

FESE response to the UK FCA consultation on improving transparency for bond and derivative markets

6th March 2024, Brussels

1. Scope of the new regime

Q1: Do you agree with maintaining the current scope of the transparency regime for bonds based on whether they are traded on a trading venue? If not, what do you recommend the scope should be?

FESE agrees with the FCA proposal to maintain the current scope of the transparency regime for bonds based on whether they are traded on a trading venue.

FESE would further state that the same transparency regime should be maintained, for “on” and “off” venue trading in the same bond.

Q2: Do you agree that the transparency regime should focus on the classes of derivatives subject to the clearing obligation? If not, please explain why.

N/A

Q3: Is the current level of transparency in FX derivatives and single-name CDS adequate? If not, should a subset of them be included as Category 1 instruments?

N/A

Q4: Do you agree with excluding FRAs, basis swaps and OIS and Fixed-to-Float swaps with reference index other than EURIBOR, SONIA, SOFR, €STR and FedFunds - from the list of Category 1 instruments? If not, please explain why.

N/A

Q5: Do you agree with including iTraxx Europe Main and iTraxx Europe Crossover as Category 1 instruments? If not, please explain why.

N/A

Q6: Do you agree with our proposal to bucket swaps by tenors? If not, please explain why.

N/A

Q7: Do you agree with our proposal to include spot and forward starting swaps within the same tenor bucket? If not, please explain why.

N/A

Q8: Do you agree with our proposed scope of Category 1 instruments for OTC derivatives? If not, please explain why.

N/A

2. Framework for waivers and deferrals

Q9: Do you agree with our proposals for, and waivers of, pre-trade transparency? If not, please explain why.

Generally, FESE believes that the pre-trade transparency regime needs to be simplified and made more coherent for the market. Therefore, we agree with the removal of the SSTI waiver. The methodology used to determine the LIS thresholds should be recalibrated accordingly.

In bonds and securitised derivatives markets trading is still opaque and there was no material increase in transparency triggered by MiFID II compared to MiFID I. This is especially the case for SI and OTC trading where there is seemingly no useable pre- and post-trade transparency available. Transparency on SI quotes (and prices) in bonds and securitised derivatives is established by SIs via proprietary means, via their websites, via ECN-like networks, or has not been established at all (for illiquid bonds). This conflicts with the aim of increasing transparency in the traditionally opaque markets in these instruments.

For the reasons to increase transparency, FESE does not agree with the FCA proposal to completely remove pre-trade transparency for investment firms (including SIs). On the contrary, pre-trade transparency requirements for SIs should be better enforced and simplified to increase data quality. As such, FESE proposes to, instead, carve in the scope of pre-trade transparency investment firms (including SIs) with equivalent requirements to trading venues. Otherwise, it will put trading venues at a disadvantage with regards to the pre-trade transparency regime. For the sake of levelling the playing field, all trading systems should be covered in the scope.

Q10: Do you support our objective of enhancing price formation by prioritising the prompt dissemination of price information? If not, please explain why.

FESE considers that the number of 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 do not favour long deferral periods. Ideally, the standard for derivatives should be at maximum an end-of-day (EOD) deferral of the trade execution. If this time frame cannot be met, at least the publication of the price and the volume should be ideally concurrent between them to provide more transparent and timely information to the market. We would support timely publication of post-trade transparency data, i.e. within 15 minutes currently, and 5 minutes in the future, across all asset classes to enhance competition among market participants, reduce asymmetries of information and deliver high-quality information for market users. As such, we concur with the FCA prioritising, in most cases, prompt publication of trade information.

Similarly to the point we raised regarding the pre-trade transparency scope, the post-trade transparency scope should cover all trading systems. For the sake of levelling the playing field and reaching an overarching increase in transparency, investment firms (thus including SIs) should also report post-trading price and volume information for Category 1 instruments.

Q11: Do you agree with our approach based on the dissemination of trade-by-trade information as opposed to aggregation of trades? If not, please explain why.

Yes, we believe this approach will increase transparency.

Q12: Should package trades be granted a minimum of a 15-minute reporting deferral to allow for the complexity of booking such trades?

N/A

Q13: Are there types of transactions other than packages that should benefit from a deferral irrespective of their sizes?

N/A

Q14: Which of the two models do you think can give better calibration of deferrals for bonds and derivatives?

FESE suggests reducing the complexity of the current framework by only allowing one timeframe for deferred publication, irrespective of which waiver is used. Deferral periods of up to four weeks immensely decrease the value of the respective data for market participants, as the data becomes outdated and thus irrelevant. For derivatives, we support a harmonised and simplified deferral regime, requiring the publication of all transaction-related data by the next business day (and no later than t+2). Furthermore, OTC look-alike contracts should not be eligible for deferrals. Lastly, we would support timely publication of post-trade transparency data, i.e. within 15 minutes currently, and 5 minutes in the future, across all asset classes to enhance competition among market participants, reduce asymmetries of information and deliver high-quality information for market users.

