

## Reply form for the Consultation Paper on the Algorithmic Trading



## Responding to this paper

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions summarised in Annex I. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **12/03/2021**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your input - Consultations'.

### Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_ALGO\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_ALGO\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_FOTF\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA's website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading "Your input – Open consultations" → "Consultation on Algorithmic Trading").

## **Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

## **Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](#).

## **Who should read this paper**

This document will be of interest to (i) alternative investment fund managers, UCITS management companies, EUSEF managers and/or EuVECA managers and their trade associations, (ii) distributors of UCITS, alternative investment funds, EuSEFs and EuVECAs, as well as (iii) institutional and retail investors investing into UCITS, alternative investment funds, EuSEFs and/or EuVECAs and their associations..

## General information about respondent

Name of the company / organisation	International Capital Market Association
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

## Introduction

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_ALGO\_1>

On behalf of the International Capital Market Association (ICMA), we are pleased to provide feedback regarding ESMA's consultation on the impact of algorithmic trading. ICMA's Algo consultation paper (CP) taskforce is grateful for the opportunity to respond to ESMA's consultation paper. The ICMA algo taskforce (Taskforce) member response is based on consensus view and relates solely to bonds. The Taskforce represents buy-side and sell-side investment firms, trading venues and software and technology providers. There is a unique value in conveying broad view from across the bond market industry and we hope this response is informative and useful. Furthermore, ICMA would like to assist ESMA by summarising the key Taskforce views regarding this consultation paper from a bond algo perspective.

The motivation for regulating algo trading is the mitigation of risks such as market-wide disruption or destabilisation. However, unlike equity markets, the bond market use of technology often does not fit the execution algorithm definition and does not carry the same systemic risk or disruption potential. Even if the terminology of an 'algorithm' is used, it is often automations without the ability to generate new orders / child orders (parent orders sliced into smaller 'child' orders electronically through algorithms) or to trigger executions.

Therefore, ICMA's Taskforce considers algo scope expansion, as described in this consultation paper, is not needed in relation to algo trading in bond markets. In practice, testing is working well today in bond algos and expansion to off-venue trading would increase costs and burdens for market participants unnecessarily. There is a limited risk of contagion in bond markets from algos. For example, there is usually a human element in creating a price in bond algos. Finally, the current EU member state structured approach to algo risk assessment for bond algos works well today and the individual NCA rules are not deemed too burdensome to comply with.

ICMA further recommends instead of exempting Primary Dealers from market making obligations on trading venues/venue, it would be more appropriate to exempt the EU government bond asset class as a whole from MiFID II market making obligations and corporate bonds in the future.

Finally, the Taskforce considers ESMA should not have any excessively prescribed algo self-assessment formats. Although all self-assessments should be diligently performed and provided to NCA's, upon request, 'without undue delay'.  
<ESMA\_COMMENT\_ALGO\_1>

## Questions

**Q1** : What is your overall assessment of the MiFID II framework for algorithmic trading, HFT and DEA?

<ESMA\_QUESTION\_ALGO\_1>

It is important to note, algos in bond markets do not carry the same systemic risk or disruption potential as equity algos. This is due to the nature of algos in bond markets, which is mostly automation based. The triggering of executions or generation of new orders are not characteristics of the technology involved in bond algorithms, whether OTC or trading venue algos. Question 2 goes into further detail.

<ESMA\_QUESTION\_ALGO\_1>

**Q2** : In your views, are there risks other than the one mentioned in MiFID II or impacts on market structure developments due to market electrification/ algorithmic trading that would deserve further regulatory attention? Please elaborate.

<ESMA\_QUESTION\_ALGO\_2>

The motivation for regulating algo trading is the mitigation of risks such as market-wide disruption or destabilisation. However, unlike equity markets, the bond market use of technology often does not fit the execution algorithm definition and does not carry the same systemic risk or disruption potential. Even if the terminology of an ‘algorithm’ is used, it is often automations without the ability to generate new orders / child orders or to trigger executions. Where bond market technology truly fits the execution algorithm definition it is already – and should be – governed in the same way as any other algorithm. However, ICMA taskforce members consider there is no need to bring technology solutions into scope that do not have the potential for market-wide disruption. Therefore, the Taskforce considers there are no obvious further algo risks to recommend to ESMA for additional regulatory attention.

