

OPTIVER RESPONSE TO CVM PUBLIC HEARING NOTICE SDM NO. 9/19

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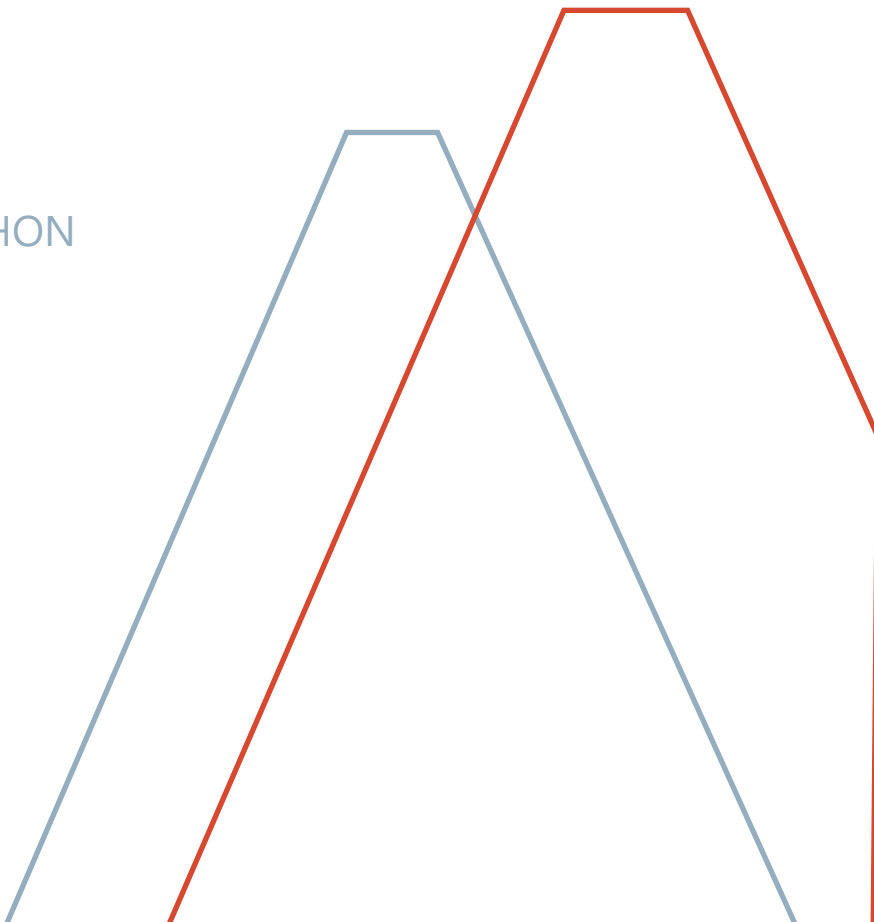
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1. INTRODUCTION

Optiver appreciates the opportunity to comment on Public Hearing Notice SDM No. 9/19 (the "Notice"). Optiver has provided liquidity to the Brazil market since 2010 and accounts for a substantial percentage of the trading volume on B3 exchange. Trading for over 30 years on the global financial markets has given us the experience and knowledge of how market structure changes impact investors.

2. DRAFT A CHAPTER IV – ORGANISED MARKET OPERATORS

2.1 SECTION II ARTICLE 17 ADOPTION OF UTC STANDARD

Optiver agrees with the mandatory adoption of the UTC standard for clock synchronization and that the precision level should be defined by the market operators. The accuracy and precision of the timestamps must be sufficient to allow for the reconstruction of past events in order to monitor and supervise executed trades, which when considering the characteristics of the regulated market, is best suited for a precision level as noted in the US Markets, namely no more precise than 50 milliseconds.

2.2 SECTION IX ARTICLE 38 DISCLOSURE OF INFORMATION ON WEBSITES

Optiver is of the opinion that data is a public good and should therefore be freely available or with minimal charge against actual cost price. Having access to accurate and timely market data is essential for the efficient functioning of the capital markets.

We agree with the CVM proposal but also believe it should be mandatory to make the data machine readable and compliance by the market operators should be monitored. Fifteen minutes delay is unlikely to help establish more favourable terms towards end (retail) investors.

In order to optimise the trading experience, a single price comparison tool consolidating post trade data across Brazilian trading venues - referred to as the consolidated tape ('CT') - would help brokers to locate liquidity at the best price available in the Brazilian market, and increase investors' capacity to evaluate the quality of their broker's performance in executing an order. A Brazilian CT could also be one major step towards "democratising" access to "market data" so that all investors can see what the best price is to buy or sell a particular share. A CT may not only prove useful for equities but also for exchange-traded funds (ETFs), bond or other non-equity instruments.

A Brazilian CT could, for a reasonable fee, provide a real-time feed of information for transactions that have taken place (post-trade information), for pre-trade information a CT is too large and slow to be viable.

