



2 September 2022

Mr Asika Wickramasinghe
Senior Legal Counsel
Cboe Australia

By email: awickramasinghe@cboe.com
CC: au.compliance@cboe.com

Dear Mr Wickramasinghe

Cboe Australia BIDS Consultation

The Australian Financial Markets Association (AFMA) welcomes the opportunity to make comment on Cboe Australia's proposal to introduce BIDS to the Australian market.

AFMA supports the further development of the Australian markets. We take a view that to remain competitive the industry must continually innovate and improve our offering to investors and to firms seeking capital.

AFMA is pleased to provide the below responses to the consultation paper. As noted in our comments, there are complexities given the innovative nature of the proposals that are likely best addressed through an ongoing dialogue with industry and in some cases with the regulator.

We look forward to continuing to work with Cboe to further refine the BIDS proposal to a successful conclusion.

Yours sincerely

Damian Jeffree
Senior Director of Policy

RESPONSES

Question 3.1: Do you have any concerns regarding how users access Cboe BIDS Australia?

AFMA requests further clarification on how the BIDS framework fits within the existing ASIC requirements around Automated Order Processing (AOP) and the Market Integrity Rules (MIRs). For example, Cboe proposes to require that a Sponsoring Participant will have “an obligation to set up the appropriate pre-trade, automated risk controls on Cboe BIDS Australia for each Sponsored User”. AFMA seeks to understand how this will be enforced, by which party and how it will fit into the existing regulatory structures.

Similarly, AFMA would like to understand how MIRs such as 5.5.1 – Knowledge of Trading Participant fit within the Sponsored User model.

To assist clarity of understanding, we request that Cboe provide its understanding of when a message would qualify as an order for MIR purposes.

More generally AFMA suggests continued exploration and open discussion by Cboe of the various details of the system that have been put forward by participants to assist all firms commence work on the system changes in a well-informed position.

In AFMA’s view it is critical for BIDS to be properly positioned in the regulatory structures, that the change in responsibilities for pre-trade controls to Cboe and the reliance of Sponsoring Participants on Cboe for the supply of accurate data for order records and regulatory data be clearly understood and accepted by ASIC. We suggest a triparty dialogue on these matters to ensure all parties understand the limitations that will be inherent on the ability of market participants to manage messages in the pre-firm stage and to ensure the accuracy of data that will be supplied to them for regulatory data and order records purposes by Cboe.

In relation to conditional messaging AFMA seeks to better understand the way responsibility for conduct of sponsored users is expected to work, including during the conditional message phase before a sponsoring participant has been selected. We seek to understand how responsibility for insider trading prevention will be handled by Cboe in this phase.

In the event Cboe does commence a review of a Sponsored User based on their monitoring of their actions in relation to conditional messages please confirm that this will be communicated to relevant Sponsoring Participants.

As a technical matter AFMA seeks to understand how the sponsoring participant is alerted to selection for firming by a sponsored user.

In relation to regulatory data capacity we request to understand whether this is set by the Sponsoring Participant with Cboe or is set by the Sponsored User given that some clients trade on different bases for different trades.

In relation to regulatory data AFMA would like more information on the correct settings of the directed wholesale indicator and the pass through of AFSLs in the BIDS context.

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Question 3.2: Do you have any concerns regarding messages, matching and trading on Cboe BIDS Australia?

AFMA seeks confirmation that all mandatory data fields required for regulatory reporting obligations will be available.

AFMA supports the provision of separate restricted lists for each or types of Sponsored User, and for principal versus agency.

AFMA notes that some members have suggested that the threshold might be better set higher or optimised on a tiered basis given its complex interactions with liquidity, particularly for negotiated trades.

AFMA seeks confirmation on the controls that will be expected to be present where the BIDS Trading Admin Client is not used. We note that there is the potential for price changes between the time the trade was accepted by each party in CBOE BIDS and the time the trade is reported. We understand that the matching engine will check for compliance with the NBBO restrictions Cboe outlines in the paper before printing a trade, are there other controls that are required on the part of Sponsoring Participants to ensure NBBO compliance?

We understand that all NBBO trades will execute at the mid-point. We seek to understand whether the limit prices for block orders conform with the ASIC tick schedule or can be in finer increments.

Question 3.3: What is your opinion regarding the proposed models for the Conditionals Compliance Mechanism? Do you have a preference?

AFMA agrees Model 1 might be subject to the gaming risk noted in the paper. We are not aware of any support for Model 1.

Across the membership there was a mix of support for Model 2 and Model 3 or a combination.

Question 3.4: In relation to Model 1, what is your opinion regarding appropriate values for X and Y?

Model 1 is not supported.

Question 3.5: Do you have any suggestions for alternative approaches?

No.

Question 3.6: Do you have any concerns regarding investigation and disciplinary actions on Cboe BIDS Australia?

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AFMA seeks more information on this topic.

Question 4.1: Do you have any concerns regarding the proposed Operating Rules changes?

For clarity it is suggested draft Rule 4.1A.2(b) be amended to note that this rule refers to orders originating from sponsored users.

AFMA appreciates that the reference to a participant being “responsible for” an order links this rule to MIR 2.5.4 and other rules under the Cboe Operating Rules. However, in the case of BIDS, the submission of an order is automated and occurs before the participant is aware of it. We seek to understand how this difference in potential to control the orders is reflected in the rule framework.

More information is requested as the appropriate integration of Introducing Brokers as defined.

Question 4.2: Do you have any concerns with the proposed Operating Rule: Procedures changes? - Do you have any other comments about this proposal?

AFMA notes the following matters in relation to the contents and responsibilities in relation to the ‘Welcome Letter’ and which party has the discretion for setting the automated risk controls for the sponsored user – the introducing broker or the sponsoring participant.

Question: Do you have any other comments about this proposal?

AFMA seeks to understand more around how participants can satisfy their MIR AOP requirements as they relate to the sponsored access flow facilitated by BIDS.

We request more information on the completion of the regulatory data fields Origin of Order and Intermediary ID given the assignment of responsibility in Section 7.4.