

BVI's comment on ESMA's Call for evidence on the market structure of the European equity market

We¹ welcome the Call for evidence (CFE) as ESMA's data results are objective and thoughtful in its analysis. We strongly reiterate our position that any equity market reforms should continue to prioritise investor outcomes. Preserving especially institutional investors' – such as fund and asset managers - ability to choose how and where they execute (large) transactions remains an important feature of well-functioning equity markets, supporting efficient price formation and competitive trading conditions within the EU. The importance of improving transparency across EU equity markets is a key milestone in the context of the Saving and Investment Union (SIU). Delivering a robust consolidated tape with greater depth will provide investors with a clearer and more comprehensive view of liquidity across Europe, helping to strengthen confidence in EU capital markets and attract global investment.

In the context of the ongoing discussion on the MISP packets we encourage policy makers to prioritise regulatory simplification and evidence-based policymaking. This includes ensuring effective enforcement of existing rules and focusing reforms on areas where structural inefficiencies remain, such as improvements on the consolidated Tape for equities/ETFs and market data, while avoiding unnecessary regulatory complexity.

Within the MISP, we are supportive of the EU Commission proposal to introduce features for a pre-trade Equities and ETF tape, namely that pre-trade data should include venue attribution and five layers of data. This is critical for the commercial viability of the tape. While we prefer to see this incorporated into the tape's initial offering, we can also support its inclusion after the initial five-year operational period. Furthermore, better and reasonable priced access to market data secured by strict adherence to the RCB principle besides a robust consolidated tape - is essential to give a clearer, more complete picture of liquidity across Europe. Requests for additional (derived) data licenses at the CTP level are threatening the viability of the tapes.

- **Specific Comments**

We would like to make the following specific comments:

Q1: Do you agree with the description of the market structure summarised in Figure 1 for the purpose of the study in sections 3 and 4 based on transaction reporting data? If not, could you provide an alternative description that you consider more adapted to the reality of the European trading landscape for shares?

Yes, we agree with the description of the market structure. According to our observations, overall liquidity conditions in European equity markets have clearly improved in recent years, both for

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 113 members manage assets of EUR 4.9 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 26%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



institutional and retail investors. For institutions, available liquidity and execution quality have strengthened. Furthermore, we consider the methodical framework (addressable vs non-addressable; or price-forming vs non price-forming) designed by ESMA is a very useful model which should not be used as a starting point for regulatory interventions to justify any restrictions for the choice of trading for investor's, that would be counterproductive.

Q2: Do you have any insights on the XOFF transactions reported by investment firms who also act as an SI (SI-OTC trades)?

We have no comments. We would, however, like to stress that a very large number of EU equity investors -about 42% - are from abroad. They need – like our members – SIs to be able to implement transactions with minimal market impact.

Q3: Do you agree with the general trends identified regarding on-book vs. off-book trading, and addressable vs. non-addressable liquidity? What other trends do you consider relevant, also in terms of competitive pressures?

We agree with the analysis presented by ESMA. The analysis concludes that the share of addressable liquidity in Europe has remained stable at 85% of total traded volume. On-venue trading has also been relatively stable, accounting for ca 75% - 80% of traded volume. A further 14% occurs in auctions run by these same venues. Therefore, less than 10% of trades happen on so-called “dark pools” or off-venue. Despite the claims of exchange representatives in the context of the Market Integration and Supervisory Package (MISP), national exchanges are and remain the dominant trading location across EU markets.

Q4: Do you have any concerns on the impact of the identified trends on the general functioning of the EEA markets for shares? In your view, what are the implications of the relative decreasing trend in trading on CLOB for the effective price formation in the EEA markets for shares? What are the implications on price formation should this trend persist or even accelerate?

Please see our answer to Question 3 and 5. We believe that also auctions conducted on trading venues clearly contribute to the price formation process and should not be ignored in the discussion on price formation and liquidity.

Furthermore, we would like to highlight the fact that a large majority of the trading volume of EU shares in the UK is the result of technical trades for clearing and settlement purposes via off-book on-exchange mechanisms. While there is some OTC & SI activity in the UK of EU shares, this is very limited given the EU share trading obligation (STO) acts as a legal limit to this activity. We hear that majority of such reported trades is non-price forming and non-addressable. The issue is duplicate post-trade reporting which currently occurs for UK branches of EEA investment firms when they execute transactions outside a trading venue with non-EEA investors or firms and report those transactions to a non-EEA Approved Publication Arrangement (APA). Therefore, the same trade is reported twice for the same purpose. The concern is that this duplication distorts the data, a distortion that is amplified when the consolidated tapes are combined (i.e. in the form of a commercial CT of a CT product currently contemplated by CTP providers). This results in an inaccurate and misleading reflection of EU market activity, liquidity and volumes, thereby devaluing the usefulness of the consolidated tape. Third country trading venues are granted an exemption, however, third country APAs are currently not. For trades executed outside of trading venues between non-EEA clients and the non-EEA branches of EEA firms



situated in the UK, where publication is made through third country APAs should be considered a reporting exemption.

