

27<sup>th</sup> March 2019

Valdis Dombrovskis  
Vice-President for the Euro and Social Dialogue  
European Commission  
Rue de la Loi 200  
1049 Brussels  
Belgium

*Dear Vice-President*

**Application of the share trading obligation in a no-deal Brexit scenario**

I am writing in relation to the application of the EU share trading obligation ("EU STO") set out under Article 23 of MiFIR, following the ESMA public statement on 19 March 2019 informing stakeholders about its approach to the EU STO after the no-deal Brexit date, in the absence of an equivalence decision by the European Commission.

The approach set out by ESMA applies the EU STO to EU ISINs (as well as ISINs from Iceland, Liechtenstein and Norway) and GB ISINs that qualify as liquid within the EU. Under this approach, 14 GB ISINs are identified as being liquid within the EU and will be brought into scope of the EU STO despite the fact that most are traded overwhelmingly in the UK.

AFME members are concerned that this will have a negative impact on European investors who will suffer from an increasingly fragmented trading landscape, incur significantly higher costs of execution and be forced to deal with an inability to access optimal prices and volumes.

ESMA's application of the EU STO will prevent EU investors from accessing the primary source of liquidity for affected shares (e.g. 98% of trading in Vodafone shares takes place in the UK<sup>1</sup>). This will be of significant concern for funds and other market participants whose trading requires access to the primary market opening or closing auctions.

Lack of access to these auctions, especially closing auctions, will substantially increase trading costs for index tracker funds that include one of the 14 GB ISINs with a primary listing in the UK. This will heavily disadvantage investors in those funds when the fund trades through an entity subject to the EU STO.

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<sup>1</sup> Source: Bloomberg

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AFME is aware that these concerns have been raised by market stakeholders including several European investor associations that have called on the European Commission to recognise the equivalence of UK trading venues or temporary measures of similar effect<sup>2</sup>.

AFME has also highlighted in a letter to the UK Treasury that if the UK FCA chose to adopt a similar approach, hundreds of large cap EU stocks would be deemed to have been liquid in the UK (based on 2018 data<sup>3</sup>) – potentially resulting in the withdrawal from EU venues of the substantial liquidity flowing from UK investors, banks and brokers, cutting off issuers from this significant source of investment and capital growth.

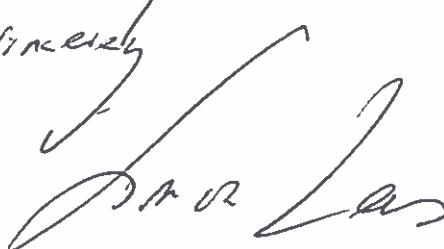
**In light of the approach outlined by ESMA on 19 March 2019 and to reduce the risk of market disruption, AFME members urge the European Commission and the UK Treasury to grant equivalence for trading venues located in the UK and the EU respectively, for the purposes of the STO, at least on a temporary basis. There is a well-established legal basis for this approach and, given the shared legislative basis between the UK and EU, it should be justified in the current circumstances. There is, of course, a precedent in EU policymaking of temporarily recognising trading venues in a third country as eligible for compliance with the STO to avoid significant disruption to markets.**

**In the absence of an equivalence decision for UK trading venues and in the event of a no-deal Brexit, we urge the European Commission to work with ESMA and national competent authorities with the aim of providing transitional relief for the purposes of the STO, in the immediate period following a no-deal Brexit scenario.**

AFME respectfully encourages both the EU27 and UK authorities to maintain dialogue on this important issue with the aim of avoiding market disruption and negative outcomes for end investors.

We would be very happy to address any questions or discuss this matter further at your convenience.

**Simon Lewis OBE**  
**Chief Executive**

*Yours sincerely*  


cc: Steven Maijoor, Chairman, ESMA

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<sup>2</sup> EFAMA letter dated 12 February 2019

<sup>3</sup> Source: Bloomberg