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AFG - KEY MESSAGES ABOUT MIFIR REVIEW

AFG

Ensemble, s'investir pour demain

The AFG federates the asset management industry for 60 years, serving investors and the economy. It is the collective voice of its members, the asset management companies, whether they are entrepreneurs or subsidiaries of banking or insurance groups, French or foreigners. In France, the asset management industry comprises 680 management companies, with €4355 billion under management and 85,000 jobs, including 26,000 jobs in management companies.

The AFG commits to the growth of the asset management industry, brings out solutions that benefit all players in its ecosystem and makes the industry shine and develop in France, Europe and beyond, in the interests of all. The AFG is fully invested to the future.

AFG – KEY MESSAGES ON MIFIR REVIEW

GENERAL REMARKS

AFG **welcomes** the MIFIR review proposal presented by the European Commission on 25 November 2022 as part of the **CMU package** which aims to enhance the competitiveness as well as the attractiveness of the EU capital market.

Among the several proposals, we strongly support the **Consolidated Tape Provider (CTP**) proposal on most aspects and expect that this initiative will **reduce our reliance** towards external providers, particularly the non-EU ones, and corresponding **market data costs** which have been increasing on a continuous basis.

However, and despite this progress, we would like to draw your attention to a number of **reservations and expectations** formulated by our members and detailed hereunder.

CONSOLIDATED TAPE

Even if the AFG supports the establishment of the CTP, this initiative will not be sufficient to solve the issue of market data costs. For this reason, we **urge the EC to adopt a holistic and coordinated regulatory approach** to take back control over data in the EU, as well as establishing a proper regulatory framework for data providers.

We consider that all asset classes in the long run are relevant to be included in a European CTP, but **we push to start with equities** and only in a in a second step, the scope should be extended to other asset classes like bonds in priority and then interest rate swaps, CDS…. This functional approach should allow an **initial feedback** on equity CTP (advantages/disadvantages, business model, governance, price, etc….) before considering its extension to other asset classes.

Pre and Post trade data on equities

According to the EC proposal, the CTP would only deliver post-trade data in the first phase. **If post-trade data is essential for investors, the pre-trade data which provides data on the best bids and offers quoted on the market is also highly relevant** . That is why we would favor a CTP that delivers both pre- and post-trade equities data at launch, instead ESMA studying on the feasibility of a pre-trade data a long time after the launch of a post-trade data.

On pre-trade data, AFG would like to see depth in the order book on at least 5 levels of bids and offers, which would help to inform asset managers' overall trading strategy in term of size of orders and choice of trading venues.

Mandatory contribution and compensation

We welcome the mandatory contribution free of charge by Trading Venues (TV) and Approved Publication Arrangements (APA) to the CT provider.

Regarding revenue sharing, **we believe all contributors should be compensated in a equal manner, depending on cost of production**, and that the proposal needs to cap the revenue of both contributing exchanges and CTP to a reasonable commercial basis, covering cost of production and a reasonable margin, not more. **The minimum revenue targets as defined in the EC proposal should be removed and replaced by a revenue participation scheme based on cost of productions**. Within that, we agree that institutional investors should pay reasonable fees, while retail investors should have to pay a symbolic fee.

Voluntary consumption

The use of the CT should remain voluntary. Users should be able to adjust their level of consumption if any of the CT and choose the level of aggregating to their operational needs for market data.
In this respect, it is crucial to **avoid to structure the CTP in a way which ultimately increases market data costs** in EU, instead reducing them.

Latency of the CTP

The EC proposal foresees delivery of data on the tape in as close to real time as possible but **remains unclear on the distinctions that should be made between equities and non-equities**.
"Real-time" for equities should mean delivery in the milliseconds range as equities markets are "order-driven" meaning that the matching of orders occurs on a fully transparent market where all the bids and offers by buyers and sellers are displayed.

While "real-time" for non–equity should be understood as delivered in the minutes range, considering that bonds markets are "price-driven", which means that only the bids and offers of the markets or dealers are seen, but not those of all the market participants. Moreover, **the definition of real time for bonds should be clarified as pursuant to publication deferral rules which ensure that certain instruments, depending on size and liquidity, benefit from publication delays. In this respect, the proposal must clearly indicate that trade data (including both volumes and prices) will only be made available on the CT after due application of such deferrals.**

MARKET STRUCTURES & TRANSPARENCY

Equity Transparency

As already mentioned above**, AFG campaigns for pre-trade and post-trade transparency through the CTP regarding equities.**

To optimize post-trade trade transparency, the reporting delay should be as short as possible, regardless of the nature of the transaction (LIS, closing price transaction, guaranteed crossover….) and the nature of the treated instrument (small, mid or large caps).

