

## **Review of the Markets in Financial Instruments Directive**

### **Questionnaire on MiFID/MiFIR 2 by Markus Ferber MEP**

The questionnaire takes as its starting point the Commission's proposals for MiFID/MiFIR 2 of 20 October 2011 (COM(2011)0652 and COM(2011)0656).

All interested stakeholders are invited to complete the questionnaire. You are invited to answer the following questions and to provide any detailed comments on specific Articles in the table below. Responses which are not provided in this format may not be reviewed.

Respondents to this questionnaire should be aware that responses may be published.

Please send your answers to [econ-secretariat@europa.eu](mailto:econ-secretariat@europa.eu) by **13 January 2012**.

Name of the person/ organisation responding to the questionnaire	<b>GAFTA is the international association representing the trade in grains, feedingstuffs and general produce. 3 Rue Mont Blanc, P O Box 1550, 1211 Geneva 1, Switzerland <a href="mailto:post@gafta.com">post@gafta.com</a> <a href="http://www.gafta.com">www.gafta.com</a></b>
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<b>Theme</b>	<b>Question</b>	<b>Answers</b>
Scope	1) Are the exemptions proposed in Directive Articles 2 and 3 appropriate? Are there ways in which more could be done to exempt corporate end users?	Gafta supports the aspirations of the G20 to improve the organization and transparency of financial systems and commodity markets but do not consider the exemptions as currently laid down by the Directive Com (2011) 656

		<p>appropriate, as Directive 2004/39 para (K) has been deleted.</p> <p>We do support the provisions outlined in article 2 1 (d) and 2 1 (i) which exempt corporate end users who are trading in financial instruments for their own account or for their group of companies and/or commodity derivatives for direct counterparts of their main physical commodity business on an ancillary basis, as this use of hedging does not pose risks. Hedging is a very important tool in managing volatility and eliminating risk for the trade.</p>
	11) What is your view of the requirement in Title V of the Regulation for specified derivatives to be traded on organised venues and are there any adjustments needed to make the requirement practical to apply?	<p>Title V of Regulation 2011/652 refers to derivatives being traded on regulated markets. Gafta would like to underline the importance of maintaining sufficient liquidity on commodity markets and not increasing costs. OTCs remain important derivatives providing traders with much needed hedging solutions and liquidity needs to remain in this market.</p>
	14) What is your view of the powers to impose position limits, alternative arrangements with equivalent effect or manage positions in relation to commodity derivatives or the underlying commodity? Are there any changes which could make the requirements easier to apply or less onerous in practice? Are there alternative approaches to protecting producers and consumers which could be considered as well or instead?	<p>Our preference is for position management rather than setting hard limits which we see as being more effective.</p> <p>In this case of position limits being set, Gafta agrees that organised venues should set position limits rather than arbitrary position limits by authorities. Otherwise a negative impact on liquidity and performance on the exchange trade or futures in agricultural raw materials is expected which could in turn have a negative effect on the physical trade due to the close linkage of the two markets and may also be distortive and restrictive.</p>
Transparency	20) Are any adjustments needed to the pre-trade transparency requirements for shares, depositary receipts, ETFs,	

	certificates and similar in Regulation Articles 3, 4 and 13 to make them workable in practice? If so what changes are needed and why?	
	21) Are any changes needed to the pre-trade transparency requirements in Regulation Articles 7, 8, 17 for all organised trading venues for bonds, structured products, emission allowances and derivatives to ensure they are appropriate to the different instruments? Which instruments are the highest priority for the introduction of pre-trade transparency requirements and why?	Gafta's response is to suggest that pre trade transparency regime should only be applied to bonds admitted to trading on a regulated market and not to commodity markets. Transparency is positive but need to be sensitive to particularities of different markets and to avoid negative effect on liquidity.
Horizontal issues	26) How could better use be made of the European Supervisory Authorities, including the Joint Committee, in developing and implementing MiFID/MiFIR 2?	The supervisory authorities' need to take into account the views of stakeholders concerned and the grain trade would consider it important to have open dialogue with ESA in implementation and development of the legislation. It is important to harmonise the legislation where possible.
	27) Are any changes needed to the proposal to ensure that competent authorities can supervise the requirements effectively, efficiently and proportionately?	Important to take views of traders into account so the competent authorities know what is feasible for the grain trade.
<b>Detailed comments on specific articles of the draft Regulation</b>		
<b>Article number</b>	<b>Comments</b>	
Article 60 :	Gafta has already raised concerns on position reporting according to article 60. The trade is of the view that the Commission needs to distinguish between the different activities and size of market to avoid onerous demands on commodity trading when regular reporting fits better with the banking sector.	