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| Response Form to the Consultation Paper on the clearing and derivative trading obligations in view of the 2022 status of the benchmark transition |
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**Responding to this paper**

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions. 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 **30 September 2022.**

**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. Use this form and send your responses in Word format (**pdf documents will not be considered except for annexes**);
3. Please do not remove tags of the type <ESMA\_QUESTION \_RFRR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
4. 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.
5. When you have drafted your response, name your response form according to the following convention: ESMA\_RFRR\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_RFRS\_ABCD\_RESPONSEFORM.
6. Upload the form containing your responses, **in Word format**, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open Consultations” -> Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition”).

**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](http://www.esma.europa.eu/legal-notice).

**Who should read this paper**

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from counterparties of OTC derivatives transactions which are subject to the clearing obligation or to the derivative trading obligation as well as from CCPs and Trading Venues.

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**General information about respondent**

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| --- | --- |
| Name of the company / organisation | Citadel |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | International |

**Questions**

**Introduction**

1. Are there any general comments you would like to raise?

<ESMA\_QUESTION\_RFRR\_1>

We appreciate the opportunity to respond to the European Securities and Markets Authority (“ESMA”) on its proposal to amend the classes of interest rate swaps that are subject to the clearing obligation (“CO”) and the derivatives trading obligation (“DTO”).[[1]](#footnote-2) We support ESMA’s proposal to extend the CO to additional maturities of Overnight Index Swaps (“OIS”) referencing the Secured Overnight Financing Rate (“SOFR”). We also support ESMA’s proposal to apply the DTO to certain classes of OIS referencing €STR and, as discussed below, we also believe it is appropriate for ESMA to apply the DTO to OIS referencing SOFR.

The CO and DTO are central pillars of the post-crisis reforms to the OTC derivatives markets. Central clearing is not only an important tool to mitigate systemic risk, it also promotes market liquidity, increases transparency, and protects investors. As the global interest rate derivatives market transitions away from referencing interbank offered rates (such as USD LIBOR) to referencing new risk-free reference rates, it is critical that the post-crisis reforms, including the CO and DTO, are applied to these new OTC derivative contracts.

<ESMA\_QUESTION\_RFRR\_1>

**General analysis**

1. Are there any other aspects of the transition that need to be taken into account? Please share any data that would help qualify further the progress with the transition or any other aspects that you think should be considered.

<ESMA\_QUESTION\_RFRR\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RFRR\_2>

**Clearing obligation**

1. Do you agree with the assessment of the EMIR criteria and with the proposed classes? Do you also agree that the maturities for SOFR OIS could be extended, including up to 50 years? If not, please detail how the assessment could differ and please also provide data and information to justify a different assessment.

<ESMA\_QUESTION\_RFRR\_3>

We believe it is appropriate to extend the CO to OIS referencing SOFR with maturities up to 50 years, and agree with ESMA’s determination that the relevant criteria are met.[[2]](#footnote-3) SOFR now accounts for more than 20% of the overall outstanding volume in interest rate derivatives denominated in USD in the European markets, a significant increase compared to January 2021 where only 1.5% of volume in USD denominated interest rate derivatives referenced SOFR.[[3]](#footnote-4) The rate of adoption of SOFR is also increasingly rapidly. In Q1 2022, the consultation paper notes that more than 60% of new USD swaps executed in the EU market referenced SOFR.[[4]](#footnote-5) Importantly, liquidity in these contracts is spread across the entire curve, including contracts with maturities up to 50 years.[[5]](#footnote-6)

Additionally, we support ESMA’s efforts to harmonize clearing obligations with the U.S. Commodity Futures Trading Commission (“CFTC”). In August, the CFTC published a rule that requires clearing of SOFR OIS with maturities ranging from 7 days to 50 years, and this rule went into effect on September 23.[[6]](#footnote-7) Thus, ESMA’s proposal would align the scope of the EU and U.S. COs, which will contribute to a smoother transition globally.

<ESMA\_QUESTION\_RFRR\_3>

1. Do you agree with the proposed implementation of the changes? if not please provide details that could justify a different implementation.

<ESMA\_QUESTION\_RFRR\_4>

We agree with ESMA’s view that there is no need to introduce an additional phase-in period to ensure an orderly and timely implementation. Market participants have in place the operational and technological infrastructure to support clearing the extended maturities of USD SOFR OIS and, as the consultation paper notes, a large majority of USD SOFR OIS are already voluntarily cleared.[[7]](#footnote-8) Significant voluntary clearing demonstrates the confidence market participants have in the current clearing offerings.

