Managed Funds Association
The Voice of the Global Alternative Investment Industry
Washington, D.C. | New York | Brussels

September [16], 2022

Trading and Wholesale Conduct Policy
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Re: Improving Equity Secondary Markets: Consultation

Dear Sir/Madam,

Managed Funds Association ("**MFA**")[1] appreciates the opportunity to represent the views of the global alternative investment industry in this written response to the Financial Conduct Authority's ("**FCA**") consultation on improving equity secondary markets (the "**Consultation Paper**").

MFA is fully supportive of the FCA's intentions to improve how UK-based equity markets operate, in accordance with the objectives and commitments as laid out in the Strategy of 2022-2025, and 2022-2023 Business Plan (which is outlined in paragraph 2.9 of the Consultation Paper). As the Wholesale Markets Review continues to develop, we would encourage the FCA to continue to engage closely with the US and other international policy and regulatory leaders to ensure continued alignment of the UK market framework in a way that supports cross-border trading.

MFA supports the FCA's readiness to adjust the UK secondary equity markets regime to further consumer protection, market integrity and the promotion of competition, while maintaining high standards which will enable international buy-side firms, such as MFA's members, to continue to participate in the UK markets with confidence. In particular, MFA is supportive of the FCA's focus on improving the efficiency of equity markets and enhancing resilience of trading on UK trading venues and markets when an outage occurs, which is essential for asset managers to be able to trade on UK markets with confidence.

<u>Context</u>

MFA represents globally active hedge funds supporting a policy environment that fosters growth in efficient, fair and transparent capital markets. Many of MFA's members are headquartered in the United States ("**US**") and nearly 40 percent of MFA members have offices in the United Kingdom ("**UK**"). Many MFA members trade actively in both equity and non-equity instruments on a range of UK trading venues as well as on an "OTC" basis with UK investment firms and systematic internalisers. Some of our members are headquartered in the UK, others that are not UK-headquartered have FCA authorised entities in their groups and may be directly subject to the requirements of MiFID II as onshored in the UK, and a third set of non-UK members transact solely on a cross-border basis and so are affected by the UK's regulatory regime indirectly.

Our responses to the FCA's questions focus on: (i) post-trade transparency; (ii) designated reporter

[1] Managed Funds Association (MFA) represents the global alternative investment industry and its investors by advocating for regulatory, tax, and other public policies that foster efficient, transparent, and fair capital markets. MFA's more than 150 member firms collectively manage nearly $2.6 trillion across a diverse group of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time. MFA has a global presence and is active in Washington, London, Brussels, and Asia.

regime; (iii) tick-size; and (iv) market resilience.

We have set out our responses to the relevant questions in the Annex hereto.

* * * * *

MFA appreciates the opportunity to provide these comments to the FCA in response to the Consultation Paper. If you have any questions about these comments, or if we can provide further information, please do not hesitate to contact Andrew Malin, Manager – International Government Affairs, or the undersigned at (202) 730-2600.

Respectfully submitted,

/s/

Jennifer Han
Executive Vice President and Chief Counsel
Global Regulatory Affairs
MFA

ANNEX

CHAPTER 3. POST-TRADE TRANSPARENCY

A. Exemptions from post-trade transparency

Consultation Questions

Q1 Do you agree with maintaining the exemption for inter-funds transfers in Article 13?

MFA Response

Yes – please see our response to Question 2 below.

Q2 Do you agree with the new definition of inter-funds transfers?

MFA Response

We support the FCA's proposal to clarify the scope of the inter-fund transfer exemption as our members are directly impacted by post-trade reporting obligations when dealing in financial instruments as investment firms carrying out portfolio management.

Q3 Do you agree with amending the exemption from post-trade reporting for give-ups and give-ins?

MFA Response

We support the FCA's proposal to extend the exemption from post-trade reporting for give-up/in transactions to include request for market data ("**RFMD**") give-up transactions. We agree with the FCA's view that such transactions add little value to post-trade transparency.

Q4 Do you think guidance to further clarify the types of give-ups and give-ins that can benefit from the exemption from post-trade transparency is required, and, if so, what issues do you think it should cover?

