FESE response to the Commission consultation on the integration of EU capital markets

Brussels, 10th June 2025

Contents

Section 1 - Simplification and burden reduction

1. Is there a need for greater proportionality in the EU regulatory framework related to the trade, post trade, asset management and funds sectors? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. If yes, please explain and provide suggestion on what form it should take?

1	2	3	4	5	Don't know/ No opinion
☐	☒	☐	☐	☐	☐

(1.1) Please explain your answer to question 1 and provide a suggestion on what form it should take

There is a strong need for proportionality to be a much more important factor when the Commission is developing legislative proposals. When it is identified that regulatory action is required at the European level, there is a real need to ensure the proposals are proportionate to the issue at hand, as there are some instances where European legislation has been much more encompassing than is needed to achieve the initial aim. There are several areas in the EU regulatory framework that would benefit from greater proportionality.

On MiFID II/R framework, following the ESMA statement outlining its positive commitment to simplify reporting requirements and reduce burdens, aiming to create a more effective and attractive EU capital market, we would like to underline that attention must be given to maintaining high-quality data for supervision and allowing sufficient time for coordinated implementation of changes. As an example, FESE had reservations about potential data quality issues that may arise from ESMA discontinuing specific reporting flows from FITRS and DVCAP, and relying solely on transaction reporting. We believe it would have been more valuable for ESMA to focus first on refining transaction reporting before considering potential efficiencies.

Additionally, the Market Abuse Regulation still uses a one-size-fits-all approach, applying the same requirements for all asset classes, regardless of the relative risk of market abuse associated with an individual instrument. It has been extensively identified that this negatively affects debt instruments, which, in most cases, are unlikely to be impacted by, or contribute to, market abuse. It would be key to fine-tune the application of MAR based on the specificities of financial instruments and markets.

On the digital finance side, the adopted DORA Level 2 requirements are extremely extensive and will have a significant impact on financial entities in terms of compliance efforts as well as costs. Under DORA ITS on the register of information, the requested information is extremely granular and will require significant resources and additional costs to comply with. In addition, whilst cross-border groups of financial entities belonging to the same category (e.g. credit institutions) could benefit for simplified reporting requirements (e.g. consolidation of register of information) this is not the case for market infrastructures belonging to the same group since that there is no single supervision and consolidation of reporting requirements is not allowed by NCA.

Looking at the CSRD, this was developed to address an important area where a regulatory framework was required. However, the legislation that followed went much further than necessary and became a significant and burdensome cost to the industry, creating unnecessary complexity for market participants. This puts the EU at a serious disadvantage compared to other jurisdictions. Therefore, we welcome the recent momentum behind the simplification agenda, and in particular, the Omnibus package on sustainable finance.

Furthermore, the EU's prudential and capital requirements framework, including the Investment Firm Regulation (IFR), also needs greater proportionality. While investment firms' prudential rules should be tailored to their specific nature, activities and risks, the current IFR regime presents challenges. Investment firms, especially those dealing on their own account, are typically smaller than credit institutions, operate differently (e.g., no deposit-taking), and pose limited market risks. However, exceeding certain size thresholds subjects them to the CRR/D banking framework, potentially leading to disproportionate requirements, hindering their ability to provide liquidity (as envisioned by MiFID II/R) and encouraging business relocation outside the EU. This is concerning as these firms, acting as market makers, are crucial for EU capital market liquidity and stability. EU legislators should also consider the IFR framework's extraterritorial effects on globally operating EU investment firms, ensuring the framework supports their growth while maintaining stability, competition, and a level playing field with non-EU-based investment firms.
Finally, there is a lack of proportionality in investor protection between on-exchange equity investments and fund investments.

[…]

4. Are there any barriers that could be addressed by turning (certain provisions of) the Alternative Investment Fund Managers Directive (AIFMD), Financial Collateral Directive (FCD), Markets in Financial Instruments Directive (MiFID), Undertakings for Collective Investment in Transferable Securities Directive (UCITSD), Settlement Finality Directive (SFD) into a Regulation? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'.

1	2	3	4	5	No opinion/ Don't know
☐	☒	☐	☐	☐	☐

(4.1) If you agree, please explain which barriers and how a Regulation could remove the barrier.

FESE supports the proposal to replace Directives with Regulations as it reduces the ability for differing approaches to be taken in different Member States, which fundamentally conflicts with the aim of an integrated Single Market. The current European rulebook needs to be adapted as Directives, national divergent implementation, and gold-plating create significant obstacles that must be removed. There is a clear need for a more harmonised approach in the regulatory framework so that the challenges of cross-border investments, liquidity and fragmentation can be addressed and the full integration of EU capital markets is supported and facilitated. Maximum harmonisation should be the norm.

1) Directives

MiFID - we set out specific examples of gold-plating that we have identified in some jurisdictions of Member States that would be removed should it be replaced by a Regulation on a maximum harmonisation basis. It is important that local legislation, which may already include additional requirements, is amended so that a more harmonised approach is taken and gold-plating is eliminated.