Q5: As the choice of trading facility has increased, it is important for ESMA to understand why market participants are choosing the execution facilities that they do. What are the drivers that you consider most relevant when choosing on which execution venue and with which execution method to trade?

The EU equity market structure has evolved significantly since MiFID reforms opened the market to new trading mechanisms, fostering greater competition and innovation. This more diverse market ecosystem and the increased choice of trading facilities have contributed to improved execution outcomes and lower trading costs for investors and the Buy-Side. Therefore, trading diversity is of fundamental importance for the German buy-side. A diverse and competitive trading landscape ensures access to multiple liquidity pools, execution venues, and pricing mechanisms, which is essential for achieving best execution on behalf of end investors.

What could be described as “fragmentation” is diversity of how trading is executed - reflecting the different needs of investors. While lit venues play an essential role, they are not always the most effective option for every trade. Access to a broader set of trading mechanisms allows investors to tap into significantly deeper pools of liquidity than are available on exchanges alone.

These different models coexist because they serve different purposes. Together, they contribute to deeper, more competitive and more efficient markets. As ESMA’s recent study shows, most trades take place on lit continuous order books. A further 14% happens in auctions run by these same venues. By contrast less than 10% of trades happen on so-called “dark pools” or off-venue. In other words, despite the headlines, national exchanges remain the dominant trading location across EU markets.

Historical experience suggests that this diversity in itself is not a bad thing. For example, also the US is more fragmented than Europe in venue count but still provides deep liquidity and a successful listing environment.

Reducing diversity would not simplify markets - it would reduce choice and thereby competition, increase costs, and ultimately make European capital markets less attractive. Analysis by ESMA clearly shows that equity with trading activity spread across different types of venues tend to have tighter bid-ask spreads. This is a key indicator of healthy markets, suggesting that competition between trading mechanisms can improve pricing rather than weaken it.

The European equity market has evolved into a highly fragmented ecosystem, shaped by regulatory reforms such as MiFID II and MiFIR. This diversity has led to the emergence of a broad range of trading models, including regulated markets, multilateral trading facilities (MTFs), organised trading facilities (OTFs), systematic internalisers (SIs), periodic auctions, and other alternative execution mechanisms. For the buy-side, this diversity is not merely a by-product of regulation, but a critical enabler of efficient execution strategies.

From an investor perspective, trading diversity enhances competition among trading venues and liquidity providers. This competition supports tighter spreads, improved price formation, and continuous innovation in execution services. In particular, the availability of different execution channels allows asset managers to tailor their trading strategies to specific circumstances - such as large block trades,



illiquid instruments, or volatility-sensitive environments - thereby reducing market impact and overall transaction costs.

At the same time, different liquidity pools serve distinct and complementary functions. Transparent order books are essential for price discovery, while bilateral and off-venue trading - such as via SIs - can provide valuable liquidity for smaller orders or less liquid instruments. Periodic auctions and closing auctions play an increasingly important role as reference prices for portfolios, benchmarks, and valuation processes. Preserving this functional diversity is therefore crucial to maintaining a resilient and efficient market structure.

However, the increasing complexity of the market structure also gives rise to challenges. Market participants face higher operational and analytical burdens when monitoring multiple execution venues and liquidity sources. Moreover, insufficient transparency - particularly in post-trade data - can limit the ability of the buy-side to effectively assess execution quality across venues.

Against this backdrop, the ongoing MiFID/MiFIR review in the context of MISP should carefully balance two objectives: enhancing transparency and simplifying access to market data, while preserving the benefits of trading diversity. Measures such as the development of a robust and cost-efficient consolidated tape have the potential to significantly improve market transparency and comparability across venues. At the same time, regulatory interventions should avoid unintended consequences that could concentrate liquidity or favour specific trading models at the expense of others.

In particular, it is important that the regulatory framework remains technology-neutral and principle-based, allowing market participants to adapt to evolving trading practices and innovations. Overly prescriptive rules or restrictions on specific execution venues could reduce competition, limit access to liquidity, and ultimately harm end investors.

