete this bullet point.
More time for trading venues to publish new transparency thresholds	Article 13	ESMA Q&A	The number of working days within which trading venues may publish their new transparency thresholds should be increased from 15 to at least 20.

According to the response to question 19 of the ESMA Q&As on MiFID II and MiFIR transparency, trading venues shall make their new transparency thresholds public within 15 working days after the publication of the annual transparency calculations by ESMA. The recent experience with new ESMA transparency calculations has shown that a publication within 15 working days is a challenging task, as different teams within each trading venues might have to be involved and the approval of final parameters might require specific governance steps.			
Formula for the conversion of the LIS/SSTI thresholds into lots for fixed income futures The formula for the conversion of the LIS/SSTI thresholds into lots, as provided in the answer to question 19 of the Q&As on MiFID II and MiFIR transparency, relies on the arithmetical average closing price of the underlying. This can be easily determined for futures with a single underlying, such as index futures. However, for futures with a fictitious underlying, such as fixed income futures (i.e. bond futures in the RTS 2 terminology), the concept of the arithmetical average closing price of the underlying is not as easily applicable. For example, fixed income futures are specified as futures on a fictitious underlying government bond with a given term range and a fixed coupon. This means that upon delivery of such futures, a bond from a basket of existing government bonds, that qualify for delivery based on their issuance size and maturity, can be chosen. The individual bonds within the basket may vary significantly as to their coupons and residual time to maturity. To consider this a conversion factor for each bond makes them comparable to the notional coupon of the futures contract. Thus, the pricing of the futures is based on the CTD (Cheapest to deliver) bond within this basket of bonds. When it comes to the physical delivery of a futures position, the seller of the futures must decide which government bond from the basket will be chosen to fulfill the delivery obligation. As the direct underlying is fictitious and FI futures are not referring to a unique underlying, an arithmetical average closing price of the underlying cannot be calculated. Using the arithmetical average closing price of the basket as approximation for the underlying would not be adequate either, as the composition of such baskets is changing due to maturing terms and newly issued government bonds, leading to no direct comparability between the average prices of an "old" and "new" basket. Further this would not be an accepted approach by the market community. It therefore makes a major difference which of the bonds are delivered, however the price of the underlying bonds is not considered for calculation of the futures daily and final settlement reference price, also excluding the average price of the delivered bonds as proxy for the arithmetical average closing price of the underlying.	Article 13	ESMA Q&A	ESMA should clarify the formula for the conversion of the LIS/SSTI thresholds into lots for fixed income futures. We suggest amending the formula for fixed income futures by replacing the average closing price of the underlying with the respective average futures price of the assessment period considered. As fixed income futures prices are denoted in percentage terms, the observed average futures price should be further divided by 100 for the calculation.
Changes to transparency reporting The transparency requirements for trading venues are defined in Articles 8-11 of MiFIR and specified in RTS 2.	Annex II	Level 2 change	ESMA should question the technical validation rules of the NQU reports and allow TtlNtnlAmt=0 for equity dividend derivatives having settlement price =0.

In order to meet these requirements, ESMA has to perform a number of tasks, such as threshold calculations. And in order to do so, ESMA needs data: The Non-Equity Transparency Reference Data (DATNTR) and the Non-Equity Transparency Quantitative Data (DATNQU). Both DATNTR and DATNQU data is collected and published by ESMA via Financial Instruments Reference Data System (FIRDS). It covers MiFIR and MAR requirements for reference data collection and publication, collection and processing of additional data to support the MiFIR transparency regime and suspensions' coordination. To report DATNTR and DATNQU and comply with FIRDS, ESMA developed Instructions FIRDS Transparency System, part of which are 'Content Validation Rules for non-equity transparency reference data'. 'Content Validation Rules for non-equity transparency reference data' lists possible error messages and break them down to more details. One of such error messages is NTQ-011: NTQ-011 Total notional amount traded for that bin cannot be zero (as per number of transactions executed for that bin). This error message is generated because the element TtlNtnlAmt (Total Notional Amount) is 0 (zero) while the element NbOfTxs (Number of Transactions) is <> 0 (different from zero). This is technically rejected by ESMA, though has a valid explanation for the given product setup in today's market conditions. The product affected refers to equity dividend derivatives with settlement price = EUR 0. Due to settlement price = 0 EUR and despite the existing TES trades (NbOfTxs), the national volume reported (TtlNtnlAmt) = 0 EUR.			
<u>Conversion calculation for Single Stock Dividend Futures</u> For SSDFs, the underlying is the dividend payment instead of the stock. This does not fit into ESMA's conversion formula for Futures, i.e. in case the underlying company does not pay any dividend (or cancellation of dividend) during the reference period, there will not be a valid number of lots converted. We observed that different exchanges adopted different approaches and we believe it would benefit investors to harmonise the approach.	Question 19 of section 4 of the ESMA Q&A document	Level 3 change	We call for a clear guideline from ESMA regarding 1) conversion formula, 2) allowed proxies in case of no dividend payment, and 3) any assumed minimum notional value.