Q5 Do you agree with introducing an exemption for inter-affiliate trades?

MFA Response

Yes – please see our response to Question 6 below.

Q6 Do you agree with our proposed definition of inter-affiliate trades?

MFA Response

We agree with the proposal to exempt inter-affiliate transactions from post-trade transparency. In our view, making details of such transactions public not only gives a distorted view of overall trading activity but also imposes unnecessary costs on firms who need to publish such reports.

Q7 Do you agree with the deletion of point d) from Article 13? If not please explain why.

Q8 Do you agree with the proposal to introduce a deferral for all transactions within scope of Article 13 of RTS 1? If not, please explain why.

B. Designated Reporter Regime

Consultation Questions

Q19 Do you agree with our proposal to create a regime where firms will be able to opt in as designated reporters at an entity level? Please explain your answer.

MFA Response

The preference of our members is for a reporting model where the sell-side is the primary reporting party given that sell-side firms typically have the scale necessary to be able to carry the costs associated with maintaining the operational infrastructure necessary for reporting; for buy-side firms, maintaining such systems represents a disproportionate burden given their scale and the significant duplication inherent in rules that require both sides of the transaction to be capable of reporting transactions.

As such, we support the FCA's proposal to create a regime where firms can elect themselves as designated trade reporters by notifying the FCA. Allowing firms to register as the designated reporter regardless of whether they are an SI in an instrument will reduce operational complexities and additional costs that arise with reporting requirements. We agree with the FCA that this proposed approach will provide clarity on who should report, and therefore promote efficiency.

Q20 Do you agree that the FCA should maintain the register of designated reporters for firms to determine who reports OTC trades? Please explain your answer.

MFA Response

Yes – please see our response to Question 19 above.

CHAPTER 4. WAIVERS FROM PRE-TRADE TRANSPARENCY

Consultation Questions

Q22 Do you agree with the proposal to change the definition of the MRMTL to allow trading venues to derive the price from a non-UK venue provided that the price is transparent, robust and offers the best execution result?

Q23 Do you agree with the proposal to change the definition of the MRMTL for the purpose of the tick size regime?

Q24 Do you agree with the proposal to delegate the decision to set a minimum size threshold for reserve and other orders to trading venues using the OMF waivers? Please explain why.

MFA Response

CHAPTER 5. TICK SIZE

Consultation Questions

Q25 Do you agree with the proposal to allow trading venues to adopt the minimum tick size of the primary market located overseas when that tick size is smaller than the one determined based on calculations using data from UK venues? Please explain your views.

MFA Response

We support this proposal. The current regime results in UK trading venues being required to set tick sizes for such shares which are overly wide compared with that of their primary markets, and therefore not an accurate reflection of their overall liquidity. This requires our members to cross a wider spread when trading, increasing their transaction costs. It also restricts the ability of UK trading venues to compete with overseas venues, limiting the ability of our members' brokers to achieve best execution for our members.

This proposal would be a welcome means of addressing this issue, resulting in tick sizes for overseas shares that are consistent with their primary market and reducing transaction costs for traders and end investors.

CHAPTER 6. IMPROVING MARKET-WIDE RESILIENCE DURING OUTAGES

Consultation Questions

Q26 Do you agree with the above proposals to be included in the FCA/industry guidance for trading venues? If not, please explain why.

Q27 Are there other areas we need to consider for the guidance?

Q28 Is the current arrangement for an alternative closing price on the primary market appropriate?

Q29 Is an alternative closing auction needed?

Q30 Do you agree with the above proposals to be included in the FCA/industry guidance for market participants? If not, please explain why.

Q31 Are there other areas we need to consider for the guidance?

MFA Response

Our members strongly support the FCA's proposals to work with market participants for guidance on communications and protocols on market outages on trading venues. We believe that industry guidance about how venues should operate during an outage and how communications and crisis management processes should be addressed would be useful. This guidance should specify minimum requirements for venues to follow in developing their processes for outage. A venue's processes should be required to cover the identification of "key persons" that will be responsible for managing the outage at the venue, to set out clear protocols for communicating to stakeholders throughout the outage, and also clarify how pending orders are to be treated during and upon resolution of the outage.