Overall, it is important to ensure that CCP-cleared multilateral trading is incentivised as much as possible, as this provides the most scope for effective price formation and offers anonymity which aids market confidence. However, markets in various assets are at differing stages of evolution. The regulatory framework should allow various forms of trading to be licenced within the regulated perimeter while allowing for its migration towards a multilateral model which we believe is best for market development.

3. Real-time transparency and calibration of deferrals

Q15: Do you agree with the factors used in grouping bonds?

FESE agrees that the issuance size is an important factor influencing liquidity. The issuance size parametrised for each bond type should be part of the liquidity assessment in the new regime.

Q16: Do you agree with the list of issuers used to group Sovereign and Other public bonds?

FESE understands that the FCA proposal may have value in a UK-only context. The same rationale would not, however, fit in an EU context where such proposals would not bring value and only add unnecessary implementation costs.

Q17: Should we consider having a separate group for certain types of sovereign bonds, e.g. inflation-linked Sovereign bonds?

FESE believes that creating additional groups for certain types of sovereign bonds is not necessary. The nomenclature should remain simple and workable.

Q18: Do you agree with the list of currencies used to group Corporate, Covered, Convertible & Other bonds?

FESE understands that the FCA proposal may have value in a UK-only context. The same rationale would not, however, fit in an EU context where such proposals would not bring value and only add unnecessary implementation costs.

Q19: Do you agree with the levels indicated as thresholds for issue size and setting the three maturity groups for Sovereign and Other Public Bonds?

N/A

Q20: Do you agree with our proposed definition of investment grade bonds?

FESE does not believe it is practical for trading venues to source credit ratings from over 30 credit rating agencies specified in the on-shored version of Annex III of Commission Implementing Regulation (EU) 2016/1799 ([here](#)). This will represent a significant cost for trading venues to purchase, consume, and maintain credit ratings from all the credit rating agencies.

FESE asks instead for the FCA to make available a single ‘golden source’ of credit ratings for the purpose of corporate bond transparency determinations. We note that the FCA currently has access to the required credit ratings in the FCA’s Public Ratings Database ([here](#)) under the Credit Rating Agencies Regulation, which could be used for this purpose.

Absent a publicly available golden source, trading venues’ costs would increase through a need to source all credit ratings. It may also establish inappropriate ‘race to the bottom’ motivations.

Q21: Do you agree with our proposed thresholds for bonds transparency in Option 1?

FESE would support timely publication of post-trade transparency data, i.e. within 15 minutes currently, and 5 minutes in the future, across all asset classes to enhance competition among market participants, reduce asymmetries of information and deliver high-quality information for market users.

The number of bonds currently classified as liquid shows that the liquidity determination process is not delivering. We believe that the 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) inaccurate or incomplete reporting from market stakeholders.

FESE welcomes that the FCA has taken steps to replace the ill-designed system currently in place.

Q22: Do you prefer the Option 2 approach, wherein for trades between the thresholds both price and size are published at EOD rather than after 15 minutes and 3 days respectively?

N/A

Q23: Do you prefer the Option 2 approach, wherein for trades above the upper threshold prices only are published at EOD rather than our proposal to publish both price and size after four weeks?

N/A

Q24: If all prices are to be published by EOD then when, if at all, do you think the size of trades larger than the upper threshold should be published?

We do not favour long deferral periods. Ideally, T+2 should be the ceiling, instead of the current 4-week deferral.

Q25: Do you agree with the approach and methodology used to set the thresholds and the length of deferrals?

N/A

Q26: Do you agree with the proposed deferrals and associated thresholds in the 2 models?

Post-trade deferrals should be harmonised. OTC, SI, and trading venue data should reach the same level of quality in post-trade reporting.

Q27: Do you agree with the approach and methodology used to set the thresholds and the length of deferrals?

N/A

Q28: Do you agree with the proposed deferrals and associated thresholds?

N/A

Q29: Do you agree that the same thresholds shall apply to benchmark tenors and broken dates?

N/A

Q30: Which model do you think better calibrates transparency and the protection of liquidity for large trades? Please explain.

N/A

Q31: Do you agree with our proposed large in scale (LIS) thresholds and length of deferrals for index credit default swaps? If not, please explain why.

N/A

Q32: Do you agree with our proposed approach of implementation followed by review and potential revision?

As the FCA stated, the WMR, similarly to our own findings, has revealed that there should be materially less utilisation of deferrals. FESE has also advocated for a substantially simplified pre- and post-trade transparency regime, albeit still including SIs in the scope of application. We concur with the FCA to closely monitor the future effects of the new regime and re-assess the situation if necessary. FESE stresses that gathering industry feedback, especially from market infrastructures, will be fundamental for the regulator to adopt sound decisions.

Q33: Do you agree with how we intend to supervise the change from the current regime to the new one? If not, please explain why.

N/A

Q34: Are there other issues that we should have regard to in relation to the change to the new transparency regime?

N/A

4. Exemptions from post-trade reporting

Q35: Do you agree with maintaining the exemption for inter-funds transfers in Article 12?

N/A

Q36: Do you agree with the new definition of inter-funds transfers?

N/A

Q37: Do you agree with our proposed amendment of the exemption from post-trade reporting for give-ups and give-ins?

