

Communication of the Association of Global Custodians  
European Focus Committee  
Subject to Supplemental Commentary

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ESMA  
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Cc: Salvatore Gnoni

29 June 2017

**Re: Clarification and challenges for MiFID/MiFIR Transaction Reporting**

The members of the Association of Global Custodians' European Focus Committee<sup>1</sup> (the "Association") would welcome additional clarity in relation to certain MiFID/MiFIR provisions relating to the types of transfers of securities that need to be reported by custodians.

The Association is a group of 12 financial institutions that provide securities safekeeping services and asset-servicing functions to primarily institutional cross-border investors worldwide. As a non-partisan advocacy organization, the Association represents members' common interests on regulatory and market structure matters through comment letters, white papers and interaction with legislative and regulatory authorities and financial industry organizations.

The Association would kindly draw your attention to the request for clarification sent to ESMA by the Association for Financial Markets In Europe ("AFME") dated March 2017 (a copy of which is appended to this letter for ease of reference) and would echo the concerns raised by AFME, particularly as they relate to uncertainty as to the application of the transaction reporting requirements to certain activities carried out by custodians.

The Association and its members recognise the importance of reporting and the prudential oversight benefits it brings to the market and users at large and are committed to working towards compliance with the reporting requirements contained within RTS 22 Articles 2 & 3 should that be deemed necessary, but agree with AFME that such reporting obligation should be imposed at the trading level and not at the level of the custodian.

The Association understands that the intention of ESMA is to deal with the ongoing uncertainty as to the applicability of RTS 22 Articles 2 & 3 to custodian activity within level 3 guidance. It is a growing concern amongst members that, until clarity is provided, operational systems and processes to enable custodians to meet any reporting requirements are not being built. Since custodians have historically not been responsible for transaction reporting, few have existing systems in place that could be modified in order to allow reporting to occur in accordance with RTS 22. Building out reporting systems and links to competent authorities is a timely and costly exercise and members

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<sup>1</sup> The members of the Association of Global Custodians are: BNP Paribas, BNY Mellon; Brown Brothers Harriman & Co; Citibank, N.A.; Deutsche Bank; HSBC Securities Services; JP Morgan; Northern Trust; RBC Investor & Treasury Services; Skandinaviska Enskilda Banken; Standard Chartered Bank; and State Street Bank and Trust Company.

are nervous about commencing such work until a final position on this point has been reached by ESMA as doing so will reduce resources currently employed on various other time-sensitive legislative and regulatory changes.

The Association respectfully requests that ESMA gives its attention to providing clarity on this point in good time in order that custodians have the opportunity to make any necessary adjustments to their service offerings in good time to meet the January 2018 deadline for compliance.

We would welcome the opportunity to clarify any concerns raised in our letter should that be helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Siena', written over a light blue horizontal line.

John Siena

Chair

**Association of Global Custodians European Focus Committee**

**Encs.**