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## AFME's Open Letter to the EMEA Equity Capital Markets Community

### Defining "Trade Date" and "Settlement Date" in overnight equity block trade agreements

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To all participants in the EMEA equity capital markets, we are circulating this letter to share AFME's position with respect to the definition of the term "Trade Date" (also commonly referred to as "T") in equity block trade agreements (also commonly referred to as "placing agreements") relating to equity block trades which launch after the relevant stock exchange trading has closed and price before it re-opens the next business day ("overnight block trades"). This letter aims to clarify the actual date to which banks refer when they speak of a "Trade Date" in the context of an overnight block trade, and ensure consistency of drafting and terminology in block trade agreements in this respect. Defining the term "Trade Date" inconsistently with market practice has a significant knock-on effect by inadvertently resulting in a "Settlement Date" (also commonly referred to as the "Closing Date") that is out of step with investors', intermediary banks', and underwriting banks' expectations.

Where an overnight block trade launches and prices while the relevant stock exchange trading is closed, the "Trade Date" is deemed to be the date of the next business day on which the relevant stock exchange trading re-opens.

To ensure the smooth and successful execution of an overnight block trade sale, AFME emphasises the importance of defining "Trade Date" and "Settlement Date," to align with the equity secondary markets' operations and settlement cycles, in the customary overnight block trade process which is as follows:

- Block trade agreement between the bank(s) and the seller is executed in the late afternoon between c. 5pm and 6pm CET. Normally, as soon as possible after the relevant stock exchange trading closes (i.e. 5:30pm CET) and only after the execution by all parties of the block trade agreement, the offer is announced and the bank(s) commence(s) bookbuilding.
- Bookbuilding continues for a few hours into the evening until c. 8:30pm to 10:30pm CET, with books closing that same evening, and pricing and allocations being discussed and then agreed in a pricing agreement (also commonly referred to as the "terms of sale") between the bank(s) and the seller. Regardless of whether the pricing agreement is executed pre- or post-midnight, the date of the execution of the block trade agreement and the commencement of the bookbuilding is not treated as the "Trade Date," i.e. the date of the evening block trade launch is not "T".
- The equity markets deem the "Trade Date" (i.e. "T") for such an overnight block trade to be the business day following the date of the block trade agreement, when the relevant stock exchange trading re-opens, and that is the date on the bank(s)' electronic trade confirmations, which are automatically generated by the settlement systems and sent to the allocated investors. This is the case regardless of whether the bank(s) communicate and agree the final allocations with the allocated investors later in the evening on the same date as the block trade agreement and the bookbuilding, or in the morning of the next day. From the perspective of equity secondary markets' operations and settlement cycles, the "Trade Date" for the overnight block trade is always deemed to be the date of the business day following the bookbuilding and pricing of the night before.

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- The “Settlement Date” of the block trade then typically occurs on a T+2 cycle – i.e. on the second business day following the Trade Date, although, exceptionally, facts and circumstances may, on occasion, require a T+3 or longer settlement cycle.

If an overnight block trade agreement (contrary to standard market practice) sets the “Trade Date” as the date of the evening on which the block trade agreement is executed, then the Settlement Date will in turn be out of step with how banks and investors customarily settle secondary market trades. This would result in the trade falling outside of standard operating procedures and settlement processes in the secondary equity markets, causing mismatches between investors, sellers, and intermediary banks and adverse consequences that jeopardize smooth and successful execution of the trade.

AFME respectfully asks that law firms acting on overnight block trades in the EMEA Equity Capital Markets to please take note of, and monitor the definitions of “Trade Date” and “Settlement Date” in the block trade agreements so as to be in step with the market standard operating procedures and settlement processes of the equity markets.

The market standard sequence of an overnight block trade is as follows:



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