Rulebook approval

The requirement in MiFID on market operators under Article 53 is that Member States shall require a regulated market to establish, implement and maintain transparent and non-discriminatory rules, based on objective criteria, governing access to or membership of the regulated market; it does not foresee specific ex-ante approval by the NCA being required. However, there are different approaches taken across the EU, with some requiring ex-ante approval but others not. This divergence in practice creates an uneven playing field, particularly if new innovative developments that require rule changes are being delayed due to these processes. There is a need for these differences to be eliminated. Transferring MiFID into a Regulation and stipulating that the management board of the regulated market is responsible for rulebook changes with no separate ex-ante approval required would ensure a harmonised and efficient approach is taken that supports innovation.

2) Regulations

In addition to our views on Directives, we take this opportunity to highlight that there are still issues with Regulations when Member States can take up certain options or NCAs take different interpretations of the same provision. This still creates barriers to cross-border integration. We set out some specific examples of this:

Regulatory Reporting

The MiFIR Review amends Article 25(2) to specify that trading venues should keep all relevant order data at the disposal of the NCA in an '*electronic and machine-readable format and using a common template*'.

There is a need for harmonisation in terms of the requirement in RTS 24 for orders to be sent to NCAs 'on request' because in practice, differing approaches are taken: some NCAs request a daily file to be sent to them, others ask for it ad-hoc, while others manage this entirely separately.

A harmonised approach needs to be adopted in relation to regulatory reporting. We believe discussions around the 'common template' should also consider the required format for sending the data. Today, there are differences across the supervisors with some requesting files in 'xml' format, while the others can be sent in 'flat' files. The format needs to be harmonised.

In addition, some files that were shared with the NCAs prior to the introduction of MiFID II are still requested by them even if they are redundant with ESMA RTS files. As an example, some NCAs are still requesting trading venues to provide on a daily basis Referential Data file equivalent to the RTS 23. A simplification could be made to the ESMA RTS to integrate any data that is not currently in scope and that is required by NCAs and which should be harmonised across the EU.

This is a clear example where, even though the requirement stems from an EU Regulation, in practice, NCAs set different requirements.

5. Are there areas that would benefit from simplification in the interplay between different EU regulatory frameworks (e.g. between asset management framework and MiFID)? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. If you agree,

1	2	3	4	5	No opinion/ Don't know
☐	☒	☐	☐	☐	☐

(5.1) Please explain and provide suggestions for simplification. Also if possible present estimates of the resulting cost savings.

From a digital finance perspective, the interplay between the Cyber Resilience Act (CRA) and DORA could benefit from further refinements. Both legislations serve to increase the cybersecurity and resilience of the EU economy, one through the lens of digital products and the other via the ICT systems of financial entities. As a result, the scope of both the

CRA and DORA are one-in-the-same, leading to unnecessary duplication of requirements. It would be useful to recognise other sectors that have similar requirements, which result in the same objectives of the CRA, grant equivalence with DORA and give the Commission the freedom to set guidance on sector-specific application of its rules. In the Prospectus Regulation, the approval of a Prospectus by one national competent authority (NCA) should automatically serve as a passporting right into other Member States, without the need for a formal passporting procedure. Hurdles that prevent a true EU passporting regime need to be reduced. Therefore, prospectus liability should be harmonised across Member States by making the issuer solely responsible for the prospectus, replacing the current complex system with varying liability rules depending on national law. To further simplify prospectus requirements, the number of listed risk factors should be reduced to only those materially relevant for informed investment decisions, streamlining the prospectus creation process. For energy derivatives financial instruments, the EU REMIT regulation requires order reporting to the Agency for the Cooperation of Energy Regulators (ACER). Under the current reporting framework, trading venues and clearing houses are required to report certain data twice. **Duplications create inefficiencies** within the system and result in incomplete data collection. **Ideally, any transaction, order or position would be reported once**. In addition, this reporting does not contain exactly the same fields and does not have the same format as the RTS 24. A single reporting of orders to a single authority would be a significant simplification. It is essential that any streamlining takes **an incremental approach**. As part of this, it may be necessary to evaluate what simplification and corrections should be addressed first, and whether these can be achieved with **greater internal coordination and sharing amongst regulators**. Streamline Duplicative CCP Reporting (EMIR/MiFIR/REMIT): Overlapping data requirements and reports under EMIR, MiFIR, and REMIT create redundant effort. Examples include identical data fields reported under Art. 9 EMIR & Art. 8 REMIT, and ETD transaction reporting under both Art. 9 EMIR and Art. 26 MiFIR. Further complexity arises from redundant reporting under EMIR, MiFID II, MiFIR, REMIT, and MAR, particularly for energy derivatives. This is even more burdensome considering many entities are in addition subject to overlapping non-EU regimes (US, Japan, Canada) since equivalence is only given one way. For each reporting obligation, several IT connections with numerous supervisory authorities such as ACER, ESMA, the Commission, Trade Repositories (TRs) and NCAs or even non-EU authorities are necessary. We recommend enacting a 'report once', to ensure that CCPs do not have to provide duplicated data.

