

## COMMENT LETTER

March 14, 2018

# ICI Global Response to EU Commission Consultation on Supervisory Reporting (pdf)

1 ICI Global's response to the EU Commission's "Fitness Check" of EU Supervisory Reporting Requirements Section 1: Assessing whether the supervisory reporting requirements are fit-for-purpose 1.1 Taken together, to what extent have EU level supervisory reporting requirements contributed to improving the following: a) financial stability (i.e. monitoring systemic risk) (Multiple choice response: very significantly; significantly; moderately; marginally; not at all; don't know/not applicable). Don't know/not applicable Please elaborate and provide examples to justify your answer to question 1.1.a): We support supervisors having access to the information they need to monitor effectively risks to financial stability. We recommend that the Commission undertake an assessment of post-crisis reforms to supervisory reporting requirements, with the objective of: • determining the extent to which enhancements to reporting have contributed to financial stability, including enabling supervisors to manage or mitigate effectively risks; and • identifying possible changes to supervisory reporting requirements to reduce the compliance burden on regulated funds and their managers without compromising the ability of supervisors to monitor risks to financial stability (as discussed in more detail in our response to other questions.) b) market integrity (i.e. surveillance of market abuse and orderly functioning of the markets) (Multiple choice response: very significantly; significantly; moderately; marginally; not at all; don't know/not applicable). Don't know/not applicable Please elaborate and provide examples to justify your answer to question 1.1.b): We support supervisors having access to the information they need to better understand market activity and facilitate effective surveillance that enhances market integrity and fairness in trading [1]. The Markets in Financial Instruments Directive/Regulation (MiFID/R) and Market Abuse Regulation (MAR) reforms have introduced significant enhancements to the reporting of capital market activity to supervisors. In due course, we recommend that the Commission undertake an assessment of these reforms, with the objective of: • determining the impact on market integrity surveillance by NCAs and ESMA; • identifying opportunities to streamline and consolidate overlapping and inconsistent rules and reporting requirements, including for corporate bond markets as recommended by a recent European Commission Expert Group [2]; 2 • facilitating the exchange of good practices amongst NCAs to developing cybersecurity policies and procedures tailored to counteract the risks associated with collecting and storing capital market data; and • determining the appropriate coordination role for ESMA to play in supporting cross- border market surveillance by NCAs, including facilitating the exchange of information relevant for market abuse investigations [3]. [1] See Letter from Dan Waters, Managing Director, ICI Global, to

Alp Eroglu, International Organization of Securities Commissions (IOSCO), dated 16 October 2016, Rr: Public Comment on Regulatory Reporting and Public Transparency in the Secondary Corporate Bond Markets, available from <https://www.iciglobal.org/pdf/30911a.pdf> [2] See Report from the Commission Expert Group on Corporate Bonds, November 2017, available from [https://ec.europa.eu/info/sites/info/files/171120-corporate-bonds-report\\_en.pdf](https://ec.europa.eu/info/sites/info/files/171120-corporate-bonds-report_en.pdf) [3] As has been proposed by the Commission in Article 31b of its recent proposal to reform the European Supervisory Authorities c) investor protection (i.e. ensuring proper conduct by firms to ensure that investors are not disadvantaged/negatively impacted) (Multiple choice response: very significantly; significantly; moderately; marginally; not at all; don't know/not applicable). Don't know/not applicable Please elaborate and provide examples to justify your answer to question 1.1.c): ICI Global supports efforts to improve investor protection, and we believe that Member State- level supervisory reporting requirements related to investor protection (e.g. complaints reporting), coupled with EU level investor disclosures (e.g. prospectus and Key Investor Document), play an important role in contributing to investor protection. The publication of certain aggregate data at Member State level (e.g. complaints), enables fund managers to benchmark their activity against their peers and identify areas of focus where they can continue to improve the service they provide to investors [1]. [1] For examples, see FCA complaints data publication, available from <https://www.fca.org.uk/firms/complaints-data> 1.2 Are all of the existing supervisory reporting requirements relevant for maintaining financial stability and upholding market integrity and investor protection? (Multiple choice response: yes, they are all relevant; most of them are relevant; some of them are relevant; very few are relevant; don't know/ not applicable) Most of them are relevant. If you do not think that all of the requirements are relevant, please provide specific examples of any requirements which in your view are superfluous and explain why you believe they are not necessary: We urge the Commission to consider measures to streamline reporting requirements for over-the-counter (OTC) derivatives. The reporting standards established in the European Market Infrastructure Regulation (EMIR) are duplicative in that both sides of a transaction are required to report. This dual-sided reporting results in unnecessary cost and is burdensome, especially for regulated funds and other buy-side market participants that typically do not have significant derivatives reporting obligations in other jurisdictions. We recommend three amendments to EMIR that would reduce compliance cost without compromising the value of supervisory reporting. In fact, our recommendations could enhance the quality and usability of data reported. First, we believe the dual-sided reporting requirements for OTC derivatives should be replaced with a single-sided reporting regime. Second, EMIR should not require reporting of OTC derivatives transactions that expired or were terminated prior to the start of EMIR reporting. Third, EMIR should require the central counterparty that clears an exchange-traded derivative to report that trade; other entities involved in the transaction should have no reporting obligations. Our letter in response to the European Commission's EMIR REFIT proposal provides more information about each of these suggestions [1]. As outlined in our response to question 1.1, we also recommend that the Commission: • undertake an assessment of whether post crisis supervisory reporting reforms have contributed to financial stability; • assess the impact of recent reforms to the reporting of capital market activity, including MIFID/R and MAR, on market integrity surveillance; and • undertake a review of the effectiveness of recent investor disclosure reforms, including through MIFID and PRIIPs, in providing accurate, fair, clear and not misleading information to investors. [1] See Letter from Dan Waters, Managing Director, ICI Global, to Directorate-General for Financial Stability, Financial Services and Capital Markets Union, dated July 18, 2017, available at [https://ec.europa.eu/info/law/better-regulation/feedback/2207/attachment/090166e5b3d738ce\\_en](https://ec.europa.eu/info/law/better-regulation/feedback/2207/attachment/090166e5b3d738ce_en). 1.4 To what extent are