The Taskforce does however recommend a clarification (via Q&A) of the existing algorithm definition – see answer to question 15, rather than broadening the algo scope (see answer to question 9) or considering further risks.

<ESMA\_QUESTION\_ALGO\_2>

**Q3** : Do you consider that the potential risks attached to algorithmic trading should also be given consideration in other trading areas? Please elaborate.

<ESMA\_QUESTION\_ALGO\_3>

In addressing the risks attached to OTC automated trading processes, the Taskforce recommends it would be sensible to select only a targeted set of obligations belonging to the algorithmic trading regime that would be relevant to mitigate the potential risks arising from OTC automated trading processes.

The Taskforce believes this limited set of obligations should apply to any investment firm using automated trading processes for OTC trading, and not only to SIs. Indeed, it should be reminded that, for a given entity, the SI qualification relies on the intensity of the entity’s activity in normal conditions, or on its decision to opt-in. The main feature of a malfunction

of such OTC automated trading processes is that it generates an aberrant number of orders at erroneous prices, with no relation to the size of the activity in normal conditions.

Based on these considerations, were ESMA to decide applying some controls to OTC automated trading processes, the Taskforce recommends the following such obligations should (i) be fitted to the OTC trading activity and (ii) apply independently from the size of the dealer / of its activity using OTC automated trading processes.

Obligations having regard to the nature, scale and complexity of automated trading processes include:

- The general organisational requirements; and
- All means to ensure resilience such as kill functionalities, business continuity processes, pre-trade controls etc.

<ESMA\_QUESTION\_ALGO\_3>

**Q4** : Do you agree with this analysis? If not, please explain why.

<ESMA\_QUESTION\_ALGO\_4>

Please see answer to question 15.

<ESMA\_QUESTION\_ALGO\_4>

**Q5** : Did you encounter any specific issue with the definition of HFT? Do you consider that the definition should be amended? Do you have any suggestion to replace the high message intraday rates with other criteria or amend the thresholds currently set in Level 2? Please elaborate and provide data supporting your response where available.

<ESMA\_QUESTION\_ALGO\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_5>

**Q6** : Based on your experience, is sub-delegation of DMA access a frequent practice? In which circumstances? Which benefits does it provide to the DEA user and to the sub-delegatees? Are you aware of sub delegation arrangements in the context of Sponsored access? If so, please elaborate.

<ESMA\_QUESTION\_ALGO\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_6>

**Q7** : (for DEA Tier 1 clients) Do you sub-delegate direct electronic access? If so, are your Tier 2 clients typically regulated entities/investment firms? Are they EU-based or third country based?

<ESMA\_QUESTION\_ALGO\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_7>

**Q8** : Do you agree with this analysis? If not, please explain why. Do you consider that further clarification is needed in this area? If so, what would you suggest?

<ESMA\_QUESTION\_ALGO\_8>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_ALGO\_8>

**Q9** : Do you agree with ESMA's proposal? If so, do you consider that the requirements considered above relevant? Should there be additional ones? If you disagree with ESMA's proposal, please explain why.

<ESMA\_QUESTION\_ALGO\_9>

ICMA disagrees with any Level 1 amendments in relation to SIs. It is important to keep in mind that while systematic internalisers implement and use algorithmic trading systems, the relative risk is far lower than that on a trading venue and therefore any application of Level 2 algorithmic trading requirements should be suitable. For example, conformance testing would be inappropriate and unnecessary.

ICMA disagrees with paragraph 61 and amending Level 1. SIs are bilateral trading and RFQ oriented in bond trading. Therefore, there is not the systemic risk that could occur on a trading venue. Furthermore, an investment firm that is an SI does not interact as an SI on a trading venue. The investment firm can only interact on a trading venue as the investment firm, not an SI. As a result, the trading venue risk and controls are in place. When an investment firm interacts on a trading venue it is automatically within the trading venue algorithmic trading framework.

More specifically, ICMA would like to point out the statement in paragraph 60: "ensure that the quotes displayed, streamed or sent to counterparties or clients by SIs are not a source of risks for the SI itself and a source of confusion, disruption and potential chain reactions in the market." ICMA disagrees with this ESMA assessment of SI activity in bond markets. There currently is no observed source of risk or confusion or potential disruption from chain reactions in bond markets from SI algos.