N/A

Q38: Do you think guidance to clarify further the types of give-ups and give-ins that can benefit from the exemption from post-trade transparency is required, and, if so, what issues do you think it should cover?

N/A

Q39: Do you agree with the deletion of point d) from Article 12 of MiFID RTS 2? If not, please explain why.

N/A

Q40: Do you agree with introducing an exemption for inter-affiliate trades?

N/A

Q41: Do you agree with our proposed definition of inter-affiliate trades?

N/A

5. Content of post-trade information: fields and flags

Q42: Do you prefer to remove the trade reporting field 'Instrument identification code type' and to include a requirement for trade reports to report on the field 'Instrument identification code' using only an ISIN code format, or retain the reporting on this field? Please explain your preferred approach.

N/A

Q43: Do you agree with our proposal to introduce the new field "Unique product identifier"? If not, please explain why and set out your preferred approach to the identification of derivative instruments.

FESE believes that international consistency in the nomenclature is necessary. EU MiFIR applies UPIs to OTC derivatives but not to ETDs. Extending UPIs to ETDs as well seems unnecessary, especially in the UK only.

Q44: Do you agree with our proposal to set the scope of the use of UPI to OTC derivatives? If not, please describe the scope of instruments to which you would prefer for it to apply.

N/A

Q45: Do you agree with our proposal to introduce the additional data fields enhancing the UPI to identify an instrument? If so, please detail what data fields additional to the UPI should be included under the trade reporting requirement.

N/A

Q46: Would the introduction of UPI have an impact upon the costs incurred by your firm? If so, please explain how and try to estimate the impact.

N/A

Q47: Do you agree with the proposed changes to the ‘price’ field and related reporting fields? If not, please explain why.

N/A

Q48: What are your views about the introduction of a ‘price conditions’ field?

N/A

Q49: Do you agree with our proposal that we should work with industry to develop guidance on the reporting of prices under post-trade transparency? If not, please explain why.

N/A

Q50: Do you agree with our proposal to amend Table 4 of Annex II of RTS 2? If not, please explain why and set out your preferred approach to refer to the measure of volume.

N/A

Q51: Do you agree with our proposal to introduce the new field “LEI of clearing house”? If not, please explain why and set out your preferred approach to reporting the clearing status of trades.

FESE believes that regulated markets and other types of regulated multilateral facilities should not bear the burden of reporting additional clearing information. The trading and clearing systems should remain separate. As such, we do not see the reason why exchanges shall provide clearing information.

Q52: Do you agree with our proposal to delete the field ‘Transaction to be cleared’? If not, please explain why.

N/A

Q53: What are your views about the introduction of a portfolio trade transactions flag 'PORT'?

N/A

Q54: Do you agree with our proposal to delete the agency cross 'ACTX', non-price forming transaction flag 'NPFT', illiquid instrument transaction 'ILQD' and post-trade size specific to the instrument transaction 'SIZE' flags? If not, please explain why and the uses of each flag.

N/A

Q55: Do you agree with our proposal to delete all of the supplementary deferral flags for post-trade transparency with the exception of the volume omission 'VOLO' and full details 'FULV' flags? If not, please explain why and describe your preferred approach.

N/A

Q56: Are there any other flags that we should consider introducing, removing or amending?

N/A

Q57: Do you agree with our proposal to amend Table 1 of Annex II of RTS 2? If not, please explain why and set out your preferred approach to the symbol table for the format to be populated for post-trade transparency trade reporting.

N/A

Q58: Do you agree with our proposal to delete Annex IV of RTS 2 in its entirety? If not, please explain why.

The current FCA consultation paper does not provide sufficient justification as to the reason why Annex IV of RTS 2 should be deleted. Additional clarifications on what exactly would be the consequences of deleting Annex IV of RTS 2 should be provided with a dedicated assessment. FESE would not, at the current stage, support deleting Annex IV of RTS 2.

6. Definition of Systematic Internaliser

Q59: Do you agree with our proposed glossary definition and PERG guidance? If not, please explain why.

FESE believes that there is merit in fostering a uniform understanding of the differentiation of multilateral and bilateral systems. To level the playing field, we suggest introducing an authorisation procedure for SIs. Further, regulatory authorities should carefully monitor if systems registered as bilateral systems operate as such and do not engage in any multilateral activities. While SIs are regulated under MiFID II/MiFIR as execution venues providing bilateral trading, they provide less transparency than on-venue trading. This can be problematic when the distinction between purely bilateral and hybrid multilateral trading is blurred. The same scrutiny should apply to operators of multilateral systems. Should the authorities conclude that a clear identification of bilateral systems is not possible, they might want to consider introducing a definition of bilateral activities into the legal framework to clearly differentiate them from multilateral systems.

FESE generally agrees with the intention to clarify the regulatory perimeter for trading venues. However, some of the proposals, such as those basing the definition of SIs on qualitative criteria or allowing SIs to execute at the midpoint for all trades, are ill-suited for this purpose.

Q60: Are there any further comments you wish us to consider while finalising these proposals? If so, please include here.

N/A