



██████████
Bundesministerium der Finanzen
Wilhelmstrasse 97
10117 Berlin
Germany

15 March 2019

██████████,

Experience and possible need for amendment with regard to the EU Financial Market Directive (MiFID II) and the EU Financial Market Regulation (MiFIR)

Thank you for inviting comments on our experiences of and observations on MiFID II and MiFIR. Cboe Europe is the largest operator of equity trading venues and OTC reporting services in Europe, with regulated market operators and APAs located in both the Netherlands (Cboe Europe, B.V.) and the UK (Cboe Europe Ltd.). As such Cboe Europe has had extensive experience of implementing MiFID II and MiFID requirements and has been able to observe first-hand the impact and effectiveness of their various provisions. While there are many areas worthy of discussion, I will restrict my comments to four key areas:

- Market structure;
- Tick sizes;
- Cost of market data; and
- Access to clearing.

Market structure

The most notable development in market structure since MiFID II has been the growth of periodic auction platforms, although it should be noted that despite impressive growth, these platforms still only account for less than 2.4% of total on-venue market share (February 2019). These platforms have provided a genuine alternative to other mechanisms such as lit and dark order books and systematic internalisers in a way that provides genuine price formation and prioritises size over speed. The positive response from a broad range of market participants, from both buy and sell-side was reflected in the feedback received by ESMA in response to its call for evidence.

Tick sizes

While the implementation of the MiFID II tick size regime has been broadly successful, it has created unwelcome uncertainty over the ability of trading venues to offer genuine mid-point trading. The mid-point is a globally accepted reference point for execution and provides the fairest price for both buyer and seller in a multilateral trading environment. An over-zealous interpretation of the tick size regime that prohibits mid-



point trading at a half tick when the spread is an odd number of ticks wide leads to the perverse situation whereby genuine mid-point trading is only available when the spread is an even number of ticks wide. Furthermore, it would force venues to disadvantage buyer or seller when deciding which way to round ticks. We note the proposal in the investment firm review to allow for mid-point matching for orders that are large in scale however, while this development is welcome, this only accounts for a very small amount of the business that would naturally seek to trade at mid. Accordingly we believe that any update to MiFID should include an explicit provision to clarify that mid-point trading is always permissible, irrespective of the spread at the time, and for all sizes of order.

Cost of market data

MiFID had admirable ambitions with respect to market data pricing. However its intentions were watered down throughout the level 2 process and our experience as a consumer of market data from 15 European markets, is that prices have not fallen at all as result of the new reasonable cost provisions. We believe that the creation of a consolidated tape is the most important step to be taken to address this, along with more robust transparency and enforcement provisions to support the existing reasonable cost requirement.

Access to clearing

Once again, MiFID had an objective that we support in this regard. In our experience to date however, its practical impact has been to introduce additional bureaucracy around new clearing relationships that both parties are committed to establishing. We are yet to see a CCP open up access in response to an unsolicited access request. Furthermore, access to clearing continues to be used by derivatives exchanges to restrict trading competition. We believe any update to MiFID should make access requests more straightforward for the requesting party, and should reduce grounds on which access can be denied.

I would be more than happy to discuss any of these points with you or colleagues if you think it would be helpful.

Yours sincerely,

A black rectangular redaction box covering the signature of the sender.


President, Cboe Europe B.V.
Chief Legal and Regulatory Officer, Cboe Europe
+44 20 7012 8945