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<u>Need to simplify the post-trade deferrals options in fixed income markets</u> Bonds markets with deep pools of high-quality liquidity are a crucial component of healthy ecosystems as well as an important contributor to competitive, transparent and stable EU financial markets. Ensuring transparency in these markets requires tailored and flexible rules that balance the need for enhanced transparency whilst recognising the specificities and nuanced working of such markets. Under the current regulation, there is hardly any sensible transparency in bonds available. In particular, as also highlighted by ESMA, post-trade transparency should be increased for the sake of investors. To date, besides overly long delays, the possibility to publish selected data points of one single transaction in bonds over a certain period, is not only overly complex but it prevents usable transparency to the public rather than providing it. This is to the disadvantage of EU investors, as proper transparency data in bonds could enable passive investment as well in bonds for the benefit of investors and issuers alike. MiFiD II contains multiple options for post-trade deferrals. As the fixed income market is fragmented and there is no "one-size-fit-all", there should still be different options available, but we believe these could be reduced and simplified. The need for simplification was highlighted by several respondents to the recent ESMA Consultation on transparency for non-equity and ESMA has acknowledged this in its Review Report. If publication of trades may be postponed significantly (e.g. 4 weeks or partial publication), the information is outdated at time of publication, except for compliance purposes. Similarly, the indefinite deferral for government bonds means that market participants will not have insight into these transactions. Market participants should, though, still have the possibility to defer publication, and a few various options should still be possible as there may be national needs that the regulators should be able to accommodate. Therefore, we do not recommend a full harmonisation across all markets, but rather a more simplified framework.	Article 8 and 11	Level 2 change	While we strongly believe that transparency in bonds markets should be increased, we suggest that the Illiquid and LIS deferrals should be maintained. Other than that, the number of other options available in the post-transparency regime should be reduced, in particular waivers that enable only partial publication or no publication of trades as well as the 4-week waiver. We note that in ESMA's Review Report on Non-Equity Transparency it is proposed to facilitate volume masking for a period of up to 2 weeks for illiquid instruments and LIS transactions. While we agree the deferral regime should apply to both, as highlighted above, allowing volume masking will result in a decreased transparency (the very thing MiFID II/R was supposed to foster). Furthermore, we are of the view that 2 weeks deferral is still too long and would recommend a maximum deferral period of T+2 EOB. In addition, we suggest that there still needs to be a certain degree of flexibility for NCAs to adapt the regime to their local market. Hence, we propose that, while ESMA sets out the maximum period of deferral, NCAs can still shorten this considering the specificities of their own local market in order to increase transparency.
<u>Need to amend the methodology for the bonds' liquidity calculations</u> The number of bonds currently classified as liquid shows that the liquidity determination process is not delivering. As flagged by ESMA in its recent consultation on transparency for non-equity, these low figures fall below ESMA's expectations when calibrating the regime, which were about 2% of bonds being classified as liquid in S1. This clearly indicates that the regime is not reflecting MiFIR objectives to increase transparency.	Article 13 and 17, and Tables 2.1, 2.2, 2.3, 2.4 in Annex III	Level 2 change	To solve the issues with the liquidity determination process, we would suggest proceeding as it follows: **Measures needed in the short-term** In the immediate, we agree with the recommendation that ESMA should move directly to stage 4 in RTS 2. Unfortunately, this is only a small step into the direction of increasing transparency for bonds markets. Further actions are needed in the medium-longer run. **Measures needed in the medium-term**

