[ESMA consults on MiFIR transparency regime for equity instruments]

ESMA's objective of the review is to simplify the current complex trade reporting regime while trying to improve the overall trade transparency available to market participants. MiFIR mandates ESMA to submit a report on the impact of the newly established pre-trade transparency obligations and waivers and, in particular, the double volume cap (DVC) mechanism. In order to provide for a comprehensive and meaningful assessment, ESMA has decided to include an assessment of other key transparency provisions, in particular, the share trading obligation and the transparency provisions applicable to systematic internalisers (SIs).

ESMA's data analysis has revealed the following main developments since 2018:

1. There has not been a significant change in the share of trading volume executed on-venue, on SIs and OTC;
2. A large share of the volume executed on-venue is not subject to pre-trade transparency; and
3. The use of waivers from pre-trade transparency has changed due to the application of the DVC.

Steven Maijoor, Chair, said:

"Market transparency is a key objective of MiFIR and, two years on from its inception, it is time to assess how transparency in equity and equity-like instruments has evolved. While we consider that MiFIR has been partially successful, we also see some significant remaining challenges which should be tackled by a targeted review of the legislation.

"One clear benefit of MiFIR is that national competent authorities and ESMA have more data at their disposal to monitor market developments and assess how the Regulation is working in practice. We believe that the proposals presented today will allow for a recalibration of MiFIR, reducing its complexity, while improving transparency to the benefit of investor protection and orderly and stable markets in the European Union."

Key Proposals

The key proposals on the MiFIR transparency for equities include:

- Pre-trade transparency and waivers – to address the ongoing high volume of dark trading ESMA proposes to either reduce the number of waivers available to market participants or to make the use of waivers subject to stricter requirements;
- The DVC mechanism – if maintained, ESMA is proposing to simplify the DVC regime and to apply it in a wider and stricter way to further curb dark trading;
- The SI regime – with a view to addressing concerns about the SI regime,

including the volume of trading and perceived lower transparency requirements, ESMA proposes an increase of minimum quoting obligations subject to pre-trade transparency, a revised methodology for determining quoting sizes and/or an extension of the SI obligations to illiquid instruments; and
- The trading obligation for shares – ESMA is proposing to clarify the scope of the trading obligation specifically in relation to third-country shares.

Next Steps

ESMA invites all stakeholders involved in EU securities markets to respond to this consultation by 17 March 2020. ESMA intends to submit its final review report of the transparency regime applicable to equity instruments to the European Commission by July 2020.

A second consultation paper focusing on the obligations applicable to bonds, derivatives and other instruments will be published shortly.