ESMA consults on liquidity stress test guidance for investment funds

ESMA's draft guidelines for fund managers aim to promote convergence in the way national competent authorities (NCAs) supervise funds liquidity stress testing across the European Union (EU). The consultation sets out 14 principle-based criteria for managers' liquidity stress tests to follow when executing liquidity stress tests on their funds.

Managers of investment funds in the EU need to regularly test the resilience of their funds for different types of market risks, including for liquidity risk – the risk that assets cannot be sold quickly enough to meet investors' redemption requests.

Draft Guidelines on Liquidity Stress Testing

The draft principles require stress tests to:

- be tailored towards the individual fund;
- reflect the most applicable risks to a fund;
- be sufficiently extreme or unfavourable (yet plausible);
- sufficiently model how a manager is likely to act in times of stressed market conditions; and
- be embedded into the fund's overall risk management framework.

One Guideline will also apply to depositaries, outlining how they should fulfil their obligations regarding liquidity stress tests.

ESMA is seeking stakeholders' views on the guidance fund managers should follow, which include:

- the design of liquidity stress testing scenarios;
- the liquidity stress test policy, including internal use of liquidity stress test results;
- considerations for the asset and liability sides of investment fund balance sheets; and
- the timing and frequency for individual funds to conduct the liquidity stress tests.

The ESMA Guidelines follow recommendations by the European Systemic Risk Board (ESRB) published in April 2018 on how to address liquidity and leverage risk in investment funds. The ESRB mandate asked for the principles to be based on the stress testing requirements set out in the Alternative Investment Fund Directive (AIFMD) and how market participants carry out stress testing.

Next Steps

The consultation is open for feedback until 1 April 2019. ESMA will consider the feedback it receives to this consultation in early Q2 2019 and expects to publish a final report by the summer of 2019. Responses to this consultation will therefore help ESMA in finalising the guidelines for publication.

MiFID II: ESMA publishes data for the systematic internaliser calculations for equity, equity-like instruments and bonds

More specifically, ESMA has published the total number of trades and total volume over the period July-December 2018 for the purpose of the systematic internaliser (SI) calculations for 16,690 equity and equity-like instruments and for 417,288 bonds.

The results are published only for instruments for which trading venues submitted data for at least 95% of all trading days over the 6-month observation period. The data publications also incorporate OTC trading to the extent it has been reported to ESMA. The publication includes data also for instruments which are no longer available for trading on EU trading venues at the end of December.

The publication of the data for the SI calculations for derivatives and other instruments has been delayed until 2020 at the latest, as set out in the updated plan announced by ESMA on 30 January 2019. The SI-assessment for those asset classes does not need to be performed until 2020 at the latest.

Background

According to Article 4(1)(20) of Directive 2014/65/EU (MiFID II) investment firms dealing on own account when executing client orders over the counter (OTC) on an organised, frequent systematic and substantial basis are subject to the mandatory SI regime.

Commission Delegated Regulation (EU) No 2017/565 specifies thresholds determining what constitutes frequent, systematic and substantial OTC trading. In particular, investment firms are required to assess whether they are SIs in a specific instrument (for equity and equity-like instruments, bonds, ETCs and ETNs and SFPs) or for a (sub-) class of instruments (for derivatives, securitised derivatives and emission allowances) on a quarterly basis based on data from the previous six months. For each specific instrument/sub-class, an investment firm is required to compare the trading it undertakes on its own account compared to the total volume and number of transactions executed in the European Union (EU). If the investment firm exceeds the relative thresholds it will be deemed an SI and will have to fulfil the SI-specific obligations. ESMA, upon request of market participants and on a voluntary basis, decided to compute the total volume and number of transactions executed in the EU in order to help market participants in the performance of the test since that data is essential for the operation of the SI regime and is not otherwise easily available.

[MiFID II: ESMA makes new bond liquidity data available]

ESMA has started today to make available the third quarterly liquidity assessment for bonds available for trading on EU trading venues at the end of December. For this period, there are currently 439 liquid bonds subject to MiFID II transparency requirements.

ESMA's liquidity assessment for bonds is based on a quarterly assessment of quantitative liquidity criteria, which include the daily average trading activity (trades and notional amount) and percentage of days traded per quarter. ESMA updates the bond market liquidity assessments quarterly. However, additional data and corrections submitted to ESMA may result in further updates within each quarter, published in ESMA's Financial Instruments Transparency System (FITRS), which shall be applicable the day following publication.

The full list of assessed bonds will be available through FITRS in the XML files with publication date from 1 February 2019 and through the Register web interface.

As communicated on 27 September 2018, ESMA is also publishing two completeness indicators related to bond liquidity data.

In order to assess the contribution of a trading venue, both completeness indicators should be considered. The completeness ratio indicates the percentage of reports provided divided by the number of reports expected, irrespectively of the number of instruments available for trading on that trading venue. In other words, missing one or a few periods for a large number of instruments, or missing the same number of periods in one instrument only, does not change the value of this indicator. This indicator is independent from the number of instruments available for trading on the venue. On the other hand, the completeness shortfall takes into account the number of incomplete ISINs for the trading venue. In other words, missing one or a few periods for a large number of instruments, increases the value of this indicator.

Background

MiFID II became applicable on 3 January 2018 introducing, amongst others, pre- and post-trade transparency requirements for equity and non-equity instruments, including for bonds. Post-trade, MiFID II requires real-time publication of the price and quantity of trades in liquid bonds. It is possible to defer the publication of post-trade reports if the instrument does not have a liquid market, or if the transaction size is above large-in-scale thresholds (LIS), or above a size specific to the instrument (SSTI). In order to assist market participants to know whether a bond should be considered as liquid or not, ESMA publishes these quarterly liquidity assessments for bonds.

Next steps
The transparency requirements for bonds deemed liquid today will apply from 16 February 2019 to 15 May 2019.

International drug trafficking network disrupted

Joint Eurojust/Europol press release

1 February 2019

Today, in a joint operation, the German Public Prosecutor's Office (PPO) in Münster, the German Customs' Investigation Office, the Dutch Specialised Prosecution Office for Fraud and Environmental Crime in Zwolle and the Dutch Fiscal Intelligence and Investigation Service (FIOD) dismantled an organised crime group (OCG) involved in international drug trafficking and money laundering.

The national investigations that culminated in the common action day were supported by Eurojust and Europol. A joint investigation team (JIT) was established in November 2018, which allowed the national authorities to quickly gather and safely exchange information and evidence. Eurojust provided financial support to the JIT and facilitated judicial and operational cooperation between the national authorities. Europol deployed a mobile office during the action and provided forensic support on the spot.

The national investigations into the OCG were initiated in September 2018. The OCG was composed of 13 members, including some of Afghan and Dutch origin. The suspects in the Netherlands prepared parcels or envelopes with drugs, which were mailed to Germany. The perpetrators in Germany used various mailboxes and post offices to ship the packages on to recipients around the world. The orders were made online through the darknet, using cryptocurrency, such as bitcoin and paysafecards, given the anonymity it offers. Members of the OCG are also suspected of being involved in money laundering activities related to their profits.

Prior to today's action, amphetamines, MDMA, cocaine, heroin and ecstasy, with a total street value of more than € 400 000, were seized. Today, 10 private residences and business premises were searched at the German-Dutch border. Large amounts of drugs, including 40 kg of amphetamine and 1 kg of ecstasy pills, as well as mobile phones, computers, documents and € 10 000 in cash, were seized. Twelve suspects were arrested, 4 under European Arrest Warrants.

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Main topics and media events 4 – 17 February 2019