Furthermore, for the reasons explained in question 3 and in accordance with the suggested proportionality principle, the Taskforce does not support ESMA's proposal to subject SIs OTC automated trading processes to identical (i) governance arrangements for trading systems and trading algorithms, (ii) controlled deployment of algorithms (iii) kill functionality and other risks controls as for algorithms used for trading on trading venue. As explained in the answer to question 3, the risks are of very different nature between the bilateral and multilateral electronic trading.

Additionally, it is critical to clarify that SIs are investment firms using algorithmic trading and not execution venues allowing algorithmic trading through its system. Counterparties trade with SIs and not on SI.

<ESMA\_QUESTION\_ALGO\_9>

**Q10** : Do you agree with ESMA's proposals above? Please elaborate.

<ESMA\_QUESTION\_ALGO\_10>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_ALGO\_10>

**Q11** : Do you agree with ESMA's proposal? Please elaborate.

<ESMA\_QUESTION\_ALGO\_11>

The information requested in ESMA's proposal is above and beyond any notification information list requested by NCAs today from investment firms. The burden for investment firms as well as other NCAs would be too great and there is no justification for the additional information. NCAs should have flexibility to ask for the notification information they need from investment firms, not superfluous information that they don't require. The list therefore should not be prescriptive, as suggested in this proposal. Therefore, the ICMA Taskforce does not agree with this proposal.

<ESMA\_QUESTION\_ALGO\_11>

**Q12** : Do you see merit in ESMA developing a template for notifications to NCAs under Articles 17(2) and 17(5) of MiFID II? If not, please justify your position.

<ESMA\_QUESTION\_ALGO\_12>

ICMA considers NCAs should have flexibility to ask for the notification information they need and does not see merit in a prescriptive ESMA template for investment firm notifications to NCAs. It is up to individual member state NCAs to decide what information is required.

<ESMA\_QUESTION\_ALGO\_12>

1.

<ESMA\_QUESTION\_ALGO\_0>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_0>

**Q13** : Do you agree that it would be useful to clarify that notifications should be done 'without undue delay'?

<ESMA\_QUESTION\_ALGO\_13>

Any information that is required by NCAs today is provided 'without undue delay' from investment firms. This is understood by both NCAs and investment firms. Therefore, adding 'without undue delay' to legislation is unnecessary. NCAs will monitor the provision of information from investment firms as they currently do today.

<ESMA\_QUESTION\_ALGO\_13>

**Q14** : Do you agree with ESMA's approach for the exchange of information between NCAs? If not, please justify your position.

<ESMA\_QUESTION\_ALGO\_14>

The Taskforce view is that NCAs should be able to exchange information, any information they deem necessary. ICMA conditionally agrees with ESMA's proposal, providing the information to be shared is the decision of the NCAs and it is not prescribed by ESMA.

<ESMA\_QUESTION\_ALGO\_14>

**Q15** : What is your view on clarifying the definition of algorithmic trading? If you deem it beneficial to refine the definition and account for further types of algorithms or algorithmic trading strategies, please provide your suggestion as well as underlying rationale.

<ESMA\_QUESTION\_ALGO\_15>

The Taskforce considers it may be useful to clarify (via Q&A) further the distinction between 'algo technology ownership/sponsorship' and 'algo user (client) usage' for sponsored auto-execution onto trading venues. Sponsored auto-execution onto bond trading venues is similar to DEA in equity markets. It may be more sensible to gear the regulation towards the algo technology owners/sponsors for this type of sponsored execution rather than the 'algo users'. Currently, there is no distinction between algo user or algo technology owner/sponsor in the regulation for sponsored auto-execution. Because of this, the regulation could bring algo users into scope when clearly the focus should be on the algo technology owners/sponsors.

<ESMA\_QUESTION\_ALGO\_15>

**Q16** : Do you think there should be specific requirements for different type of algorithms or algorithmic trading strategies in RTS 6? Please explain.

<ESMA\_QUESTION\_ALGO\_16>

The Taskforce views the current bond algo framework as adequate and ESMA does not need to add any specific requirements beyond the response to question 15.

