

Stockholm, 16 December 2022

## **SSMA response to ESMA consultation on Market Outages**

Swedish Securities Markets Association (SSMA) welcomes the opportunity to respond to this ESMA consultation regarding market outages.

SSMA recognise what is stated in this report that exchanges should do their utmost to prevent outages. This is very important both from a business continuity and a market confidence perspective. Outages will occur and cannot be completely removed, but more efforts could be done to prevent these incidents. Outages are often directly correlated to a configuration change or a software upgrade with insufficient testing causing unintended and unexpected effects. From this perspective the mandated testing environments offered by venues are not sufficient. It is challenging and sometimes impossible to accurately verify algorithms realistically prior to deployment. From the exchanges side, it is with the current solutions also difficult to recreate the participants behavior and cover all aspects of a new release. SSMA believe better testing solutions will benefit the whole market with a more stable trading environment.

In an exchange outage situation information regarding the incident is most important. Regular updates of an incident must be sent out even if there are no new information. SSMA is also of the opinion that it is extremely important to update members of their order status as soon as possible. This is import both for a proper coming re-opening and the possibility to execute orders on another trading venue instead.

The importance of the closing call is significant and continue to grow in importance. SSMA therefore believe exchanges should make extra efforts to always at least be able to run the closing auction in an outage event.

SSMA also want more legal clarity on what happens when most relevant market status shifts from the primary exchange to another MTF or exchange. It is also important to legally define official closing price since this is used for many different products and instruments. These uncertainties are a hindrance for liquidity to move to another trading venue in an outage situation. It is also important to secure data access for all participants for a set up with back-up exchanges to be successful.

### **Q1: Do you agree with the main communication principles identified above?**

SSMA agrees

**Q2: To promote harmonisation, should the guidance include a template on what trading venues' communication notices should include?**

SSMA sees no real need for a formal template. Outages tend to occur rarely and a template could easily be outdated and only add an unnecessary updating requirements. It should be enough for Exchanges to have clear and regularly updated routines for handling of different outages scenarios.

**Q3: Do you agree that trading venues should have a maximum of one-hour to provide clarity on the status of the orders during an outage? If not, what would be an appropriate timeframe in your view and why?**

SSMA agrees in principle, but information on status should be provided as soon as possible. Depending on the reason for the outage a situation could occur where it is difficult to communicate. Strict time rules on communication could draw resources from solving the problem. There should also be regular status updates even if there is nothing new to report. Extremely important to get clear information regarding orders and transactions before re-open

**Q4: Do you think the possibility to require trading venues to offer an order book purge should be considered in the guidance? If yes, should ESMA provide further guidance on when the integrity of the orders has been largely compromised?**

SSMA do not think further guidance is needed. Exchanges however need to have rules on clear order updates and status of orders. It is very important to get information on which order have been executed or not before re-open. It is also important to know if order books will be flushed before re-open. It is also important to get enough time to re-connect and re-enter unexecuted orders before continuous trading starts.

**Q5: What is your view with regards to the conditions under which a trading venue should reopen trading?**

SSMA is of the opinion that it is best to open with a pre-opening phase, which is important for verifying order status, trade status and cancellation status before continuous trading starts again. It is also important to give members enough time to re-start their own trading systems before the Exchange re-opens. This time should preferably be 60 minutes. If this could conflict with not being able to open it could be shorter but should at least be 30 minutes.

**Q6: What is your view in relation to the closing auction being affected and the procedures that trading venues should have in place to minimise disruption?**

SSMA thinks that it is very important to do everything possible in order to execute a closing auction. This is because the importance the auction has for setting closing price and executing all end of day re-calibration orders of different products and instruments. SSMA therefore believes the auction could be slightly delayed after normal closing time, but not more than 30 minutes. This is mainly because of practical reasons with links to other back-office systems that cannot be delayed too much.

**Q7: Do you agree not to mandate trading venues to have an alternative trading venue capable of running the closing auction for them? If not, please explain.**

SSMA agrees. The main reason is that not all participants would have access to the back-up exchange. It would also be important to have complete order status to be able to use a back-up exchange, which could be very problematic in an outage situation. There is also legal uncertainty on interpretation of “most relevant market” and official closing price in this situation. To run a separate closing auction on another exchange these legal uncertainties must be clarified.

**Q8: Do you agree that trading venues should have a cut off time (30 minutes before the normal schedule) to inform market participants on whether or not they intend to hold a closing auction?**

SSMA agrees.

**Q9: Do you agree that the use of the last traded price is an appropriate solution in those cases that a trading venue cannot run the closing auction? If not, what alternative would you propose?**

SSMA agrees. Also see Q7 for need of legal clarity on official closing price. There should also not be any reference to other sources such as for example a future consolidated tape.

**Q10: Is the lack of a reference price an issue in an outage context? If so, please provide details.**

SSMA believes it is only an issue if trading continuous on a back-up exchange with the legal uncertainties described in Q7 i.e most relevant market and official closing price definitions. In that case the RPW should be abolished.

**Q11: Do you agree with the proposed approach for non-equity instruments? Do you agree that provisions on par. 37-39 can be exempted for those trading venues that do not provide CLOB?**

SSMA agrees.

**Q12: Is there any particular issue relating to trading of non-equity instruments that should be taken into account in the case of an outage? Where possible please differentiate between bonds and derivatives.**

SSMA does not see any particular separate issue related to bonds since they still to a large extent are traded off exchange and if they are on exchange the rules as for equities should be applied. The special issues related to derivatives are mostly covered in Q13 below. The same applies for fixed income derivatives i.e the underlying is important for hedging purposes.

**Q13: Is there a direct link/connection between an outage on an equity primary market and those derivatives that have these instruments as underlyings?**

SSMA sees a direct link since the equity primary market is the main hedging source. If there are no hedging instruments available, it will have a strong negative impact on the turnover for these derivatives. SSMA want to draw special attention on outages that could occur on expiration days. There should be separate routines implemented to deal with outage situations which occur on an

expiration day. This is because it potentially could have a huge impact on the closing values of the related derivatives. There should be no uncertainty on what happens with the calculation of the expiry values in different outage scenarios.

**Q14: In your view is there any further element ESMA should consider in the proposed guidance?**

SSMA want to once again highlight what is mentioned earlier and that ESMA should offer more clarity on what happens when most relevant market status shifts from the primary exchange to another MTF or exchange. It is also important to legally define official closing price since this is used for many different products and instruments. If there is uncertainty around these issues liquidity will never to any large extent move to another exchange in an outage situation. It is also important to secure data access for all participants for a set up with back-up exc