It also seems extremely important to us to maintain and enhance the competitivity and attractiveness of EU equity markets. **To avoid an unlevel playing field** which will be detrimental to EU actors, it is key that EU Equity markets remain aligned with UK markets in particular regarding the Share Trading Obligation (STO), the double-volume cap (DVC) and the reference price waiver (RPW). If the UK firms after a de-regulation can provide better prices and speed of execution than MIFIR, it will force professional clients to do their business in the UK instead of in the EU.

Regarding the waivers, AFG favors to preserve the diversity in trading execution choices rather than redirect flows to regulated markets. Our members consider that waivers are essential (in particular the RPW) because they have enabled the development of new platforms and innovative trading protocols, which can reconcile the benefits of an electronic and multilateral system without exposing orders to whole Market (eg. Request for Quote MTF). Platforms operating on the basis of the RPW also make it possible to trade at midpoint, which represents considerable savings for end investors, who share the spread and thus avoid being arbitrated.

The **RPW** (exemption based on a reference price imported from a regulated market) allows the brokers to cross **VWAP** (volume-weighted average price), and therefore to return better execution because it guarantees over a more or less long period. The negotiated trade waiver **(NTW)** is also used by brokers to declare blocks in High Touch. It is important that High Touch blocks do not pass in the Market in order to avoid more erratic volumes and a negative influence on the behaviour of the algorithms.
Globally, the LIS (large-in-scale) Waiver, the RPW, and the NTW(negotiated trade waiver) seem the most important to keep.

Regarding the Volume Cap, AFG welcomes the simplification proposed by the EC to replace DVC for RPW and NTW, with single cap at 7% of total volume across all venues. However, AFG wishes an impact assessmentbefore determining an adequate threshold, **and wonder on the basis of what grounds and considerations the 7% threshold has been set**. Also to our understanding the set of any new threshold must remain flexible based on a methodology capable to take into account evolution of market microstructures and actual market share of RPW and NTW. At this **stage a reasonable threshold is to our understanding in the range between 8% and 10% .**

Non-equity Transparency

While immediate transparency is relevant for Equities, **publication delays adapted to the size of the order and the nature of the instrument are essential for the bond market**, which is driven by the offer and the cost of liquidity. We reiterate the need to make **a clear distinction between equities and other asset classes. This distinction must absolutely be introduced in the deferrals, like the granular approach proposed by ICMA**[1], which takes into account the amount outstanding, the size of the trade and the ratings.

- Regarding the post-trade bond transparency, the Level 1 legislation should indicate **that differentiated price and volume deferral periods need to be defined and should mandate ESMA to calibrate which asset classes and transaction sizes should be placed into the different deferral categories.** A detailed quantitative analysis using accurate and complete trade by trade data should be conducted this calibration.
- **Any reduction of the delay would have a direct negative impact** on the cost of liquidity or on its depth as well as a side effect on the volatility which would potentially increase. This risk should not be underestimated and should be avoided.
- **We question the purpose of the MIFIR obligation regarding the pre-trade transparency for bonds**. It will be of no use to market participants as existing tools made available by brokers to their clients ensure the right level of information and well functioning of this market.

The EC proposal suggesting reform on the bond transparency regime to harmonize publication deferrals at European level is relevant, provided that there is a **strict alignment on a 2-weeks deferral on both price and volume for large blocs or for illiquid bonds**.

Moreover, we ask for **the removal of the exemption** granted by NCAs to sovereign debt issuer and European central bank system members under their respective jurisdictions. **The transparency regime should be the same for all products and all players**, regardless of their status and nature. Exceptions to immediate transparency should be based only on instrument liquidity considerations.

Derivative Trading Obligation

AFG supports the legislative proposal to **suspend the Derivatives Trading Obligation (DTO) for EU market makers when trading with non-EU clients**, especially to enable UK branches of EU firms not to apply anymore the EU DTO when trading with non-EU clients.

BEST EXECUTION REPORTS

The repeal of RTS 27 that we highly welcome should be accompanied by the RTS 28. These reports are burdensome for our members due to excessive costs of producing these reports with **no added-value for end-investors**. Professional end-investors already have access to proprietary tools and data for assessing best execution. A multiple asset class CTP will, in turn, provide valuable data toward retail

[1] ICMA position paper: proposal for a new post-trade transparency regime for the EU corporate bond market

investors for their best execution needs. Moreover, the RTS 27 was to be used to produce the RTS 28, so their fate is linked. It should be noted that on 30 November 2021, the FCA published PS21/20 on reforms to UK MIFID's conduct and organisational requirements, setting out changes to the research rules and the removal of the best execution reporting in RTS 27 and RTS 28. It would seem unfair to continue requiring the production of seldom used reports in this regard for EU firms.
That is why we request the removal of the RTS 28 "Best Execution" Report obligation.

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41 rue de la Bienfaisance · 75008 Paris · +33 (0)1 44 94 94 00 ▪ 45 rue de Trèves · 1040 Bruxelles · +32 (0)2 486 02 90 ▪ www.afg.asso.fr