For the buy-side, flexibility in selecting execution venues and liquidity sources is a core requirement for fulfilling fiduciary duties under MiFID, especially with regard to best execution obligations. Any policy approach that constrains this flexibility risks undermining the ability of asset managers to act in the best interests of their clients.

In conclusion, trading diversity should be recognised as a fundamental strength of European capital markets. A well-functioning market structure requires a balanced ecosystem of trading venues and execution mechanisms, supported by high-quality data, fair competition, and proportionate regulation. Safeguarding this diversity - while improving transparency and efficiency - must remain a key priority in the ongoing evolution of the MiFID framework.

Q6: What are your experiences with regard to gaining access to liquidity? To what extent are you, either directly or via a broker, able to access liquidity on relevant trading venues or relevant systematic internalisers? If not, please explain what stands in the way of gaining such access.

Asset managers typically rely on their own dedicated trading desk to execute investment decisions in financial markets. Once a portfolio manager has made an investment decision - such as buying or selling equities - the order is transmitted to the trading desk, which is responsible for managing and executing the trade in the market, usually with the help of dealers/brokers and their algorithmic trading systems.



The trading desk acts as an intermediary between the asset manager and the market. In the case of equity transactions, traders usually do not execute the order directly on an exchange but instead route it to one or more brokers which have to adhere to the MiFID best execution requirements. These brokers, as part of the sell-side, provide access to different trading venues and liquidity pools (e.g. systematic internaliser) and are responsible for carrying out the execution of the order.

The selection of dealer/brokers by the German buy-side is based on a number of important criteria, for instance measures and controls to protect the companies' clients' interests, financial stability and credit worthiness (check for liquidity and solvency risks), knowledge of the markets and the respective regulatory environment, quality and consistency in the execution of trading orders, access to liquidity sources and the ability to provide transaction cost analysis (TCA). The broker selection also considers trading algorithms provided by this broker for the execution of trading orders.

The German Buy-Side firms use only algorithms provided by the brokers. Asset managers rarely use self-developed algorithms. Fund managers also do not use high-frequency trading strategies to execute as many transactions as possible for their own account in a very short period. Investment funds do not engage in transactions using high-frequency trading strategies that could jeopardize the stability and integrity of the financial markets or create harmful incentives for financial market participants. The venue selection of regulated markets (e.g. exchanges, MTFs, OTFs) relies on the competitiveness of prices, liquidity pool/access and relative volatility of the market, speed and probability of execution, financial stability and creditworthiness of the execution venue and on the quality, costs and arrangements to support settlement and clearing. As illustrated above, the German Buy-Side relies generally on the market infrastructure and the best execution provided by the Sell-Side. Therefore, the EU Buy-Side needs strongly the trading diversity to obtain the best outcome for the (institutional) investors.

Q7: If you are an issuer, how do you see these market developments? Do you consider this an attractive environment for listing? If not, why?

We have no comments.

Q8: What conclusions would you draw from the distribution of liquidity across EEA ISINs? Do you identify any policy recommendations in this context, with a view to enhancing price formation while ensuring a level playing field across different types of venues? Do you have explanations for the high share of OTC trading observed in the ISIN's of some jurisdictions?

We would like to highlight the fact that a large majority of the trading volume of EU shares in the UK is the result of technical trades for clearing and settlement purposes via off-book on-exchange mechanisms. While there is some OTC & SI activity in the UK of EU shares, this is very limited given the EU STO acts as a legal limit to this activity. The vast majority (>80%) is non-price forming and non-addressable. Please see also our response to Q 8 above.



Q9: What is your view on the evolution of dark trading on EU trading venues? Are there any structural shifts that you noticed, which you believe should be further monitored?

Principally, we agree with the assessment made by ESMA on the evolution of dark trading. Usually, investment fund management companies execute equities orders on regulated and transparent markets, especially MTFs. However, asset managers executing large equity orders are typically concerned about information leakage and market impact. To mitigate these risks, they often split a large parent order into multiple smaller “child orders” and execute them over time using for instance algorithmic strategies. One important execution channel for these orders is the use of Systematic Internalisers (SIs). SIs allow trades to be executed bilaterally, outside of traditional lit markets such as regulated exchanges or multilateral trading facilities (MTFs). This structure offers several advantages in the context of large order execution:

- Reduced pre-trade transparency: Unlike lit venues, SIs do not display full order books. This limits the visibility of trading intentions to the broader market if large orders are executed.
- Lower signaling risk: By avoiding public order books, asset managers reduce the likelihood that high-frequency traders (HFTs) or other market participants detect patterns indicating a large underlying orders which would work against them.
- Minimized adverse price moves: If large orders become visible, other participants may trade ahead (“front-run”) or adjust quotes, increasing execution costs. Using SIs helps mitigate this by keeping execution more discreet.