<ESMA\_QUESTION\_ALGO\_16>

**Q17** : What is your experience with testing environments? Are they used frequently? If not, why? Do you see a need for any improvements?

<ESMA\_QUESTION\_ALGO\_17>

The Taskforce experience of testing environments is that they are regularly and frequently used by bond algo trading market participants.

However, the Taskforce notes in RTS 7, while there is universal testing criteria, in practice this has proved difficult to achieve. Taskforce members have found that testing criteria can be different from venue to venue. The testing is taking place but the testing process from one trading venue to another can vary widely. The different testing environments can cause different testing outcomes.

A welcome improvement would be more consistency across the board, such as: testing during the week (during normal business hours, M - F), use of real symbols vs synthetic (helps with test scripts), testing under normal and disorderly market conditions - as close as reasonably possible - and testing in a 'trading engine' environment with passive orders using set symbols (provided by the trading venue).

Testing should be tailored to the algo environment. It is not a one size fits all. This is also not a Level 1 issue. This is something a dedicated technical industry group should come up with, made up of algo specialists of investment firms and trading venues.

<ESMA\_QUESTION\_ALGO\_17>

**Q18** : Do you agree that the definition of "disorderly trading conditions" should be clarified? If yes, how would you define such trading conditions?

<ESMA\_QUESTION\_ALGO\_18>

The Taskforce agrees with ESMA's definition of disorderly trading conditions: "a market where the maintenance of a fair, orderly and transparent execution of trades is compromised". The Taskforce does not consider further clarification is needed. For further discussion on disorderly trading conditions see the answer to question 19.]

<ESMA\_QUESTION\_ALGO\_18>

**Q19** : Do you agree that ESMA should provide additional guidance on the expectations concerning the checks and testing to be done, in particular for testing on disorderly trading conditions?

<ESMA\_QUESTION\_ALGO\_19>

ICMA disagrees. ESMA should not provide additional guidance on expectations concerning the checks and testing to be done, in particular for testing of disorderly trading conditions. This is because forcing trading venues to provide to their members means to facilitate testing against 'disorderly trading conditions' would overly complicate the process. It would duplicate for members the same exercise, with different simulated volumes by venue, by the number of venues on which the members/participants operate. It is the experience of Taskforce members that today no trading venue provide sample testing scenarios for disorderly trading conditions.

However, the Taskforce believes this is something a dedicated technical industry group should come up with, made up of algo specialists of investment firms and trading venues.

<ESMA\_QUESTION\_ALGO\_19>

**Q20** : Would you agree that it could be beneficial if ESMA develops a prescribed format for the self-assessment foreseen in Article 9 of RTS 6?

<ESMA\_QUESTION\_ALGO\_20>

The Taskforce disagrees with any ESMA excessively prescribed algo self-assessment format. As ESMA well understands (as mentioned in paragraph 102) in the course of the self-assessment process, "firm (s) should review, evaluate and validate... having regard to the nature, scale and complexity of its business", indicating ESMA appears to understand self-assessments should be a proportionate exercise.

Off-venue bond algo trading involves a high degree of human interaction and the algos widely vary from firm to firm. These factors greatly complicate the nature of algo trading in bond markets. Therefore, it is the Taskforce view that standardising an algo self-assessment that in fact cannot be standardised because of its complexity, would not be a sensible endeavour for ESMA.

Furthermore, ICMA remains unconvinced this is a problem for NCAs. As ESMA observes in paragraph 120 "a minority of NCAs currently request this self-assessment for review" This seems to suggest there is not a problem here to solve or benefits to realise.

<ESMA\_QUESTION\_ALGO\_20>

**Q21** : Do you agree with the changes proposed to the self-assessment of Article 9 of RTS 6?

<ESMA\_QUESTION\_ALGO\_21>

The Taskforce disagrees with submitting to NCAs investment firm algo self-assessments on a systematic basis, either annually or bi-annually. The Taskforce does however agree that investment firms should diligently perform the self-assessment and that NCAs should be able to request the self-assessment at any time they deem necessary.

<ESMA\_QUESTION\_ALGO\_21>

**Q22** : Would you propose any other targeted legislative amendments to RTS 6? Please include a detailed explanation of the proposed amendment and of the underlying issue that this amendment would aim to tackle.

