ESMA updates MiFID II Q&As on transparency issues

The updated Q&As provide clarification on the following topics:

- The mandatory systematic internaliser (SI) regime;
- The voluntary SI regime; and,
- Quoting obligation for SI in non-TOTV instruments.

Updates to obsolete Q&As

ESMA also reviewed its published Q&As on transparency issues with the objective of deleting or amending obsolete Q&As such as those addressing issues pertaining to either 3 January 2018, or the following 12 months. This concerns five Q&As:

- First calculations to be published on 3 January 2018 – shares admitted to trading on RM (Q&A 1 of section 6 on the double volume cap mechanism);
- First calculations to be published on 3 January 2018 – MTF only shares, depositary receipts, certificates (Q&A 2 of section 6 on the double volume cap mechanism);
- Reporting of a new ISIN in FIRDS and FITRS following a corporate action (Q&A 13 of section 2 on General Q&As on transparency topics);
- Pre-trade transparency waivers under MiFID I (Q&A 1 of section 5 on Pre-trade transparency waivers); and,
- Compliance with the SI regime and notification to NCAs (Q&A 6(b) of section 7 on the systematic internaliser regime).

Background

The purpose of these Q&As is to promote common supervisory approaches and practices in the application of MiFID II and MiFIR. They provide responses to questions posed by the general public and market participants in relation to the practical application of level 1 and level 2 provisions relating to transparency and market structures issues.

ESMA will continue to develop these Q&As in the coming months and will review and update them where required.

ESMA updates MiFID Q&As on

transparency issues

The updated Q&As provide clarification on the following topics:

- The mandatory systematic internaliser (SI) regime;
- The voluntary SI regime; and,
- Quoting obligation for SI in non-TOTV instruments.

Updates to obsolete Q&As

ESMA also reviewed its published Q&As on transparency issues with the objective of deleting or amending obsolete Q&As such as those addressing issues pertaining to either 3 January 2018, or the following 12 months. This concerns five Q&As:

- First calculations to be published on 3 January 2018 – shares admitted to trading on RM (Q&A 1 of section 6 on the double volume cap mechanism);
- First calculations to be published on 3 January 2018 – MTF only shares, depositary receipts, certificates (Q&A 2 of section 6 on the double volume cap mechanism);
- Reporting of a new ISIN in FIRDS and FITRS following a corporate action (Q&A 13 of section 2 on General Q&As on transparency topics);
- Pre-trade transparency waivers under MiFID I (Q&A 1 of section 5 on Pre-trade transparency waivers); and,
- Compliance with the SI regime and notification to NCAs (Q&A 6(b) of section 7 on the systematic internaliser regime).

Background

The purpose of these Q&As is to promote common supervisory approaches and practices in the application of MiFID II and MiFIR. They provide responses to questions posed by the general public and market participants in relation to the practical application of level 1 and level 2 provisions relating to transparency and market structures issues.

ESMA will continue to develop these Q&As in the coming months and will review and update them where required.

ESMA launches a Common Supervisory Action with NCAs on MiFID II

appropriateness rules

The European Securities and Markets Authority (ESMA) is launching a common supervisory action (CSA) which participant national competent authorities (NCAs) will carry out simultaneously, in the second half of 2019.

The supervisory activity will focus on the application of the MiFID II requirements on the assessment of appropriateness, a topic on which ESMA has recently published a supervisory briefing that will serve as a starting point for the CSA. NCAs that participate in the CSA will assess the application of the appropriateness requirements by a sample of investment firms under their supervision.

The correct application of the MiFID II requirements on the assessment of appropriateness is key to ensuring the protection of investors in the case of transactions that are not accompanied by investment advice. ESMA believes this initiative, and the related sharing of practices across NCAs, will help ensure consistent implementation and application of EU rules and enhance the protection of investors as well as improve the mutual understanding of supervisory approaches by NCAs, in line with ESMA objectives.

ESMA is mandated to take an active role in building a common supervisory culture among NCAs to promote sound, efficient, and consistent supervision throughout the EU. ESMA's promotion of supervisory convergence is done in close cooperation with NCAs.