6. Would the key information documents for packaged retail and insurance-based investment products (PRIIPs KID) benefit from being streamlined and simplified? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. If you agree,

1	2	3	4	5	No opinion/ Don't know
☒	☐	☐	☐	☐	☐

(6.1) Please explain and provide suggestions for simplification. Also indicate what should be prioritised and if possible present estimates of the resulting cost savings.

Yes, FESE agrees. Under the PRIIPs Regulation, exchanges are considered to be the manufacturers of ETDs, but they do not interact with end investors, as trading occurs between their members,

MiFID-licensed investment firms. Due to this, exchanges lack visibility of final investors and cannot fully complete a KID under current rules. Certain KID sections, particularly costs and performance, are also problematic. It would be misleading to include a section on the performance of an ETD since the product does not “promise” any sort of performance in the first place. In addition, ETDs were originally not intended to fall within the scope of the PRIIPs Regulation, as it focuses on investment funds and other long-term investment products.

While NCAs have allowed for a standard KID grouping ETDs by family/characteristics, FESE proposes either explicitly exempting ETDs from the regulation in Level 1 or, at minimum, modifying the Level 1 text to clarify that ETDs require tailored KID provisions, including grouping similar ETDs and adapting cost and performance sections.

General observations regarding KID:

- The KID should remain a brief document containing only critical information that gives an overview of the product in question, avoiding information that is not directly necessary for the investment decision.
- The introduction of the new sustainability section should be carefully weighed, as not all financial products will require a sustainability section due to their characteristics.

FESE welcomes the recent efforts from the Commission services to simplify the RIS text, including the section on the PRIIPs.

In addition, Article 5(2) of PRIIPS has led to divergent supervisory approaches in terms of pre-notification of the KID. In particular, some Member States adopted a very burdensome approach requiring manufacturers to use specific IT channels and structured data to meet the ex-ante notification requirements. Therefore, we suggest either removing this requirement entirely or specifically for ETDs, which are already subject to notification when admitted to trading on trading venues.

Bonds

The current scope of PRIIPs is defined in a manner that encompasses all types of bonds, including fixed-rate bonds classified as PRIIPS that might otherwise be considered relatively straightforward.

Creating a KID entails:

- Additional documentation and compliance processes.
- Ongoing updates if the product risk or structure changes.
- Legal liability for the issuer or manufacturer if the KID is deemed inaccurate or misleading.

Many issuers simply avoid selling bonds to retail markets to circumvent these additional requirements, thereby defaulting to a “professional-only” approach. As part of RIS, the newly proposed exemption for bonds with make-whole clauses is a positive step forward, but it still falls short of encompassing all ordinary bonds (excluding structured bonds) for which the application of PRIIPs is irrelevant and poses an obstacle to their distribution.

To avoid falling within the scope of PRIIPs, issuers of ordinary bonds opt to exclude retail investors from the distribution of these financial instruments through selling and/or transfer restriction clauses in the prospectus, even when there is no specific feature related to the financial instrument justifying the exclusion. As these financial instruments may qualify as PRIIPs even if they are ordinary, the absence of a KID presents a further obstacle to distribution to retail clients. As a result, these bonds are typically unavailable to retail investors, thereby restricting retail access to the bond market.

For these reasons, we recommend that all ordinary bonds (including those issued by financial issuers for funding purposes) should be exempted from the scope of the PRIIPs Regulation.

Modifying the PRIIPs definition to exclude the make-whole call provision could potentially result in the lifting of restrictions for retail investors to access these instruments, thereby opening up a significant number of instruments to retail investors.

Expanding retail access to corporate bonds is more than just a technical regulatory issue: it's about driving financial inclusion, increasing retail investor participation in capital markets, and supporting the real economy. Corporate bonds are not just financial instruments; they are a vital tool for directing savings toward businesses that power growth and innovation. In a context where the EU is trying to simplify regulatory frameworks to increase competitiveness in the Union while promoting retail investors' participation in capital markets, it is more important than ever to tackle the challenges described in this paper and make corporate bonds accessible to retail investors.

7. Do you have other recommendations on possible streamlining and simplification of EU law, national law or supervisory practices and going beyond cross-border provision?

☒Yes

☐No

☐Don't know / no opinion / not applicable

(7.1) Please list your recommendation and suggested solutions. Please rank them as high, medium or low priority.

Streamlining and simplifying certain aspects of the MiFID II/MiFIR framework

- Simplify and streamline waiver regime for equity instruments: The proliferation of alternative trading mechanisms, like dark pools and SIs, has increased market fragmentation, reduced addressable liquidity and led to a highly deficient quality of data due to exemptions from transparency and reporting regimes. Therefore, it is necessary to review and adjust the current waiver regime (repeal negotiated trade waiver, limit SI trading to large institutional orders) to enhance transparency and data quality. Bringing more trading onto lit venues would increase transparency and make it easier for regulators to monitor market activity.
- Transaction Reporting – Requirement to collect information from non-MiFIR clients: Currently, trading venues are required to report transaction data also from trading participants that are not directly subject to MiFIR. This creates a significant operational burden for venues, including the cumbersome collection of personal data and evaluation of the accuracy and completeness of data within tight T+1 reporting deadlines. To simplify the process for trading venues and improve data accuracy, transaction reporting should be reported by the participants themselves.

