
Press release

AFME says MiFID rules prevent conflicts of interest, but better supervisory convergence required on PFOF

6 October 2021

In response to [ESMA's recent public consultation, dated 1 October, calling for evidence on retail investor protection issues](#), such as payment for order flow (PFOF), the Association for Financial Markets in Europe (AFME) has issued the following statement:

AFME agrees that payment for order flow (PFOF) models are unlikely to be compatible with existing MiFID II rules on avoiding conflicts of interests and ensuring best execution outcomes for clients. AFME also agrees that a review of PFOF models should be undertaken to encourage greater supervisory convergence among EU Member States.

The safeguards put in place by MiFID II rules ensure that investors are suitably protected and that the primary goal of investment firms is to achieve best execution outcomes for their clients.

Clients and regulators should be able to test claims from retail brokers that they are offering best execution through any liquidity provider which pays for order flow. We note that a consolidated tape showing prevailing available prices at the time of the receipt of a client order would assist in verifying these claims by reviewing a retail broker's executions in aggregate.

– Ends –

Notes to Editors:

- MiFID II has strict requirements for investment firms to manage conflicts of interest. Firms are required to take all appropriate steps to identify and prevent or manage any conflicts of interest “between themselves... and their clients... including those caused by the receipt of inducements from third parties”. MiFID II also explicitly states that firms need to prevent conflicts of interest in the first instance and to rely on disclosure only as a last resort. These requirements are set out under Articles 23, 24 and 27 within MiFID II which cover conflicts of interest, best execution and inducements respectively.
- Some National Competent Authorities have commented on payment for order flow including the AMF¹ and FCA² agreeing that MiFID rules prevent conflicts of interest and ensure best execution for clients

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About AFME:

AFME (Association for Financial Markets in Europe) promotes fair, orderly, and efficient European wholesale capital markets and provides leadership in advancing the interests of all market participants. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise

¹ Speech by Robert Ophèle (AMF Chairman), March 2021 – link [here](#)

² FCA supervisory guidance, April 2019 – link [here](#)

pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. AFME participates in a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) through the GFMA (Global Financial Markets Association). For more information, please visit the AFME website: www.afme.eu. Follow us on Twitter [@AFME_EU](https://twitter.com/AFME_EU)