

August 31, 2017

Via E-mail: directiondelacommunication@amf-france.org

Autorité des Marchés Financiers
17 Place de la Bourse
75002 Paris
France

**Re: AMF Public Consultation – Implementing MiFID 2 Pre- and Post-Trade
Transparency Requirements in France**

Madame, Monsieur,

Citadel LLC (“Citadel”)¹ appreciates the opportunity to respond to the Autorité des Marchés Financiers (“AMF”) public consultation on implementing MiFID 2 pre-and post-trade transparency requirements in France.² Our responses to the questions posed in the public consultation can be found on the following pages.

Please feel free to call the undersigned at +1-646-403-8235 with any questions regarding these comments.

Respectfully,

/s/ Stephen John Berger
Managing Director, Government & Regulatory Policy

¹ Citadel is a global financial firm built around world-class talent, sound risk management, and innovative market-leading technology. For more than a quarter of a century, Citadel’s hedge funds and capital markets platforms have delivered meaningful and measurable results to top-tier investors and clients around the world. Citadel operates in all major asset classes and financial markets, with offices in the world’s leading financial centers, including Chicago, New York, San Francisco, Boston, London, Hong Kong, and Shanghai.

² Available at: http://www.amf-france.org/en_US/Publications/Consultations-publiques/Archives?docId=workspace%3A%2F%2FSpacesStore%2F20f64df6-c54b-4638-a8b8-59cadd40a6bb

1. Pre-Trade Transparency Requirements Applicable to Trading Venues

Questions: Do you agree with the proposed approach to pre-trade transparency: for equities? for other instruments? Or do you think that some waivers should not be permitted? If so, which ones and why?

Pre-trade transparency is a critical element of the MiFID II framework designed to increase transparency, promote price competition, and help market participants achieve best execution. Therefore, we urge the AMF to conduct regular assessments of the waiver regime to ensure that these objectives are not being undermined by overly broad waivers.

We believe the liquidity characteristics of an asset class should be taken into account when determining the scope of waivers to grant. In particular, we believe the AMF should carefully consider and monitor the waivers granted for cleared OTC derivatives. A significant number of cleared OTC derivatives have already been deemed liquid under the EMIR clearing obligation, and many of these will be deemed liquid under the MiFIR trading obligation. Therefore, the availability of overly broad waivers from pre-trade transparency requirements for cleared OTC derivatives is illogical and contrary to the intent of the waiver regime. In this regard, we note that two waivers are particularly broad in scope:

A. Size Specific to the Instrument (SSTI) (MiFIR Article 9(1)(b))

Actionable indications of interest in RFQ and voice trading systems that are above the “size specific to the instrument” (“SSTI”) threshold are eligible for a pre-trade transparency waiver. Given that most cleared OTC derivatives trading activity occurs on RFQ or voice trading systems, this waiver will be extremely significant in determining the overall scope of cleared OTC derivatives that are subject to pre-trade transparency requirements.

Under ESMA’s transitional transparency calculations, the SSTI threshold for cleared OTC derivatives is extremely low.³ Since nearly all OTC derivatives were incorrectly deemed to be “illiquid” by ESMA, the SSTI threshold for these instruments will initially be set at EUR 4 million under RTS 2. In effect, this means that nearly every transaction in these instruments will be eligible for a pre-trade transparency waiver. In addition, even for the four sub-classes of fixed-to-float interest rate swaps (“IRS”) that were considered to be “liquid” by ESMA, the SSTI threshold is still only set at approximately EUR 20 million. As a result, the vast majority trading activity in these instruments will also be eligible for a waiver.

³ See the transitional transparency calculations for the ‘Interest rate derivatives’ and ‘Credit derivatives’ asset classes, available at: <https://www.esma.europa.eu/policy-activities/mifid-ii-and-mifir/mifid-ii-transitional-transparency-calculation>.

Importantly, the SSTI waiver can apply to instruments that have been assessed as sufficiently liquid for both the EMIR clearing obligation and the MiFIR trading obligation. We respectfully submit that exempting nearly all trading activity in these liquid instruments from pre-trade transparency requirements goes far beyond the intent of the SSTI waiver, which was only to limit the exposure of liquidity providers to undue risk.