DORA

Article 7(1) of DORA RTS provides for the possibility to aggregate incident reports under certain conditions but this provision does not allow financial entities located in different Member States to aggregate incident reports even though they belong to the same group and share the same ICT provider (which usually is also part of the same group). In our view, provided that all other conditions listed in Article 7(1) are met—in particular, the explicit consensus by competent authorities—there are no objective reasons not to allow the aggregation of the incident reports in this scenario. The aggregation of reports among financial entities located in more than one Member State is in line and facilitates the assessment of cross-border impacts to be performed by ESMA.

The opportunity for operators of trading venues belonging to the same market infrastructure to outsource the submission of the notification of the incidents—as well as

to aggregate information through a single form encompassing all trading venues of the market infrastructure—would ensure aligned communication standards, improving response times when multiple trading venues are affected by the same ICT-related incident and reducing the regulatory burden on trading venues operating in multiple jurisdictions. Therefore, we are proposing the following amendment to Article 7(1) and (2): • Deletion of Article 7(1)(d), and • Deletion of the wording "operators of trading venues, and central counterparties," in Article 7(2).

8. Does the EU trade, post-trade, asset management or funds framework apply disproportionate burdens or restrictions on the use of new technologies and innovation in these sectors? Please choose from 1 (strongly agree) to 5 (strongly disagree) or 'no opinion'. Please explain and provide examples.

1	2	3	4	5	No opinion/ Don't know
☐	☐	☒	☐	☐	☐

Please explain and provide examples

• Facilitate DLT settlement solutions by CSDs: Certain provisions in CSDR prevent CSDs from developing innovative settlement solutions based on DLT that would enhance the efficiency of capital markets. Art. 39 CSDR requires CSDs to provide settlement services only within a settlement system in the meaning of the Settlement Finality Directive (SFD). The operation of a system in accordance with the SFD requires the operator of the system to fully control the underlying technical infrastructure. The DLT Pilot regime has addressed this problem but is too restrictive in terms of scope and limitation in time to create incentives for major investments in the research and development of such DLT solutions. This restriction leads to a significant innovation barrier in one of the most significant technological opportunities in capital markets in recent years. We therefore propose to remove the restrictions of Art. 39 CSDR and SFD to enable CSDs to make use of decentralised settlement infrastructures. • Promote a digital wholesale CBDC on an integrated digital capital market infrastructure: Elevating the digital infrastructure of European capital markets is imperative to equip the EU with an efficient and powerful infrastructure for future capital market growth. To further support efforts to build a fully digital SIU, avoid re-fragmentation, and transfer the stabilising role of central bank money (CeBM) into digital environments, the next step must be to establish a European framework for the digital euro in the wholesale sector (wCBDC). The Eurosystem's initiative to test new technologies for the settlement of financial transactions in digital central bank money (so-called "ECB Trials") has been a great success in testing the underlying technologies and the applicability of digital payments for settlement in CeBM. From our perspective, efforts should continue, and concrete steps and measures should be prepared and taken. A robust governance structure and collaboration between key stakeholders should be established as quickly as possible to work towards a comprehensive framework that pools collective expertise and experience and ensures timely initial implementations.

[…]

Section 2 - Trading

2.1. Nature of barriers to integration, modernisation of liquidity pools

1. On a scale from 1 (absent) to 5 (efficient), what is your assessment of the current level of integration of liquidity pools across the EU?

1 (absent)	2 (inefficient)	3 (neutral)	4 (slightly efficient)	5 (efficient)	No opinion/Don't know/Not applicable
☐	☐	☐	☒	☐	☐

(1.1) If you responded 4 or below to the previous question, what are the barriers that limit the level of integration of liquidity pools in the EU? Please select the relevant items.

☒Legal/regulatory barriers at EU level;

☒Legal/regulatory barriers at domestic level (including also insolvency law, tax, etc., and including barriers resulting from gold plating of EU law);

☒Non-regulatory barriers (market practices);

☐Supervisory practices;

☐Other barriers (please specify)

2. Please provide concrete examples of the identified barriers. In case of legal barriers (excluding on the "group operations" dealt with in the section on horizontal barriers), please indicate the relevant provisions. Where possible, please provide an estimate of resulting additional costs and/or impacts on execution quality.