<ESMA\_QUESTION\_ALGO\_22>

No, ICMA's Taskforce would not propose any other targeted legislative amendments to RTS 6.

<ESMA\_QUESTION\_ALGO\_22>

**Q23** : Do you agree with ESMA's proposal to harmonize and create a clear structure for the performance of the self-assessment?

<ESMA\_QUESTION\_ALGO\_23>

The Taskforce disagrees with ESMA's proposal to harmonise and create a structured format for self-assessment for trading venues. Indeed the annex in RTS 7 already provides the necessary guidance and parameters for trading venues to consider when structuring their self-assessment format in proportion to venues operating and governance framework and trading activities undertaken on that venue.

Since not all trading models present the same risks, trading venues should be allowed the flexibility to create their own targeted bond algo self-assessment which regards the nature, scale and complexity of its business, such as protocols and instruments traded on the venue.

While trading venues should consider the guidance set down in RTS 7 annex to the self-assessment criterion, format flexibility will allow trading venues the ability to add additional meaningful criteria on top of what is set down in RTS 7 annex.

<ESMA\_QUESTION\_ALGO\_23>

**Q24** : Do you agree with limiting the self-assessment to every two years and to require trading venues to share it with their relevant NCA?

<ESMA\_QUESTION\_ALGO\_24>

ICMA's Taskforce would prefer to run the self-assessment every two years and share the self-assessment with the relevant NCA as and when required (for example upon a request from the NCA) as opposed to this becoming an additional regulatory filing that must be filed by a certain date, in which case this requirement will translate into an additional administrative burden and costs to the venue. In addition, self-assessment already is a part of the overall venue governance framework, subject to review and acknowledgment by the management body.

<ESMA\_QUESTION\_ALGO\_24>

**Q25** : Do you agree with ESMA's analysis about the overlapping requirements between RTS 6 and 7? Are those overlaps considered beneficial, should they be removed or are there any gaps? Are there any further points that should be clarified?

<ESMA\_QUESTION\_ALGO\_25>

Trading venues should ask the investment firm to confirm algo testing has been carried out before deployment, even if the investment firm has informed their NCA that testing has been carried out. This is beneficial to both investment firm and trading venue. The Taskforce considers this overlap should not be removed.

<ESMA\_QUESTION\_ALGO\_25>

**Q26** : What is your view with regards to the testing of algorithms requirements? Do you agree that more robust testing scenarios should be set?

<ESMA\_QUESTION\_ALGO\_26>

Please see answer to question 17.

<ESMA\_QUESTION\_ALGO\_26>

**Q27** : Are the testing environments available for the testing of algorithms appropriate for this purpose?

<ESMA\_QUESTION\_ALGO\_27>

Please see answer to question 17.

<ESMA\_QUESTION\_ALGO\_27>

**Q28** : Do you agree with ESMA's analysis that the circuit breaker mechanism achieved its objective to avoid significant disruptions to the orderliness of trading?

<ESMA\_QUESTION\_ALGO\_28>

In relation to continuous trading for bonds, the Taskforce agrees with ESMA's analysis that circuit breaker mechanism achieved its objective.

<ESMA\_QUESTION\_ALGO\_28>

**Q29** : Do you agree that the requirements under Article 48(5) of MiFID II complemented by RTS 7 and the guidelines on the calibration of circuit breakers and publication of trading halts under MiFID II remain appropriate? If not, what regulatory changes do you deem necessary?

<ESMA\_QUESTION\_ALGO\_29>

The Taskforce believes in relation to continuous trading for bonds, the current regulatory framework remains appropriate; no regulatory changes are necessary. Furthermore, trading venues are already aligned with the calibration of circuit breakers and publication of trading halts.

<ESMA\_QUESTION\_ALGO\_29>

**Q30** : Do you agree that the co-location services and fees structures are fair and non-discriminatory? Please elaborate.

<ESMA\_QUESTION\_ALGO\_30>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_30>

**Q31** : Do you think that the disclosures under RTS 10 made by the trading venues are sufficient or should they be harmonized among the different entities? Please explain.