We believe that in order to facilitate the viability of a CT, it should be clarified that trading venues must, as a first step, mandatorily contribute post-trade data at no charge to the CT provider. (Trading venues should subsequently receive a cost recoupment from the CT based on its generated income and the contribution of the relevant submitted data to price formation). If trading venues provide the data free of charge, the price for consumption of the CT would also be positively impacted as the cost for running the tape would decrease.

In order to support the business models of the companies providing this data we believe they can separate the services they offer. For instance, deliver a very basic information package against cost benefitting retail clients in particular and a more sophisticated information package against higher cost.

3. DRAFT A CHAPTER VI – TRADES ON ORGANISED SECURITIES MARKETS

3.1 SECTION IX ARTICLE 67 BLOCK TRADES

Article 67 proposes that block trades may be executed in specific trading segments or through the adoption of special trading procedures on organized exchange and over-the-counter (OTC) markets. The main innovation proposed refers to the possibility of block trading of securities admitted to trading on the exchange market, particularly equities, and also on the organized over-the-counter market without the need to be cleared and settled by a central counterparty (“CCP”)

We agree that an efficient market can include mechanisms that permit the execution of block trades OTC, but only if all block transactions are publicly reported immediately after execution or in a clearly defined timeframe depending on size. Without this transparency, market confidence, market efficiency, and the accuracy of market pricing erodes quickly and substantially. Block trades can have significant market impact, and market transparency thus requires that all market participants learn of the terms of block transactions immediately after they are executed.

We further believe that market rules should permit block trades to be executed both where a single broker handles both sides, or where two brokers are involved in negotiating the trade, and one broker reports the trade on behalf of both brokers.

Draft A also wisely requires that block trades be “single, round and indivisible lots” subject to reasonable minimum size or notional thresholds. We would add that the minimum size and notional thresholds should be set so as to ensure that only a limited portion of overall trading activity would qualify as a block.

Given the Brazilian market characteristics and development level, prioritizing the lit market is the most appropriate regulatory strategy, as it reduces the risk of selective information, contributes to price formation and offers equal conditions to all participants regardless of size, strategy, residence or qualification.

Finally, we submit that if a security is admitted for trading on an exchange and can be cleared through the Central Counterparty (“CCP”), block trades should also be required to clear via that same CCP.

CCPs allow the mitigation of various risks (credit, liquidity, market and systemic risks), capital efficiency, reduction of transaction costs through netting between trades, reduction of administrative costs for brokers, as well as increased market resilience and efficiency. Moreover, the CCP eliminates the need for bilateral credit limits between participants, ensuring their equal treatment.

3.2 SECTION IX ARTICLE 91 TO 95 SPECIAL PROCEDURES

Optiver is of the view that proposals for trading under special procedures by any new operator should be aligned with current procedures and that all retail flow should be on-exchange.

4. DRAFT B CHAPTER III - POWERS OF THE SELF-REGULATORY ENTITY

Optiver's opinion on the proposals provided for in Draft B of Public Hearing CVM/SDM No. 9/19, specifically on the extension of the self-regulator's powers regarding investors with direct access to organized markets is as follows:

Self-regulator rules should be designed to ensure that members take steps to control and monitor the trading activity of all investors, including investors with direct market access. This should include establishment of minimum market access risk controls that must be deployed either by the exchange or the broker providing market access.

It is standard practice in global financial markets, that the self-regulator should only regulate its members and should not have authority to directly regulate the customers of brokerage firms if those customers are not also members. If a customer of such a brokerage firm engages in problematic trading activities, the self-regulator should assess member firm compliance with market access control requirements and, if appropriate, report the problematic activity to CVM.

Therefore, enforcement on investors with direct market access should remain under CVM's responsibility.

5. DRAFT C – BEST EXECUTION

Draft C of the Notice describes proposed best execution requirements. We fully support CVM's proposal to allocate best execution responsibilities to brokers. We further support the proposal to require brokers to diligently seek the best available outcome under the circumstances considering a wide variety of factors. In our experience, a flexible approach to best execution generally works better than a one-size-fits-all price test that may not be well-suited for all market participants.

In this regard, it is critically important that professional customers and other institutional market participants that are trading their own capital should have ultimate control over when and how their orders are executed. For example, a best execution rule should not require a broker or exchange to second guess the selection of which market to route an order to when a professional customer directs that the order be sent to a particular market. CVM should ensure that its best execution rules are consistent with this fundamental principle.

We are also of the opinion that enforcement of best execution for retail orders is critical to avoid bad actors exploiting any latitude in this flexible approach and thus making it harder to regulate. As previously stated, all retail flow should be on exchange. If best execution is not strongly enforced, brokers can reduce execution costs by internalising the retail order flow and this will be detrimental to price formation and liquidity on the lit market.