The level of integration of liquidity pools cannot be deemed inefficient, at least when considering lit venues, which appear to be the primary focus of this section of the consultation. That said, a number of barriers remain that hinder the broader integration of EU liquidity pools:

- **Market fragmentation and growth of alternative venues:** Since the implementation of MiFID II, the proliferation of alternative trading mechanisms, such as Systematic Internalisers (SIs) and dark trading venues, alongside persistent over-the-counter (OTC) practices, has significantly fragmented the EU equity market. While this has fostered competition, it has also diverted liquidity away from lit regulated markets, often at the expense of transparency. If the Commission aims to further integrate EU liquidity pools, it cannot overlook the role of dark and bilateral trading by only focusing on RM and MTFs. It is important to recall that lit multilateral venues provide open, fair, and non-discriminatory access to all participants, serve a vital role in listing and price formation, and yet are experiencing a steady decline in their share of equity trading relative to the expanding bilateral and dark trading space that are subject to fewer transparency obligations, lighter regulatory requirements, and are less accessible to the broader market. [N.B. the same trends can be seen in the US under Reg NMS].
- **Lack of sufficiently harmonised legal basis across Member States:** One of the major challenges facing the industry in allowing for market-led integration is the lack of regulatory harmonisation across the EU's 27 Member States. Diverging rules and regulations—ranging from reporting and disclosure standards to corporate and

securities laws, taxation, insolvency regimes, and supervisory practices—create significant obstacles to cross-border trading and the provision of financial services. As a result, a key priority must be the continued removal of legislative barriers. Establishing a unified securities framework would support cross-border listing and trading, while harmonised tax regimes—particularly regarding dividends, capital gains, and withholding taxes—would remove a major barrier to cross-border investment. This would facilitate a more harmonised basis to start from, which in the US is already a given.

- **Gold-plating:** Closely related to the above is the fact that, despite overarching EU-level legislation such as MiFID II and MiFIR, significant differences persist in national legal environments—particularly in how identical legal requirements are interpreted, applied, or transposed. These inconsistencies stemming from Member State-level practices also lead to inefficiencies in the functioning of EU capital markets, creating legal uncertainty and discouraging cross-border investment. The Commission should therefore intensify its efforts to collaborate with Member States to address these discrepancies and unlock the full potential of the EU's capital markets.
- **Home bias and investor behaviour:** Investors and institutions often prefer domestic markets due to familiarity, a shared language, legal understanding, and perceived lower risks. However, this "home bias" in capital markets should not be viewed as inherently negative. On the contrary, it plays a valuable role in financing local businesses, particularly SMEs. It is important to note that the main barriers to cross-border investments by retail investors are not issues of lack access—since most brokers already offer a broad range of foreign financial instruments based on market demand—but rather the embedded home bias, compounded by differing tax and regulatory regimes, language-related challenges, and limited research availability on certain foreign stocks.

Lit multilateral venues are operating within a complex ecosystem shaped by divergent regulatory, supervisory, and market practices, while constantly striving to support the development of capital markets and deepen liquidity pools to reinforce their key societal role. However, the path to larger and more integrated capital pools does not primarily lie in improving connections with or between lit multilateral venues—since access to these venues is not a limiting factor—but rather in increasing the overall size and depth of liquidity. To that end, attention should focus on addressing the barriers outlined above: reducing gold-plating, harmonising legal frameworks, achieving consistent supervisory outcomes, and resolving structural market inefficiencies to enhance transparency in EU markets and help shift a greater share of trading activity toward lit venues. Importantly, these efforts must be complemented by targeted supply- and demand-side measures to foster a more attractive listing environment, stimulate investment, and expand the capital base.

2.2. Regulatory barriers to cross-border operations in the trading space

3. What is your assessment of the current level of harmonisation of EU rules applicable to:

	1 (insufficiently harmonised)	2 (poorly harmonised)	3 (partially harmonised)	4 (sufficiently harmonised)	5 (fully harmonised)	No opinion/Don't know/Not applicable
Regulated markets and their operators.	☐	☐	☐	☒	☐	☐

Other trading venues and their operators.	☐	☐	☐	☒	☐	☐
The provision of execution of orders on behalf of clients.	☐	☐	☒	☐	☐	☐
The provision of reception and transmission of orders.	☐	☐	☐	☐	☐	☐

(3.1) If you replied 4 or less to any of the items in the previous question, how necessary would you deem, for the purpose of fostering cross border operations, an increase in the level of EU harmonisation of rules applying to:

	1 (not needed)	2 (rather not needed)	3 (neutral)	4 (rather needed)	5 (highly needed)	No opinion/Don't know/Not applicable
Trading venues and their operators.	☐	☐	☐	☒	☐	☐
The provision of execution of orders on behalf of clients.	☐	☐	☐	☒	☐	☐
The provision of reception and transmission of orders	☐	☐	☐	☐	☐	☐

4. For which areas do you believe that further harmonisation would be beneficial (multiple choices possible)?

   ☐Rules of trading venues (i.e. exchange rulebook);

   ☒Approval of rules of trading venues and oversight over their implementation/changes;

   ☐Governance of the market operator;

   ☐Open/fair access provisions;

   ☒Other areas (please specify)

Harmonisation of applicable rules: Overall, trading venues appreciate being able to interact with their National Competent Authorities, which are aware of the specificities of their market and can help navigate potential local hurdles, even though such a set-up may not in itself be sufficient for all trading venues, especially those with licenses in several Member States. However, regardless of the set-up, those specificities and the subsequent application of the regulation should not result in an uneven playing field between Member States. The case of payment for order flow supported in some Member States but forbidden in others based on a different reading of Art. 27 MiFID II, or the single dealer model on regulated markets accepted in some Member States, distorts the trading landscape and creates a regulatory arbitrage, which should be avoided in the EU.