supervisory reporting requirements across different EU level reporting frameworks coherent (e.g. in terms of scope, content, methodology, timing/frequency of submission, etc.)? EU level reporting frameworks require regulated funds to submit duplicative information in supervisory reports they make to different recipients (e.g. NCAs, Trade Repositories). For example, an alternative investment fund concluding a securities financing transaction is required to report information on the transaction to the relevant NCA, under the AIFMD, and will be required to report the similar information to a trade repository (TR) under SFTR. The Commission could eliminate/reduce duplicative reporting (and reduce costs for regulated funds) by enhancing the sharing of information amongst the ESAs and NCAs, including data obtained from trade repositories and regulatory reports. Any proprietary or commercially sensitive information that is shared between regulators should be subject to robust security (e.g. physical and cyber security) and confidentiality controls and protections (e.g. data protection and privacy). [1] For example, the SFTR and AIFMD both require the submission of certain information regarding repurchase and securities lending transactions, including counterparty exposures and the value and type of collateral.

4 1.5 To what extent is supervisory reporting in its current form efficient? (Multiple choice response: very efficient; quite efficient; rather inefficient; very inefficient; don't know/not applicable). Rather inefficient If you think that supervisory reporting is not fully efficient, please provide specific examples and explain why you believe it is not efficient: See answer to question 1.4.

1.7 To what extent has the adoption of supervisory reporting requirements at EU level facilitated supervisory reporting in areas where previously only national requirements existed? (Multiple choice response: very significantly; significantly; moderately; marginally; not at all; don't know/not applicable). Moderately Please elaborate and provide examples to justify your answer to question 1.7: EU level reforms introduced after the financial crisis have significantly broadened the range of information reported to NCAs, including in areas previously covered by national requirements. For example, the Alternative Investment Fund Managers Directive (AIFMD) introduced supervisory reporting requirements for hedge funds. Aspects of these requirements had previously been part of a domestic survey undertaken by the UK Financial Conduct Authority (FCA) [1] and a survey at international level undertaken by the International Organization of Securities Commissions (IOSCO) [2]. [1] See FCA Hedge Fund Survey, June 2015, available from <https://www.fca.org.uk/publication/data/hedge-fund-survey.pdf> [2] See Final Report on the Fourth IOSCO Hedge Funds Survey, November 2017, available from <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD587.pdf>

Section 2: Quantifying the cost of compliance with supervisory reporting requirements

2.4 Does the obligation to use structured reporting (i.e. templates or forms in which specific data elements to be reported are listed) and/or predetermined data and file formats (i.e. (i) the exact way in which the individual data elements are to be encoded or (ii) the file format in which the information to be reported is exchanged/submitted) for supervisory reporting increase or decrease the compliance cost of supervisory reporting? (Single choice response: Increases the compliance cost; Decreases the compliance cost; Does not impact the compliance cost; Don't know) Decreases the compliance cost

5 2.5 Please specify the supervisory reporting frameworks to which you are subject (or, in the case of entities receiving and/or processing the data or supervisory authorities, which you deal with or make use of) and estimate the cost (in monetary terms and as a percentage of operating cost) for your entity of meeting supervisory reporting requirements (or, in the case of entities receiving and processing the data or supervisory authorities, of processing the data). As managers of regulated investment funds, ICI Global members are subject to supervisory reporting frameworks including in EMIR, MiFID/R, AIFMD, UCITS, SFTR, MMFR and BMR and other delegated frameworks, such as the ECB's regulation requiring the reporting of certain data by Eurozone domiciled investment funds.

Section 3: Identifying possible ways to simplify and

streamline supervisory reporting 3.19 What role can EU regulators play in facilitating or stimulating greater automation of the reporting process? (Multiple choice response: Crucial role; Important role; Moderate role; Limited role; No role; Don't know/not applicable) Crucial Role Please elaborate on your answer to question 3.19 We are supportive of the efforts of supervisors to explore the use of technology to address reporting challenges and to facilitate greater automation (e.g. the UK FCA's work on model driven machine executable regulatory reporting) [1]. We recommend that ESMA facilitates the exchange of good practices amongst NCAs to using technology to support supervisory reporting. Greater use of technology, including the development of common protocols, has the potential to enhance the efficiency of reporting. [1]  
<https://www.fca.org.uk/firms/our-work-programme/model-driven-machine-executable-regulatory-reporting>

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