<ESMA\_QUESTION\_ALGO\_31>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_31>

**Q32** : Do you agree with ESMA's proposal to set out the maximum OTR ratio, calibrated per asset class?

<ESMA\_QUESTION\_ALGO\_32>

In regard to continuous trading for bonds, the Taskforce disagrees with the proposal to introduce a Level 1 amendment to include an empowerment for ESMA to develop technical standards to set out the maximum OTR ratio, calibrated per asset class. It is important that the systems used by trading venues to limit the OTR ratio, are tailored to their rules and configurations. The calibration for asset class will not be sufficient to take these factors into account.

As ESMA emphasized, there are many critical parameters to be taken into account to set the OTR ratio. Those parameters include, but are not limited to, the trading venue's technological and connectivity infrastructure, matching algorithm used and the rules for the provision of liquidity.

Furthermore, there is no clear evidence that variances in OTR ratios affect the level of protection across the EU and even if there is an impact, it should also be considered that a maximum OTR threshold may negatively affect the competitiveness of efficient trading venues in favour of less efficient trading venues.

More importantly, ESMA should exempt the activity done under contractual liquidity provision agreements in the calculation of the OTR ratio.

<ESMA\_QUESTION\_ALGO\_32>

**Q33** Q33: Do you agree that the maximum limits are not frequently exceeded? Please explain any potential underlying issues in this respect that should be recognised.

<ESMA\_QUESTION\_ALGO\_33>

In regard to continuous trading for bonds, the Taskforce agrees with ESMA, the maximum OTR thresholds are rarely exceeded. The Taskforce also understands maximum OTR thresholds are set up to properly manage the platform (venue) capacity and avoid progressing towards to its peak. Therefore, it is acceptable by the industry and considered normal that the OTR thresholds are rarely exceeded.

<ESMA\_QUESTION\_ALGO\_33>

**Q34** : Do you agree with the consequences as described of exceeding the maximum limits or should there be a more convergent approach? Please provide any comment or suggestion regarding the procedures in place by trading venues in case of a member exceeding the prescribed limit.

<ESMA\_QUESTION\_ALGO\_34>

In regard to continuous trading for bonds, the Taskforce shares the view that the procedures set out by ESMA are procedures commonly adopted by trading venues, which have proven to be effective. ESMA should not seek to propose a more convergent approach, as it would lack added value. The existing regime provides trading venues with the necessary flexibility to determine how to deal with participants in case the OTR limit is exceeded (order cancellation, call, formal letter, additional fee or penalty charges, etc.). Trading venues should be able to adopt procedures that are tailored to their business models in order to remain competitive.

<ESMA\_QUESTION\_ALGO\_34>

**Q35** : Do you agree with the need to improve the notification process in case of IT incidents and system outages? Beyond the notification process between NCAs and ESMA, which improvements could be done regarding communication of incidents to the public?

<ESMA\_QUESTION\_ALGO\_35>

In regard to continuous trading for bonds, the Taskforce considers the current regulatory framework on this matter is appropriate and do not see the need to improve the notification process or the communication of incidents to the public.

<ESMA\_QUESTION\_ALGO\_35>

**Q36** : Do you believe any initiative should be put forward to ensure there is more continuity on trading in case of an outage on the main market, e.g. by requiring algo traders to use more than one reference data point?

<ESMA\_QUESTION\_ALGO\_36>

The concept of a 'main market' which makes up a significant share of trading activity and de facto sets reference prices is more common for equity-like markets. The examples of market outages which ESMA cites predominantly affects equity markets. The concept of a main market does not apply to bond markets. As a result, the taskforce does not believe that, at this point in time, further initiatives regarding more continuity of trading should be put forward and deems the regulatory framework to be appropriate for bond markets.

<ESMA\_QUESTION\_ALGO\_36>

**Q37** : Do you agree with the view that the tick size regime had overall a positive effect on market depth and transaction costs?

<ESMA\_QUESTION\_ALGO\_37>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_37>

**Q38** : Is there any further issue you would like to highlight regarding tick size regime?

<ESMA\_QUESTION\_ALGO\_38>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_38>

**Q39** : Do You agree with the proposal not to amend the tick size regime for third country shares? Please explain.

<ESMA\_QUESTION\_ALGO\_39>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_39>

**Q40** : Do you agree with the proposal to widen the scope of the tick size regime to all ETFs? Would this pose challenges in your view? Please explain.