<ESMA\_QUESTION\_RFRR\_4>

**Trading Obligation**

1. Do you agree with this assessment and therefore, not to introduce DTO for contracts referencing TONA, SONIA and for the time being SOFR? If not, please explain.

<ESMA\_QUESTION\_RFRR\_5>

We agree with ESMA’s proposal to include contracts referencing €STR in the DTO, and with the corresponding analysis set forth in the consultation paper. With regard to the DTO for contracts referencing SOFR, the consultation paper notes increasing trading activity in SOFR, but suggests it is premature to consider contracts referencing SOFR for the DTO because the transition is still on-going and the CFTC has not included contracts referencing SOFR in its trading mandate.

However, we believe there is sufficient liquidity to support applying the DTO to contracts referencing SOFR. While the consultation paper references the status of the U.S. clearing and trading requirements, as noted above, the CFTC’s clearing mandate for SOFR OIS only became effective September 23. Under the U.S. framework, now that the clearing mandate is in effect, a swap execution facility may submit a determination that triggers the trade execution requirement, which is expected to occur in the near future.[[8]](#footnote-9) Given the significant volume and liquidity of EU trading in SOFR OIS, we believe now is an appropriate time to also consider contracts referencing SOFR for the DTO. The DTO has delivered material improvements to pre- and post-trade transparency and led to a more open, level and competitive playing field. We believe applying the DTO to SOFR OIS will yield the same benefits.

<ESMA\_QUESTION\_RFRR\_5>

1. Do you agree with this assessment? Do you consider that also contracts with constant notional and 3 months tenor and trade start date Spot (t+0) should be subject to the DTO? If so, please specify also the other relevant standardised parameters used with those contracts. Do you consider that also contracts with constant notional and 3 years tenor and trade start date second next IMM date shall be subject to the DTO? If so, please specify also the other relevant standardised parameters used with those contracts. Should other tenors be considered for the DTO?

<ESMA\_QUESTION\_RFRR\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RFRR\_6>

1. Do you agree with this assessment? Do you consider that also the daily floating leg reset frequency is a standardised contract feature that could be considered for the DTO?

<ESMA\_QUESTION\_RFRR\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RFRR\_7>

1. Do you agree with this proposal? If not, what amendments do you think are necessary?

<ESMA\_QUESTION\_RFRR\_8>

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<ESMA\_QUESTION\_RFRR\_8>

1. Do you agree with proposing to not provide for an implementation period for the entry into force of the amended DTO? If not, please explain.

<ESMA\_QUESTION\_RFRR\_9>

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<ESMA\_QUESTION\_RFRR\_9>

**Cost-benefit analysis**

1. Are there other elements that should be taken into account and that would impact the outcome of the cost-benefit analysis? Please provide quantitative and qualitative details

<ESMA\_QUESTION\_RFRR\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RFRR\_10>

1. Consultation Paper on the Clearing and Derivative Trading Obligations in View of the 2022 Status of the Benchmark Transition (Jul. 11, 2022) available at <https://www.esma.europa.eu/sites/default/files/library/esma70-446-369_consultation_paper_on_co_and_dto_referencing_estr.pdf>. [↑](#footnote-ref-2)
2. The CO currently applies to SOFR OIS with maturities up to 3 years. [↑](#footnote-ref-3)
3. Consultation Paper at 30-31. [↑](#footnote-ref-4)
4. *Id.* (citing Kirston Winters, IBOR reform: LIBOR deadlines, where are we now – global outlook Q1 2022 review, Osttra (May 10, 2022) available at <https://osttra.com/articles/ibor-reform-libor-deadlines-where-we-are-now-global-outlook-q1-2022-review/>). [↑](#footnote-ref-5)
5. *Id.* at 31. [↑](#footnote-ref-6)
6. “Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates,” 87 Fed. Reg. 52,182 (Aug. 24, 2022). [↑](#footnote-ref-7)
7. *Id.* at 39. [↑](#footnote-ref-8)
8. *See* Letter from Elisabeth Kirby, Head of Market Structure, Tradeweb to Christopher Kirkpatrick, Secretary, CFTC (Jan. 21, 2021) (“Tradeweb believes that RFR-linked contracts that satisfy the Mandatory Clearing Criteria are also likely to meet the MAT criteria and would be subject to a MAT determination . . . . Tradeweb has seen a significant increase in SOFR-linked swap transactions, and we would similarly expect any additional RFRs exhibiting sufficient liquidity to require clearing under the Mandatory Clearing Criteria would also be MAT on our SEFs”) available at <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=65917&SearchText=>. [↑](#footnote-ref-9)