EIOPA launches consultation on opinion on sustainability within Solvency II

The European Insurance and Occupational Pensions Authority (EIOPA) launched today a consultation on a draft opinion on sustainability within Solvency II. The draft opinion forms part of EIOPA's strategic activities on sustainable finance and follows a call for opinion from the European Commission. The consultation runs until Friday, 26 July 2019.

The draft opinion aims at integrating sustainability risks, in particular those related to climate change, in the investment and underwriting practices of (re)insurers. The opinion addresses the valuation of assets and liabilities, assesses current investment and underwriting practices and seeks to contribute to the integration of sustainability risks in market risks and natural catastrophe underwriting risks for the solvency capital requirements for standard formula and internal model users.

The draft opinion builds on EIOPA's Technical Advice on the integration of sustainability risks and factors in the delegated acts under the Solvency II Directive and the Insurance Distribution Directive.

Consultation process

For responding to this consultation please use the following link.

Please note that the deadline for the submission of comments is **Friday, 26 July 2019 at 23.59 hrs CET**.

All contributions received will be published following the close of the consultation, unless requested otherwise.

Legal basis

The draft opinion has been developed on the basis of Article 34(1) of Regulation (EU) No 1094/2010.

Speech by Commissioner Arias Cañete at the International Carbon Markets Conference

Dear Patricia,

Dear Michal,

Dear Minister Masagos,

Distinguished Guests,

Ladies and Gentlemen,

I am delighted to welcome you here to Brussels, and to see that we have assembled such an impressive group of experts for this conference. I hope the discussion you have had this morning have been fruitful and productive.

I do not have to explain to you the importance – or urgency – of climate action. Today our topic of choice is international carbon markets.

With ongoing discussions at the United Nations, and in ICAO, it is no surprise that international carbon markets are the subject of particular attention.

I hope that the meeting today can broaden our understanding of what is at stake, and point the way in terms of finding solutions.

As many of you will be aware, these buildings are no strangers to debate on carbon markets.

It is here that we have over the last nearly 20 years, been discussing, implementing, and improving our European carbon market – our flagship Emissions Trading System.

I can tell you now – we do not need to be persuaded on the importance of carbon markets.

If implemented well, they can deliver on the promise of enhanced ambition and integrity.

We are also, sometimes painfully, aware that ensuring high ambition and high standards requires no small measure of both political determination and technical understanding.

Both are essential to deliver the necessary results. It is here too, that much experience has been gained, and many lessons have been learnt.

No endeavour is without risks, but those risks need to be calculated. If mistakes are made, the challenge for us is not to repeat them.

Our ETS system is now in its fourth phase and has been subject to three comprehensive revisions,

We continued strengthening the ETS to deliver on our 2030 targets. Today the carbon price is above 25 euro, and has more than tripled, compared to the start of the Commission mandate, being consistently above EUR 20 since the beginning 2019. As a result, the total revenues of Member States raised from auctioning carbon allowances amounted to a record EUR 14 billion last year, providing funds to support low carbon investments across Europe.

It is precisely because of our experience with the ETS, that we were disappointed that comprehensive guidance on the use of international carbon markets was beyond our reach in Katowice.

This does not mean that we have given up, we will be working hard to secure agreement in Santiago. We are convinced that with sufficient political will and technical understanding an agreement is within reach.

But not without work, and not without a will to compromise. There are many explanations for why we did not get the carbon markets chapter of the Katowice Rulebook over the line in Poland.

Progress was made, and the options narrowed.

There remain however, many issues on the table, both technical and political, and the parties remain far apart in terms of the solutions needed to resolve them. You will have heard of some of them this morning.

Our challenge is to identify what is key, and to find a compromise that works. Compromise however, cannot be at the expense of integrity and ambition.

Carbon markets depend crucially on confidence and credibility, and our agreement needs to deliver both:

Confidence will come from an assurance that the use of markets is contributing to ambition, and does not undermine it, or stand in the way of further ambition.

Credibility on the other hand will come when we are clear as to what the risks are, and what is needed to address them.

I hope that this conference will contribute to a broader understanding of what is often a very technical discussion, and help us to identify not only risks but also potential solutions.

Some risks are well known, others may be less obvious but no less concerning.