5. Please explain and provide concrete examples of areas where a lack of harmonisation might hamper the full harnessing of the benefits of the single market and, where relevant, differentiate between regulated markets and other trading venues (notably, multilateral trading facilities (MTFs), small and medium enterprises (SME) growth markets and organised trading facilities (OTFs)). Please provide an estimate of costs and benefits of greater harmonisation in each specific case, where possible.

Please find below a non-exhaustive list of examples:

- Diverging approval of rules of trading venues and their oversight over their implementation/changes increases complexity in compliance, monitoring, and enforcement. This holds particularly true for groups of exchanges operating in different jurisdictions. Harmonising these aspects would allow them to operate more efficiently.
- In the German retail market, inducements are widely used in bilateral trading to influence order routing, e.g., in equity ETFs and structured products. These practices stem from inconsistent national implementations of MiFID. Any inducements related to the execution of orders on behalf of clients must fall within the scope of the PFOF ban under MiFIR, which will apply in all Member States from July 2026, and must not be circumvented by classifying such payments as inducements under MiFID. A harmonised EU approach is needed to ensure a level playing field.
- Single market maker venues are accepted and considered regulated markets in some jurisdictions, such as Germany, while their business model is not permitted in others. As noted in our response to Q55, the favourable treatment of single market maker venues in certain jurisdictions raises concerns about regulatory arbitrage, distortion of incentives, and an uneven playing field.

2.3. Non-regulatory barriers (market practices) to liquidity aggregation and deepening

2.3.1. Integrating liquidity pools across the Union

6. (6.1) Can the use of new digital technology solutions contribute to integrating liquidity pools or connecting different pools across the EU?

☒Yes

☐No

☐No opinion/Don’t know/Not applicable

Please explain

Trading venues are already using technology to enhance connectivity and improve access to liquidity pools. In fact, some exchanges also provide technology services to other market participants.

A key example is the trading technology standardisation to further integrate the exchange sector to the benefit of market participants. The Deutsche Börse T7 trading infrastructure (at the foundation of Xetra) is utilised by various cash markets across Europe and around the world, including exchanges in Budapest, Ljubljana, Malta, Prague, Sofia, Vienna, and Zagreb. Other trade technologies, like the one from Nasdaq, are also used in other markets. By standardising trading technology, these exchanges can offer greater efficiency and demonstrate how a best-in-class European technology is achieving economies of scale. In 2023, Euronext's Optiq managed 52% of EEA on-exchange trading, Deutsche Boerse's Xetra 24% and Nasdaq's INET 15%. In other words, around 90% of total lit equity turnover from FESE Members takes place on only three trading systems. This also exemplifies the existing integration within the sector, with the majority of lit trading turnover occurring on three primary technology systems. The key point is that the focus should not be on adopting new technologies for their own sake, but on whether their use will genuinely improve market functioning without causing unintended consequences. Any new developments should reflect local conditions, meet real market needs, and be subject to thorough impact assessments. For example, as discussed later, we see limited benefit in some of the proposed uses of new technology to increase interconnectivity among trading venues, whereas applying innovation in the post-trade space may hold greater potential.

(6.2) What barriers do you face in implementing such technology-based solutions? Please explain.

Intermediaries and venues interconnections

7. What is your overall assessment of the level of direct connection (i.e., ability to directly execute orders) of EU investment firms to execution venues across the Union, especially to execution venues located in a different Member State than that of the investment firm?

1 (absent)	2 (inefficient)	3 (neutral)	4 (slightly efficient)	5 (efficient)	No opinion/Don't know/Not applicable
☐	☐	☐	☒	☐	☐

Please explain

To our knowledge, EU investment firms do not have issues connecting directly to trading venues (RMs and MTFs) across the EU. For example, connection fees would not vary based on whether the firm is located in the same Member State as the venue or not. However, we understand that some investment firms might choose not to connect to certain trading venues for commercial reasons, as they do not have demand for the instruments listed on those venues, or because an MTF, for example, offers only trading under a pre-trade transparency waiver, which may not align with the best execution policy established by the firm. Moreover, the term 'execution venues' also encompasses bilateral venues like Systematic Internalisers (SIs). In this context, it is important to recall that SIs are allowed to choose their clients and may discriminate between them, unlike trading venues, which must offer non-discriminatory access.

8. What is your overall assessment of the level of indirect connection (i.e., ability to execute orders via another intermediary) of EU investment firms to execution venues across the Union, especially to execution venues located in a different Member State than that of the investment firm?

1 (absent)	2 (inefficient)	3 (neutral)	4 (slightly efficient)	5 (efficient)	No opinion/Don't know/Not applicable
☐	☐	☐	☒	☐	☐

Please explain and provide a comparison of cost efficiency of direct and indirect connection.