B. Derivatives Subject to the Clearing Obligation But Not the Trading Obligation (MiFIR Article 9(1)(c))

All OTC derivatives that are subject to the EMIR clearing obligation but not the MiFIR trading obligation are eligible for a pre-trade transparency waiver under MiFIR Article 9(1)(c). If granted, this waiver will eliminate pre-trade transparency for many of the cleared OTC derivatives that were assessed as sufficiently liquid for the EMIR clearing obligation. This waiver will also counterintuitively result in less transparency for liquid instruments subject to the clearing obligation than for less liquid instruments not subject to the clearing obligation.

Examples of cleared OTC derivatives that will be eligible for this waiver include basis swaps, FRAs, OISs, fixed-to-float IRS denominated in JPY/NOK/PLN/SEK, as well as those fixed-to-float IRS denominated in EUR/USD/GBP that are not subject to the MiFIR trading obligation. We urge the AMF to reconsider granting such a blanket waiver from pre-trade transparency requirements.

2. Post-Trade Transparency – Trading Venues

Do you agree with the proposed approach to post-trade transparency? Or do you think that some waivers should not be permitted? If so, which ones and why? What are the implementation difficulties associated with these waivers?

Post-trade transparency is another critical element of the MiFID II framework. Real-time public reporting fosters competition and improves pricing and liquidity by providing market participants with transparency into trading activity across the market. This reduces information asymmetries and allows end users to better negotiate pricing and demand accountability from their liquidity providers when assessing best execution. The removal of information asymmetries also enables new liquidity providers to enter the market and compete with incumbent dealers, enhancing liquidity and lowering costs for investors. For cleared OTC derivatives in particular, real-time public reporting also contributes to CCP resiliency by supporting robust valuation and margining methodologies.

Therefore, we urge the AMF to conduct regular assessments of the post-trade transparency deferral regime to ensure that these objectives are not being undermined by overly broad or

lengthy deferrals. In particular, we believe the AMF should carefully consider and monitor the deferrals granted for cleared OTC derivatives.

A. Scope of Deferrals for Cleared OTC Derivatives

As noted above, under ESMA's transitional transparency calculations, the vast majority of OTC derivatives were incorrectly deemed to be "illiquid". This means that nearly all trading activity in the market (regardless of size) will be eligible for a post-trade transparency deferral. This will be the case until the transparency calculations are updated in June 2019.

B. Length of Deferrals for Cleared OTC Derivatives

Given that nearly all transactions in cleared OTC derivatives will be eligible for a post-trade transparency deferral, including even smaller size transactions in instruments subject to the MiFIR trading obligation, we urge the AMF to consider limiting the length of deferrals for these liquid instruments.

Under the most lenient post-trade transparency deferral regime (i.e. Option 5 in Annex 1), no transaction-level information will be available to market participants until 4 weeks after the trade date. This undermines the G20 objective of improving transparency in the OTC derivatives market, and contrasts sharply with the reporting regime that has already been successfully implemented in the U.S. for a number of years, where all cleared OTC derivatives are subject to real-time public reporting, with a maximum delay of 15 minutes for large block trades.

We believe that an extended deferral should not be granted for classes of derivatives that are liquid enough to be subject to the EMIR clearing obligation and the MiFIR trading obligation. Instead, the publication of transaction details (other than volume) should occur on the trade date with the publication of full details two days later (i.e. Option 2 in Annex 1). This approach will counteract some of the negative effects of having the vast majority of OTC derivatives incorrectly deemed to be "illiquid" under the transitional transparency calculations.

3. Post-Trade Transparency – OTC Transactions

Do you agree with the proposed approach, which consists in offering all the options provided under MiFID in terms of post-trade transparency? Or do you think that a single regime should be offered, and if so, why? Do you see risks associated with the proposed approach? Please explain your answer.

If the deferral regime selected by the ISP is not subject to advance authorisation, how/in what format should the ISP's choice be formally recorded and notified to the market? What procedures should be used to change the choice of regime?

As noted in Section 2 above, post-trade transparency is a critical element of the MiFID II framework, and provides market participants with myriad benefits. The rationale for introducing post-trade transparency requirements applies equally whether instruments are traded on-venue or whether those same instruments are traded over-the-counter. We therefore generally support aligning the post-trade transparency deferral regime for off-venue transactions with the regime for on-venue transactions.

In particular, with respect to OTC transactions, we reiterate that an extended deferral should not be granted for classes of derivatives that are liquid enough to be subject to the EMIR clearing obligation and the MiFIR trading obligation. Instead, the publication of transaction details (other than volume) should occur on the trade date with the publication of full details two days later (i.e. Option 2 in Annex 1).