<ESMA\_QUESTION\_ALGO\_40>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_40>

**Q41** : Do you agree with the proposal not to widen the scope of the tick size regime to non-equity instruments? Please explain.

<ESMA\_QUESTION\_ALGO\_41>

The Taskforce agrees the tick size regime should not be widened to include bonds (non-equity instruments).

<ESMA\_QUESTION\_ALGO\_41>

**Q42** : Do you agree with ESMA findings and assessment of the current MiFID II market making regime?

<ESMA\_QUESTION\_ALGO\_42>

The Taskforce disagrees with ESMA's findings and assessment of the current MiFID II market making regime.

Furthermore, EU Regulated Markets and MTFs that operate continuous trading in bonds have not registered, due to the market making regime, an increase in predictable provision of liquidity. Furthermore, the regime has complicated the requirements for liquidity providers that are acting under different liquidity provision agreements, specifically agreements under RTS 8 and agreements set by the trading venues.

<ESMA\_QUESTION\_ALGO\_42>

**Q43** : What do you think of ESMA proposals and suggested amendments to RTS 8? In your view, what other aspects of the market making regime require to be amended and how?

<ESMA\_QUESTION\_ALGO\_43>

ICMA agrees with point A that market making agreements only applies to continuous trading and not request for quote (RFQ) trading. ICMA welcomes orderbook trading (continuous trading) for very liquid bonds. However, ICMA disagrees with point b and c. Non-orderbook trading e.g. bond trading is not in scope for b and c. The liquidity is based on inventory and axes versus an orderbook. The liquidity is driven more by RFQ.

EU trading venues are at their most competitive when they have flexibility. This means market making agreements should not be forced upon them. The unintended consequence could be to disincentivise market makers from signing the agreements.

As mentioned above, ICMA welcomes orderbook trading (continuous trading) for very liquid bonds. However, in regard to articles 1 and 2 and bond orderbook trading, there should be an exemption from MiFID II market making agreements for a bond order books (continuous trading), where liquidity provision is already established contractually by said venue with liquidity providers.

As mentioned above, ICMA welcomes orderbook trading (continuous trading) for bonds but disagrees with the introducing point b and c, that would have a detrimental impact on the liquidity in particular. Imposing monetary rebates in stress market condition will not improve the provision of liquidity. ICMA reckons that market based measures (as reducing quoting size and widening of the spread obligations) are more effective.

<ESMA\_QUESTION\_ALGO\_43>

**Q44** : What are market participants views regarding the flexibility left in the MiFID II market making regime? Would you agree with ESMA further clarifying certain relevant concepts? If yes, which ones?

<ESMA\_QUESTION\_ALGO\_44>

"Discretion is beneficial to allow trading venues to adapt the rules to the nature and scale of their activity". The ICMA Taskforce would add to this sentence "and also the nature and scale of the asset class". Again, trading venues should be allowed to have flexibility and discretion when applying market making agreements for bond trading.

However, as ESMA will see below in the answer to question 45 regarding Primary Dealer Agreements, the same or similar logic applies to market making agreements with corporate or government bond liquidity contractual agreements on venues. There are today contractual bond liquidity agreements with venues and ICMA recommends removing the duplicative efforts of venue contractual liquidity agreements and MiFID II Market Making agreements.

<ESMA\_QUESTION\_ALGO\_44>

**Q45** : Could you please describe how Primary Dealers agreements are designed (number of designated Primary Dealers, transparency about investment firms having signed such agreements, typical obligations contained, etc...). Do you consider that Primary Dealers should be exempted from the Article 1 of RTS 8? Do you consider that this can introduce a regulatory loophole?

<ESMA\_QUESTION\_ALGO\_45>

ICMA believes market making agreement regulatory requirements were primarily drafted for Equity markets and were not aimed at other asset classes such as EU government bonds which already had an existing and proven framework to ensure liquidity and transparency, based on various DMO (s) requirements and monitoring on one side, and free competition between investment firms on the other side.