To our knowledge, EU investment firms do have access to a range of rather large investment firms acting as brokers for a wide range of EU instruments. This option is often used by investment firms as it appears to be a cost-efficient solution: the larger broker internalises costs such as direct connection fees to trading venues and also offers additional services, such as transaction reporting, which requires a level of expertise the investment firm might not have. Moreover, trading venues also offer direct electronic access services to their members, which can render indirect connections to the exchange more efficient.

(8.1) If you replied 4 or less to question 7 and/or 8, and therefore that there is room for improvement in terms of connection of investment firms to multiple execution venues across the Union, how big of a barrier to the creation of deeper and more integrated pools of liquidity in the EU would you consider this suboptimal level of connection?

1 (not a barrier)	2 (an insignificant barrier)	3 (neutral)	4 (a significant barrier)	5 (a very significant barrier)	No opinion/Don't know/Not applicable
☐	☐	☐	☒	☐	☐

Please provide an explanation and, where available, estimate(s) of costs that this drives.

We see room for improvement in terms of the connection of investment firms to multiple execution venues for specific trading models, which, by their nature, offer only a limited number of instruments. This is particularly true for retail platforms like single-dealer models, where the retail broker would send client orders to an exchange where only a single systematic internaliser (SI) is the counterpart to all trades. In that case, and if the best execution policy of the broker is to select only one venue (which is allowed), then the offering will be limited to the instruments the SI is willing to trade. We would also identify limitations not at the trading level but rather at the post-trading level, which remains fragmented and could have an impact on the decision of an investment firm to propose a large number of instruments, especially in another Member State. The costs of a fragmented post-trading landscape affect commercial decisions, and those costs would remain even if the trading setup is efficient.

(8.2.1) If you replied 4 or less to question 7 and/or 8, what are in your view the causes of this insufficient level of connection? Please explain.

(8.2.2.) Could the more advanced and developed use of new technology (e.g. API aggregation) and technology-based solutions contribute to achieving higher levels of connection? If so, how?

☐Yes

☐No

☐No opinion/Don't know/Not applicable

If so, how?

(8.3) If you replied 4 or less to questions 7 and/or 8, what is your overall assessment of the potential negative impact of that situation on retail investors in particular.

1 (no impact)	2 (almost no impact)	3 (slightly negative impact)	4 (significantly negative impact)	5 (highly negative impact)	No opinion/Don't know/Not applicable
☐	☐	☐	☒	☐	☐

Please explain

Please refer to our response to Q8.1. The specificities of the retail market should be addressed by looking at the specific setup of retail trading, but also by considering other aspects as financial literacy, home bias, and tax regimes, which hinder retail participation. It is crucial to adopt a holistic view and not to equate limitations in retail trading with those in institutional trading.

9. Are there any barriers to the use of technology-based solutions that contribute to achieving higher levels of connection?

☒Yes

☐No

☐No opinion/Don't know/Not applicable

If you responded 'Yes', what are these barriers? Are they of a policy, regulatory or supervisory nature?

10. Are you aware of instances where intermediaries charge their clients higher fees for executing clients' orders on a trading venue in a Member State that is different from the Member State of the intermediary?

☒Yes

☐No

☐No opinion/Don't know/Not applicable

(10.1) If you responded "yes", what are the reasons why intermediaries charge their clients higher fees? Please select one or more of the following options. Please explain your reasoning and provide relevant data, where available.

☐ It is more expensive for an intermediary to connect to a trading venue that is located in another Member State, because the trading venue charges more than to an intermediary located in its Member State;

☒It is more expensive for an intermediary to connect to a trading venue that is located in another Member State, because of complex cross-border post-trading arrangements;

☐Intermediaries are not directly connected to trading venues located in another Member State and therefore need to rely on other intermediaries, hence increasing the cost;

☐ It is a commercial policy at the intermediary's level to apply different fees to clients depending on whether the order is executed in another Member State, independently from what exchanges charge that intermediary;

☒ Other (please specify)

Trading across EU domestic markets usually incurs various additional costs, such as brokerage fees, potentially foreign exchange (FX) fees, and brokers possibly charging custody fees for holding foreign securities. Besides, clearing and settlement fees may apply, which vary by provider and depend on different factors such as product category, currency, execution mode or transaction size. Finally, taxes can further increase cross-border costs for investors through stamp duties and local taxes, while some countries impose taxes on securities transactions, e.g., France applies a 0.4% tax on purchases of selected French equities. Additionally, Member States differ in their approach to withholding taxes.

Please explain your reasoning for your answer to question 10.1 and provide relevant data, where available

FESE Members observe that, in some jurisdictions, intermediaries may charge their clients higher fees when executing orders on trading venues located in other Member States. It is important to clarify that this is not due to trading venues imposing higher fees on foreign participants—on the contrary, venues actively seek to attract cross-border flow. Rather, the higher costs stem from the need to have in place different post-trade arrangements. These include the need to engage with different custodians or central securities depositories (CSDs), which can increase operational complexity and result in higher costs for intermediaries.

