Quoted Companies Alliance

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European Securities and Markets Authority (ESMA)
103, rue de Grenelle
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2 March 2015

Dear Sirs,

Consultation Paper MiFID II/MiFIR (ESMA/2014/1570)

Introduction

We are the Quoted Companies Alliance, the independent membership organisation that champions the interests of small to mid-size quoted companies. Their individual market capitalisations tend to be below £500m.

The Quoted Companies Alliance is a founder member of European**Issuers**, which represents over 9,000 quoted companies in fourteen European countries.

The Quoted Companies Alliance Secondary Markets Expert Group has examined your proposals and advised on this response. A list of members of the Expert Group is at Appendix A.

Response

2.4. Information relating to execution of orders

Q30 Do you agree with the approach taken by ESMA? Would a different period of measurement be more useful for the published reports?

As we noted in our response to the Discussion Paper (August 2014), we do not believe that market makers should be categorised as execution venues, and we specifically object in relation to equity markets. Despite having refined its proposals, ESMA has not addressed the concerns of respondents about the inclusion of systematic internalisers, market makers and other liquidity providers within the definition of execution venues (p.38).

The Level I text recognises different market structures and obligations, and specifically the 'trading obligation' (article 27 (3)), which establishes that trading in equities should be performed by Trading Venues subject to strict rules regarding conduct and price formation. 'Trading venues' is a defined term and does not include market makers.

However, contrary to the Level I text, and as we had pointed out in our response to the Discussion Paper:

- Equity market makers are a participant on a trading venue, subject to market making agreements and rules (such as the obligation to be present for a minimum percentage of the trading day). The obligation to report reflects upon the Trading Venues on which they are participants; and

- The proposed definition would mean the duplication of effort in the collation and publication of data. This would result in increased costs for liquidity providers with very little added benefit, and so the cost of capital for growing companies could increase.

We believe that this definition goes beyond ESMA's mandate and is contrary to the definition in Level I. We urge ESMA to follow the Commission's recommendations and not impose restrictions to equity market makers.

3.4. Post-trade transparency for trading venues and investment firms in respect of equity and equity like financial instruments – Deferred publication of transactions

Q54 Do you agree with the proposed classes and thresholds for large in scale transactions in shares and depositary receipts? Please provide reasons for your answers.

As noted in paragraph 41, p. 90 of the Consultation Paper, we welcome that ESMA has proposed an additional ADT class for less liquid securities (ADT < 50,000). However, this ADT class is not included in the table under paragraph 38. We also note that the new proposed ADT class is not included in Annex II, Table 5 of the Draft Regulatory Technical Standards (p. 128). Therefore, it is difficult to evaluate whether the new proposed ADT class will address our concerns regarding the deferral periods for large in scale transactions of less liquid securities, such as those of small and mid-size quoted companies.

Furthermore, we note that ESMA has stated that an end of day deferral period is the longest that will be offered. We continue to believe that the loss of publication delays past the end of the trading day will dramatically reduce liquidity in shares on SME Growth Markets and also in shares of small and mid-size listed companies on regulated markets. Where larger trades do occur, the bid offer spread will be far larger to reflect the additional market risk faced by the market maker. This is therefore harmful to all market participants. If the market is seen to be less welcoming, it will become questionable how desirable it is to invest in small and mid-size quoted company securities. This should be avoided, as a degradation of the secondary markets will lead to an unhealthy primary market, thus making it difficult for small and mid-size quoted companies to raise finance and grow.

Therefore, we support a deferral period of up to two days delayed publication for less liquid securities in ESMA's new ADT class (ADT < €50,000), subject to the publication of the detail of this class which we are unable to locate in the Consultation Paper and Draft Technical Standards.

We also believe that the smallest size of transaction thresholds for the <100,000 ADT class (€15,000 in the consultation paper and technical standards) should remain at the current level of €10,000, and the smallest size of transaction threshold for the 500,000 – 1m ADT class (€75, 000 in the consultation paper and technical standard) should remain at €25,000. This is essential for supporting the retail investment in small and mid-size quoted companies' stocks.

4.3. Market making, market making agreements and marking making schemes

Q104 Do you agree with the proposed draft RTS? Please provide reasons for your answer.

We welcome ESMA's clarification regarding the new obligations in MIFID II for investment firms engaged in algorithmic trading that pursues a market making strategy.

