

Press release

AFME comments on Draft MiFIR report

29 July 2022

The Association for Financial Markets in Europe (AFME) welcomes today's publication of the draft report by Rapporteur Danuta Hübner, which represents an important milestone in the legislative negotiations on the Markets in Financial Instruments Regulation (MiFIR) Review.

Adam Farkas, Chief Executive at AFME, said: *"The MiFIR review and the proposals from Professor Hübner come at a critical moment. With Europe facing challenging times in light of slowing growth and rising inflation, in addition to the economic impact of the war in Ukraine, the efficient functioning of secondary markets is even more vital to meet Europe's increasing private financing needs."*

"To ensure the continued functioning of these markets, the MiFIR Review must preserve the diversity of trading mechanisms serving different investor needs. Banks, as market makers, are an essential part of this ecosystem, committing their balance sheets to provide liquidity to financial markets. This intermediation is vital to help support market depth and liquidity throughout changing market conditions."

"Therefore, we would urge the Parliament to consider key issues affecting the competitiveness of European markets. For example, proposals which impose undue restrictions or expose committed bank liquidity providers to increased risk could have potentially damaging effects on secondary market liquidity and the competitiveness of European markets."

"Capital markets are global and we commend Professor Hübner's approach of ensuring regulatory changes in other jurisdictions are taken into account in the development of the EU framework. Keeping these developments in mind will contribute to strengthening the competitiveness and efficiency of EU markets, ensuring that investors can access optimal trading conditions, which will ultimately benefit EU savers and pensioners."

"We look forward to examining the draft report in further detail and engaging with the European Parliament over the coming months."

In particular, AFME urges the Parliament to consider the following in its deliberations going forward on the MiFIR Review:

- In **equities markets**, AFME supports the suspension of the double volume cap, which will ensure EU capital markets remain competitive by bringing this part of the regulation into line with other jurisdictions.
- We also note that Professor Hübner has proposed an enhanced role for ESMA in establishing a size threshold for Systematic Internaliser (SI) trades that can be executed at midpoint, a minimum quoting size for SIs and a minimum size threshold for use of the reference price waiver by trading venues. AFME cautions that if these restrictions are introduced, it is vital that they are based on sound evidence relating to market quality (i.e. the efficiency of intraday and closing price formation) and the delivery of best execution outcomes for end investors. AFME believes that applying further, unnecessary restrictions to the SI regime will erode the level playing field and inhibit SIs' efficient facilitation of trading for institutional investors. For example, we note that the EU is a global outlier in pursuing restrictions on midpoint execution.

- In **fixed income markets**, while a 4-week price and volume deferral for very large transactions is a step in the right direction, any changes to transparency thresholds and the timing of publication of trading data that have not been based off granular analysis using a comprehensive, accurate data set, risks exposing market-makers to undue risk. The fixed income transparency regime needs to be calibrated to allow these market makers (which are committed liquidity providers) to continue to be able to quote/trade in large sizes as well as in illiquid instruments. The calibration must provide sufficient time to market-makers to hedge or unwind their positions, both in a benign environment, as well as during periods of high market volatility. The level one text should set out the principles which need to be taken into account when determining these calibrations, but the calibration exercise itself, in our view, should be delegated to ESMA on the basis of a thorough impact assessment.
- Establishing a **well-designed consolidated tape for equities and fixed income** will promote more attractive and competitive capital markets in EU and contribute to reducing home country bias in the Union, where investors tend to prefer companies from their own Member State.
 - AFME strongly supports the statement that it is essential that the equity tape contains real-time, pre-trade data. We encourage all co-legislators to be ambitious and include pre-trade data in the equities tape at the outset. Making real-time equity market data available to all investors will provide a single view of trading in Europe, which is key for creating a truly pan-European market.
 - Similarly, a post-trade consolidated tape for bonds will provide all investors, regardless of resources or sophistication, with a comprehensive and standardised view of the European fixed income trading environment and will help attract international capital. It is, though, important to note that a bond consolidated tape will not solely address the issues of particularly high market data costs in this market.
 - While the development of a fully-fledged consolidated tape would be a game-changer for the Capital Markets Union, its positive impact would be undermined if the other restrictions to the trading environment, highlighted above, are introduced as this will be to the detriment of investors.
- On the **definition of SI and SI reporting requirements**, it is important to reduce uncertainty when it comes to establishing who is registered as an SI and also who should take responsibility for post-trade reporting.
 - AFME supports proposals to introduce a designated reporter regime which will eliminate uncertainty around the question of which counterparty reports a trade for the purposes of fulfilling post-trade transparency requirements. Under the current regime, which is based on SI designation, market participants have faced unnecessary complexity which has led to duplicative reporting.
 - The application of a qualitative definition for SIs will remove the existing, unnecessary quantitative definition which places an unnecessary burden on EU investment firms. Combined with the decoupling of the SI regime and reporting requirements, this will lead to a framework where firms only register as SIs when it is reflective of their business model. AFME supports this approach.

- ENDS -

AFME Contact

Rebecca Hansford

Head of Media Relations

rebecca.hansford@afme.eu

+44 (0)20 3828 2693

+44 (0)7825 081 686

About AFME:

AFME (Association for Financial Markets in Europe) advocates for deep and integrated European capital markets which serve the needs of companies and investors, supporting economic growth and benefiting society. AFME is the voice of all Europe's wholesale financial markets, providing expertise across a broad range of regulatory and capital markets issues. AFME aims to act as a bridge between market participants and policy makers across Europe, drawing on its strong and long-standing relationships, its technical knowledge and fact-based work. Its members comprise 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