Substantial banking of Kyoto protocol surpluses will reduce ambition or at least defer action for many years.

This is particularly problematic because as we all know, Kyoto Protocol surpluses are many times more than the anticipated demand, and allowing for their use will defer additional action.

Equally, a failure to account for action transferred to others and the potential for double counting will do the same – potentially rendering our stated goals ineffective.

Weak rules on offsetting risk doing the same, and will even undermine our collective ability to meet current and future commitments. We cannot all work on the basis of offsetting where credits are given simply for improvements on “business as usual”.

Finally, perhaps fundamentally, the absence of clear rules, leads to uncertainty.

Uncertainty can either defer the necessary action, or lead to flawed implementation, and ongoing problems.

It is against this backdrop that we must consider the role of the guidance and rules we adopt.

International rules cannot deliver ambition on their own, but good rules can help incentivise action – both now and in the future.

Bad rules on the other hand could mean we undermine, defer, or even impede higher ambition.

We may disagree on the implications and extent of the risks, and our capacity to address them.

It is important however that we do not ignore them.

I would like to give you my view of the challenges and what action is needed.

I hope that listening to you here, and in further discussions on the road to Santiago, will get us closer to a shared understanding and agreement.

The primary concern is ambition:

You should know that Europe is currently debating its long-term strategic vision for 2050 with the goal of climate-neutrality – something that will be essential for meeting the Paris temperature goals.

That is why I am convinced that the framework we agree should not merely help deliver on existing goals, but reflect our longer-term aspirations.

It remains to be seen what contribution international markets can make to the delivery of our longer-term goals, but it is essential they do not undermine them.

The second but equally important concern is credibility.

You will know that the EU was the major purchaser of CDM projects and as such, kick started the international carbon market during the first stages of the Kyoto Protocol.

I will not say that linking to the CDM was a mistake, but it has certainly been controversial, as was our subsequent withdrawal from the market.

What we do know is that we cannot afford to continue with the CDM model.

For those who don't remember the history, the EU bought a substantial amount of CDM units initially, and this represented substantial tonnes of reductions not delivered at home.

Moreover, half of the surplus is now in the EU-ETS as a result.

Whatever new mechanisms we establish will need to reflect the new circumstances of the Paris agreement.

In my view, it is no longer possible to consider international cooperation that does not ensure clear accounting, and guarantee sufficient ambition in any mechanism we use.

It is important to underline that these requirements are in the interest of both buyers and sellers – none of us can afford double counting, or continuation of business as usual approaches.

We have long been an advocate of CDM reform – making the CDM fit for the future.

It is important to be blunt here – the CDM delivered investment, but it did not work for everyone, particularly in terms of additionality, distribution and sustained demand.

In fact, many still question the credibility of the programme, where the additionally of activities is suspected, and where three countries took the lions share of benefits, while others missed the boat, or struggled to participate

This is why we have also supported the development of a new offsetting mechanism to replace the CDM, although without marked success. But we cannot be complacent.

As 2020 approaches, there is an increasingly urgent need to replace the CDM with something that delivers mitigation for both buying and selling participants.

As you know, we have a domestic target.

While we are not participating in offset markets, we are committed to exploring cooperation with those who are committed to capping their emissions in emissions trading.

We are keen to do the groundwork to ensure that we can link to appropriate systems over time, and that we can account fairly for the consequences of this linking.

In this regard, we support programmes that build capacity for the implementation of domestic emissions trading markets, both bilaterally and through multilateral institutions. Indeed, we have a keen interest in robust reporting and accounting internationally. We are also conscious that carbon markets cannot operate in a vacuum, and there are broader issues and concerns.

We have also demonstrated that emissions trading, through auctioning of allowances can deliver revenues that can be returned to those participating in different ways.

We have shown that emissions trading can be support transition, in Europe and beyond, through dedication of revenues to the promotion of the development and deployments of new and existing technologies, as well as support to those most impacted by the changes we need to see.

So, there is significant scope for carbon pricing to support the development or deployment of mitigation technologies, or to support those most affected by climate change, and the climate transition.

I am confident that this approach, rather than a levy on reductions, offer valuable opportunities whilst delivering on reduction goals.

I look forward to continue our discussions.

Thank you for your attention.