However, we note that ESMA should ensure that the classification and rules applicable to other existing market making models recognised under MiFID I remain unchanged. Traditional market making models are very different to those of algorithmic trading and provide an important function in some markets to the provision of liquidity for small and mid-size quoted companies. This should be recognised in the Regulatory Technical Standards by explicitly stating that what is being introduced is only meant to capture algorithmic trading and that the existing market making programmes may continue unaltered.

4.6. Tick sizes (Article 48(6) and Article 49 of MiFID II)

Q123. Do you agree that the average number of trades per day should be considered on the most relevant market in terms of liquidity? Or should it be considered on another market such as the primary listing market (the trading venue where the financial instrument was originally listed)? Please provide reasons for your answer.

Currently, the proposed tick sizes are biased toward liquid markets and securities. Whilst smaller tick sizes may be tolerable for trading in larger, more liquid stocks, they are detrimental to issuers and investors of small and mid-size quoted companies' stocks, particularly in terms of liquidity and visibility. [1]

If Europe's equity markets are to remain competitive in terms of attracting small, growth businesses, they need to provide a viable tick size regime. This would significantly contribute to creating a framework to lower the costs which small and mid-size quoted companies incur to access equity finance.

Therefore, we believe that ESMA should consider that the bands may need to be set differently. We propose that assigning tick sizes to stocks is based on the MiFID list of liquid shares and/or market capitalisation, whereas issuers with a market cap of less than €10bn would have a less granular tick size applied. We believe that any stocks outside of the MiFID list of liquid shares should continue to have the tick size managed by the listing authority and/or market operator. This would allow for tick sizes applying to small and mid-size quoted companies' stocks to be better assessed and applied, taking into consideration specific market circumstances.

Q124 Do you believe a more granular approach (i.e. additional liquidity bands) would be more suitable for very liquid stocks and/or for poorly liquid stocks? Do you consider the proposed tick sizes adequate in particular with respect to the smaller price ranges and less liquid instruments as well as higher price ranges and highly liquid instruments? Please provide reasons for your answer.

While we believe that the given price ranges are adequate for liquid securities, the proposed tick sizes are not adequate with respect to the smaller price ranges and less liquid instruments.

In addition to what we have stated in our response to Q123, we urge ESMA to consider in its Regulatory Technical Standards that small and mid-size quoted companies' stocks often rely on market makers for liquidity in the trading in their stocks. The adjustment of the tick size for less liquid securities may have a negative impact in the market makers' ability to provide liquidity due to reduced spreads, which consequently could lead to a reduced incentive and appetite to provide liquidity to those stocks. This could potentially lead to fewer new small and mid-size companies joining public equity markets, as well as create

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[1] Weild, David, Edward Kim and Lisa Newport. The trouble with small tick sizes: Larger tick sizes will bring back capital formation, jobs and investor confidence. Grant Thornton Capital Market Series. September 2012: http://www.gt.com/staticfiles/GTCom/Public%20companies%20and%20capital%20markets/Trouble_Small_Ticks.pdf

numerous potential problems for small and mid-size quoted companies such as less reinvestment, less research in these companies' stocks and eventually less liquidity.

We strongly believe that these companies should see access to equity finance facilitated and supported, not hindered, and we urge ESMA to carefully consider this in its Regulatory Technical Standards.

Q129. To what extent does an annual revision of the liquidity bands (number and bounds) allow interacting efficiently with the market microstructure? Can you propose other way to interact efficiently with the market microstructure? Please provide reasons for your answer.

We believe that the review of tick sizes for less liquid shares should be made half-yearly, to be able to quickly adjust tick sizes and prevent harm caused to trading in those securities. As less liquid stocks have a brief trading profile (unlike liquid stocks), an annual revision of the liquidity bands could in effect constrain the trading in these securities for a long period of time.

If you would like to discuss our response in more detail, we would be happy to attend a meeting.

Yours faithfully,

Tim Ward
Chief Executive

APPENDIX A

Quoted Companies Alliance Secondary Markets Expert Group

Simon Rafferty (Chairman)	Winterflood Securities Ltd
Jon Gerty (Deputy Chairman)	Shore Capital Group Ltd
Paul Arathoon Andrew Collins William Garner	Charles Russell Speechlys LLP
Jessica Reed	Farrer & Co
Mark Tubby	finnCap
Nick Anderson Clare Forster	Henderson Global Investors
Fraser Elms Katie Potts	Herald Investment Management Ltd
William Lynne Claire Noyce	Hybridan LLP
Peter Swabey	ICSA
Jeremy Phillips	Nabarro LLP
Ian Wright	Numis Securities Limited
Sunil Dhall Andrew Palmer	Peel Hunt LLP
James Stapleton	Winterflood Securities Ltd