More specifically, Primary Dealers in EU government bond markets have obligations defined in agreements with specific DMOs. Those obligations were set to promote liquidity and transparency in the secondary markets including: quoting obligations in terms of minimum duration of the quotation, maximum bid-offer spreads, minimum size to be displayed. Primary Dealers as per their Primary Dealer agreements with their DMOs, are free to fulfil their quoting obligations on eligible trading venues. A few examples of these trading venues are, MTS, BrokerTec, BGC Brokers, SENAF (Spain) and HDAT (Greece).

Since 2018, the MiFID II market making agreement requirements, again designed for equity markets, force Primary Dealers in EU government bonds to fulfil market making obligations on each trading venue on which they are active. Consequently, the result has been confusion for Primary Dealers between MiFID II market making obligations, trading venues rules/supervision and DMO obligations. Creating unnecessary risk exposure and burdensome management for Primary Dealers to maintain regulatory obligations concerning liquidity and transparency. Further confusion is added by individual NCA supervision.

The ICMA Taskforce agrees with ESMA's proposal to exempt Primary Dealers from MiFID II market making agreements requirements for each trading venue on which they are active. In addition, the Taskforce believes instead of exempting individual primary dealers, it would be more appropriate to exempt the EU government bond asset class as a whole and then apply the similar logic to corporate bonds in the future.

ICMA recommends Primary Dealers should be free to fulfil their DMO government bond obligations of liquidity and transparency on any specific trading venue, and act as any other investment firm / liquidity taker on other trading venues. ICMA also welcomes ESMA's proposal to exempt Primary Dealers from MiFID II market making agreement requirements for each trading venue on which they are active.

Looking specifically at ESMA paragraph 309 which refers to “designated platforms”, the exemption would need to be valid on ANY trading venue, not only on the trading venue on which the Primary Dealer has chosen to fulfil its obligation. For example, assuming a Primary Dealer is fulfilling Primary Dealer obligations on trading venue “ABC”, this Primary Dealer should not be forced to be MiFID II market maker on a trading venue “XYZ”.

Following this logic, ICMA recommends instead of exempting Primary Dealers from market making obligations on trading venues/venue, it would be more appropriate to exempt the EU government bond asset class as a whole from MiFID II market making obligations and then apply the similar logic to corporate bonds in the future.

The Taskforce believes no significant loopholes would arise from such an exemption.

<ESMA\_QUESTION\_ALGO\_45>

**Q46** : Do you think that venues which introduced asymmetric speedbumps provide enough information regarding the mechanism used? If not, what additional information would be useful to disclose to market participants?

<ESMA\_QUESTION\_ALGO\_46>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_46>

**Q47** : Reflecting on those mechanisms which allow liquidity providers to provide quotes that can be filled only against retail order flow, do you think that such mechanisms are beneficial in terms of market quality? Is there any specific aspect that you think should be further taken into account, also considering the type of instruments traded? Please specify the venue of reference and the type of arrangement discussed.

<ESMA\_QUESTION\_ALGO\_47>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_47>

**Q48** : Do you think that venues which introduce asymmetric speedbumps should set tighter market making requirements? Please explain why and how tight those new requirements should be.

<ESMA\_QUESTION\_ALGO\_48>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_48>

**Q49** : Do you agree on the conclusion that speedbumps might not be a well-suited arrangement for equity markets? If yes, do you think that such arrangements for equities should be prohibited in Level 1? Please explain.

<ESMA\_QUESTION\_ALGO\_49>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_49>

**Q50** : Do you think that the introduction and functioning of speedbumps should be further regulated? If yes, which specific requirements would you like to be included in EU legislation?

<ESMA\_QUESTION\_ALGO\_50>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_50>

**Q51** : Is there any specific issue you would like to highlight about speedbumps?

<ESMA\_QUESTION\_ALGO\_51>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_51>

**Q52** : What are your views on the relative timing of private fill confirmations and public trade messages? If you are a trading venue, please provide in your answer an explanation of the model you have in place.

<ESMA\_QUESTION\_ALGO\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_52>

**Q53** : Do you consider information on the sequencing of these two feeds at trading venues to be easily available? If you are a trading venue, please provide a link to where this information can be found publicly.

<ESMA\_QUESTION\_ALGO\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_53>

**Q54** : Do you think there should be any legislative amendments or policy measures in respect of these feed dynamics?

<ESMA\_QUESTION\_ALGO\_54>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_54>