From a market microstructure perspective, SIs therefore act as an important complement to lit venues. They provide an execution environment that is particularly well suited for liquidity sourcing without revealing trading intentions for large orders, which is critical when managing large institutional flows.

Therefore, exchanges should be required in MiFID to offer products and services which cater to the needs of institutional investors to allow them to implement large trades without creating too much market impact as certain MTFs and SIs already do today. While lit venues play an essential role, they are not always the most effective option for every trade. Access to a broader set of trading mechanisms allows investors to tap into significantly deeper pools of liquidity than are available on exchanges alone.

Q10: What concerns/issues do you highlight at this stage? Do you see a need for specific regulatory interventions also in consideration of evidence available regarding practices related to dark trading functionalities (please provide details)?

Please see our answer to Question 21 below.

Q11: What is your view on the evolution and effects of trading in closing auctions on the EU markets? Do you agree with the presented rationale for trading in closing auctions or do you consider other drivers more important for explaining the growth and increasing significance of closing auctions trading?

We agree with ESMA assessment made in para 60, as the closing auction price carries significant importance for EU fund managers, particularly those managing passive funds or portfolios benchmarked to indices. These portfolio managers often need to transact at the official closing price to minimise tracking error and ensure that their portfolios reflect index levels accurately. As such, the



closing auction price is for our members (also on the active side) a critical reference point for efficient portfolio management.

Furthermore, we consider all kind of auctions as price forming and should therefore be maintained.

We support in principle the dissemination of the volume-weighted closing price as stipulated in Article (36b) (a) (iiia) of MiFIR, included in the Market Integration Package, which results from the closing auctions of all trading venues, through the provider of the CT for shares and ETFs. However, we are concerned that implementing the volume-weighted closing price (VWCP) will be difficult in practice, particularly for trading purposes as it will enhance complexity with a volume weighted closing price derived product (e.g. derivatives).

Q12: What is your view on the effects of alternative closing mechanisms offered by MTFs and SIs?

FBA and other periodic auctions are useful and should not be limited as they are price forming.

Q13: What will be in your view the effects of 24h/ extended trading ours on closing auctions?

We currently do not see the necessity to extend the trading hours as the liquidity, especially for the institutional flow, will be very thin the late evening or during the night.

Q14: Are there any structural shifts that you noticed, which you believe the competent authorities should monitor? Would you like to highlight any concerns/issues at this stage? Do you see a need for specific regulatory interventions (please provide details relating them possibly to the data and observations available)?

Please see our answer to Questions 11 - 12.

Q15: What is your view on the evolution of trading in FBAs on EU markets? Why are those mechanisms gaining traction in your view? Which are the benefits and shortcomings they offer? (please elaborate)

FBA and other periodic auctions are useful and should not be limited as they are price forming.

Q16: Do you have any particular observations as regards the impact of SVC on FBAs?

We have no comments.

Q17: Are there any emerging structural shifts which you believe would warrant closer monitoring? (please elaborate)

We have no comments.



Q18: What is your view regarding the contribution of FBAs to price formation and transparency? Should those mechanisms be generally considered as price forming/ non price forming or this assessment should be done on a case-by-case basis depending on the specific design of the auction? (please elaborate, supplementing your views with data evidence when available)

Please see our answer to Question 12. FBA and other periodic auctions are an integral part of the equity market structure and should be maintained. Essentially periodic auctions a viable tool to execute buy side orders with minimal market impact which should be used further on.

Q19: Please highlight any concerns/issues you may have at this stage. Do you see a need for specific regulatory interventions, particularly regarding the tick size regime and its application to transactions and periodic auctions (please provide details)?
Q20: What is your view on the evolution of trading of SIs on the EEA markets? What are the main drivers of their growth?

We have no comments.

Q21: Does this picture reflect the trends you observe in SI trading? Do SI offer trading for both large and small sizes? Do these different trade size reflect different types of clients / SI businesses?

Pease see our answer to Question 9. Principally we agree with the observation. However, we strongly disagree with ESMA`s analysis in para 80 that a significant proportion of SI activity is comprised of relatively small sized trades, which reflect retail orders typical of on-venue trading. We do not share this assessment. As we cannot present concrete figures, we believe that trade sizes in SIs are small because they take large buy-side orders and cut them into smaller trades. The smaller the trade; the lower the market impact and costs for our members. As a result, we encourage ESMA to move away from this idea that small trades equate to retail orders. Small trades in SIs are likely institutional investor flows.