In FESE's view, this limited number of liquid bonds can be attributable to (i) criteria that have been incorrectly defined, (ii) numerical parameters that are not appropriate or (iii) an inaccurate or incomplete reporting from market stakeholders. Furthermore, the current approach to determination of bond liquidity under RTS 2 was developed with the UK being part of the EU. Brexit and the removal of UK bond trading data will have a significant impact on data calculations given the dominance of bond trading in the UK. A review of the approach is required to ensure the regime does not put the EU at a disadvantage to the UK.			As indicated in our response to the CP on transparency for non-equity, we have identified a series of proposals that could help amend the current methodology. We believe that our suggestions are still valid and would help ESMA defining the new calculations. We would suggest, however, that the approach taken by ESMA will have to be reviewed in light of UK data no longer being included. This would ensure that the calibrations are appropriate for EU-27 bond markets. Our suggestions include: • We would like to reiterate the need to look at market reality which shows that not all bonds trade. These bonds should therefore be excluded from the transparency calculations. • Currently, a bond is considered as liquid when it is traded on a percentage of days greater or equal to 80%. However, evidence published by the AMF ('Measuring liquidity on the corporate bond market', March 2019) on the distribution of the number of different bonds traded in the course of a day points out to an average number of days traded substantially lower than the current 80% threshold. The current parameter is therefore distant from market reality. • A bond is currently classified as liquid when it has an average daily notional amount (ADNA) greater or equal to 100,000 EUR. Based on the results of the FESE internal survey, we identified that approximately 30% of EOB trades in 2019 had a notional amount equal or above 100,000 EUR. The wide gap between this figure and the 0.2% of liquid bonds found in the Q3 2019 quarterly assessment casts doubt into this threshold. • In order to better understand the impact of the thresholds included in MiFID II, simulations with different transparency thresholds should be conducted. • In addition, a full assessment of the underlying data should be performed, and the data adjusted when required (before running new transparency calculations). • Since the criteria are reviewed on a yearly basis, we would recommend running a series of simulations with next year's calibration, in order to understand whether the impact on the number of liquid bonds will be substantial or not. **Measures needed in the long-term** In the long-term, after having performed an impact assessment and considered the impact of Brexit, we would agree with the proposal to investigate Option 3 (i.e. to perform the liquidity assessment by using a different liquidity measure, such as the issuance size parametrised for each bond type.)
Determination of most relevant market and relevant competent authority While we understand this determination is based on the process set out in legislation in RTS22 (Art 16), ESMA previously advised that it also has its own internal rules on this. It appears that the market that submits the data first for a newly listed security is deemed the most relevant market. This can lead to issues where MTFs are deemed the most relevant market even though they may have no liquidity and the issuer has not requested an admission on that market, and there are even cases where the security has not yet actually listed on the main market chosen by the issuer. While this issue may technically relate to RTS 22, it directly impacts the transparency calculations under RTS2 as incorrect data is being used for the calculations; therefore, we are of the view that it needs to be addressed here.	Articles 13 and 17 & Annex III	Level 2	ESMA needs to revise its rules on the determination of most relevant market and relevant competent authority. When it is newly listed, the focus should be on where the issuer has specifically requested the security to be admitted.
Issues with the data reporting requirements for the purposes of the liquidity calculations We believe that the interaction of the FIRDS and FITRS databases is problematic. While CFI codes are not required by RTS 2, given they are required under RTS23, if there are issues with them, this has knock on consequences for data collection under RTS2. We set out some of the main outstanding issues: 1. The incorrect assignment of inappropriate CFIs by the National Numbering Agencies remains the most common	Article 13 & Annex IV	Other non-legislative tools	We would urge ESMA to liaise with ANNA to try to resolve the issues with CFIs in order to improve the accuracy of bond data. If these codes are being relied upon for the calculation of transparency requirements, there needs to be stricter controls on how they are being assigned by NNAs. Otherwise perhaps a simpler classification process which fully aligns with the MiFIR terminology could be considered or at least provide more flexibility in some of the fields required (e.g. bond type).

data issue we experience. We often receive CFI codes assigned by the NNA which do not match the type of instrument listed. This results in us being unable to report all appropriate fields as they may not be required for the incorrect CFI type assigned. and in relation to FITRS trading data, it can impact the MiFIR identifier and bond type as the different databases are reconciled by ESMA. On occasion, it has resulted in errors for us as we cannot report fields of data which do not exist (for example, equity like characteristics for a bond or a security is listed as a Mortgage Backed Security (Structured Product), but has been given the incorrect CFI code which indicates it is a bond. For the transparency files, ESMA is expecting the bond type to be populated, which we cannot do, as it is not a bond. This is also an issue in the reverse scenario, where we should populate it if it is a bond but cannot if it has the incorrect CFI code. 2. We also have a number of errors in relation to CFI codes created by the NNAs which are not valid CFI types. Again, these errors cannot be resolved until the NNA amends the CFI. 3. In addition, the NNAs responsible for assigning CFI codes will often amend the CFI post-listing. This creates further issues for us as it can mean different trading venues have different CFI codes depending at what point they sourced the data and this creates a significant number of inconsistency warnings for bonds admitted to our markets. 4. Lastly, there are still some cases where NNAs do not assign the CFI code and therefore trading venues are unable to submit the data at all for these securities to ESMA.			
Additional data reporting issues There are other data reporting issues similar to the above point in relation to other codes, such as the FISN. Not all securities are being assigned FISNs by their national numbering agencies and this means that trading venues are unable to submit data for these securities to ESMA for the purposes of the transparency calculations.	Article 13 & Annex IV	Other non-legislative tools	ESMA needs to liaise with ANNA to try to resolve this issue and ensure all codes are being assigned by NNAs.
ESMA's FIRDS & FITRS databases are not user-friendly or easy to access	Articles 13 and 17 & Annex III	Other non-legislative tools	ESMA should consider reviewing how to access these databases as they currently cannot be accessed via an API and the files are generally heavy and difficult to download. This would be very beneficial to users and serve the purposes of increasing post-trade information availability, as envisaged by MiFID II.