Furthermore, we strongly support ESMA`s view in para 89 that most of the SI trading is subject to pre-trade transparency. This is important because the exchanges say there is no pre-trade transparency in Sis.

Q22: What is your perception of the application of price improvement by SIs? Does the data analysis reflects the reality, or do you believe that there are some data quality issues in the flagging of transactions subject to price improvement?

SI trading without the requirement to apply the tick size regime at midpoint execution should be maintained. Our members fear that any requirement to apply tick size prize improvement while on the face of it is a benefit for investors will in practice limit the order execution as the sell-side will be less willing to provide quotes, especially on large trades.



Q23: Which flags do you consider important to identify certain trade related to SI trading?

We would support a flagging of true retail orders going forward instead of a differentiation which is based on size and/or counterparties. A size based identification requirement would lead to the execution of institutional child orders on the lit venues with negative signalling effects as large parent orders could be inadvertently disclosed.

Q24: What is your view on the evolution of SI trading on the EU markets? Are there any structural shifts that you noticed, or envisage, which you believe should be further monitored?

Please see our answer to Question Q21.

Q25: Please highlight any concerns/issues you may have at this stage? Do you see a need for specific for regulatory interventions (please provide details possibly relating to the information and data available or observed)?

We would like to highlight the requirement that SIs should not be legally obliged to publish beyond prices/volumes of executed trades any kind of individual SI MIC codes as soon as possible. This could lead to distortion of the market as SIs may not be able to maintain or willing to continue their current trade offers. If not impairing the SI product offering, disclosing of the individual SI MIC could follow different criteria. It could either be based on standardised deferral periods of several months or according to the liquidity profile of an equity.

Q26: Have you witnessed an increase in the use of benchmark trades? If so, what are the drivers of such increase on venue and on SI?

Yes, our members have witnessed an increased use of benchmark trades since more than one year.

Q27: Should the use of transactions from multiple trading venues be allowed when calculating the benchmark?

Q28: When performing benchmark trades, on how many transactions is the calculation of the benchmark trade based (on average, min, max, liquid vs. illiquid instruments)?

Q29: To what extent SI take advantage of the provision in Article 15(3) of MiFIR? Please share any data you may be informative in this context to understand the extent to which SIs use this provision.

We have no comments.

Q30: Would you be supportive of ESMA issuing guidance on benchmark trades? If yes, should it encompass quantifying the minimum requirements (e.g. minimum number of transactions to be included when calculating a benchmark price, minimum time period to cover)?

We are of the view that benchmark trades should be flagged as it is currently not so easy to separate benchmark trades from normal equity transactions.

Q31: Does member preferencing lead to unfair outcomes for end-investors, other members or the markets? Please explain, if possible on the basis of data.



Q32: To what extent do you see evidence that member preferencing extends in practice beyond jumping the queue and may also violate price priority principles?

Q33: Should member preferencing be (a) prohibited, (b) should there be rules restricting the practice, or (c) should nothing be done? If you suggest there should be rules (b), which rules would you suggest? Please explain.

Q34: What would be the consequence of prohibiting certain forms of member preferencing? Please explain, if possible on the basis of data.

Q35: Are you aware of other similar and common practices, for example on RFQs, where on venue competition is limited to the detriment of other investors or members? Please explain, if possible with data.

Q36: Do you agree with the above three approaches?

Q37: Do you agree with this first part of the table on addressable liquidity and price forming?

Q38: Do you agree with this second part of the table on addressable liquidity and price forming?

Q39: Would you consider that some benchmark transactions should be classified as non-addressable and non-price forming? If so, provide a clear description of the case and rationale.

Q40: Do you agree with this third part of the table on addressable liquidity and price forming?

Q41: Do you agree that all transactions without a flag should be considered addressable liquidity and price forming?

Q42: Do you agree with this fourth and last part of the table on addressable liquidity and price forming?

Q43: Do you agree with the approach on the combination of flags in the case of addressable liquidity?

Q44: Do you agree that intragroup transactions executed by SIs should not constitute addressable liquidity and therefore, could be flagged (i.e. a new flag in RTS 1 could be added to disentangle those transactions)? Do you agree that intragroup transactions executed by SIs should be classified as non-price forming?

Q45: Do you believe that other transactions should be flagged and excluded from the calculation of addressable liquidity (i.e. a new flag in RTS 1 should be added to disentangle those transactions)?

We have no comments.