Please specify where any of this could also be relevant in the context of the same Member State with multiple trading venues.

Please provide detail on costs incurred by intermediaries of establishing multiple connections to trading venues.

11. Are there any barriers that may limit the possibility for trading venues to offer trading in financial instruments that have been initially admitted to trading on another trading venue? Please reply, differentiating by type of trading venue.

	Yes	No	No opinion/Don't know/Not applicable
Regulated Markets	☐	☒	☐
MTF	☐	☐	☐

SME Growth Markets	☐	☐	☐

[…]

Means to improve the consolidation of liquidity through better interconnections

14. In your view, should any intermediary offer its clients the possibility to trade, on any EU regulated market, MTF and SME growth market, in all shares and ETFs admitted to trading in the EU?

☐Yes

☒No

☐No opinion/Don't know/Not applicable

Please explain your reasoning and provide where possible estimates of costs and benefits.

There should not be a requirement for all brokers to connect to all EU trading venues or a subset of them. Brokers do not avoid certain markets due to connectivity challenges, but because there is no commercial demand from clients for access to specific instruments or markets. Forcing access to all venues would impose unnecessary costs, both on brokers and on market infrastructure providers, without delivering corresponding benefits. This would particularly harm local and mid-sized brokers.

The real issue is not the accessibility of lit multilateral trading venues or the connections between them. Connectivity to trading venues is relatively straightforward due to harmonised standards. Lack of access is certainly not a problem for professional investors, who typically attain a global reach with their brokers, or for EU blue-chip stocks, which enjoy strong interest. Looking at retail brokers, we can see that they already provide broad access to foreign stocks, although some listed SMEs from other countries with lower visibility and appeal to foreign retail investors may occasionally be missing. Mandating connections between brokers and trading venues—or among the venues themselves—would fail to address the core problem: insufficient investor demand.

In the retail segment, especially, this limited demand stems from an inherent home bias, further compounded by differing tax and regulatory regimes, language barriers, limited availability of research on certain foreign stocks, lack of financial knowledge or simply lack of interest. These factors discourage retail investors from investing in smaller, lesser-known EU companies from other countries. The focus should instead be on addressing these demand-side barriers and implementing measures (e.g., such as the proposed Blueprint for a European Savings and Investments Account) to better mobilise household savings. Tackling these underlying issues would stimulate greater interest in cross-border EU investments and, in turn, increase incentives for retail brokers to offer access to those stocks where they currently do not.

It is important to distinguish between blue chips and SMEs. Accessibility is not an issue for the former, while the latter faces some challenges. However, requiring all stocks to be listed on all venues could worsen fragmentation also for SMEs.

As a general remark, we wish to underline that the main issue of fragmentation in trading is functional rather than geographical. Functional fragmentation is largely driven by the complexity of the regulatory framework, which has allowed the proliferation of dark, bilateral, and OTC trading. The growing importance of bilateral trading limits transparency and access, as investors and issuers are excluded from over half of the total available liquidity, with the dealer deciding who can trade and on what terms. **The current regulatory framework for dark and bilateral trading is overly permissive, and we strongly advocate for a review** (see our responses to Q35, Q36, and Q52 for further

details). **Requiring retail orders to be executed on lit, multilateral venues**—which operate on a fair, transparent, and non-discriminatory basis—should be considered, as it would enhance transparency and investor protection for retail investors, support price formation, and promote broader market integrity (see response to Q53.2). As reflected above, the remaining geographical fragmentation is largely demand-driven, reflecting strong local investment biases. Enhancing the visibility of the full spectrum of listed equities could partially address this. Further integration could be achieved through: 1. Harmonising trading venue membership rules and considering automated membership passporting to all members of trading venues in the EU, as well as aligning securities law and tax treatment; 2. Identifying and flagging providers of connectivity across all EU markets (Independent Software Vendor registrar), allowing smaller brokers who rely on connectivity service providers to identify more easily those providing pan-EU markets; and 3. Particularly for end investors, mapping brokers' financial instrument trading offerings (broker registrar). In any case, while connectivity to trading venues is relatively straightforward, it is important to note that brokers may still be required under the current framework to have clearing and settlement arrangements in place for each market. These post-trade requirements often contribute to higher associated costs. Proposals focusing on the trading layer should not be considered unless steps are taken to tackle these obstacles to further integration in the post-trade space, which stem from divergent national regimes. The Commission could engage with Member States to work towards more efficient cross-border post-trade mechanisms.

(14.1) If you responded "No" to the previous question, please specify whether your answer would change if:

the scope of instruments was limited to only a subset of all shares and ETFs admitted to trading in the EU, based on certain characteristics (e.g. market capitalisation above a certain threshold).	☐Yes ☒No ☐No opinion/Don't know/Not applicable
the scope of trading venues was limited to only a subset of trading venues (e.g. only EU regulated markets and MTFs having a significant cross-border dimension).	☐Yes ☒No ☐No opinion/Don't know/Not applicable

Please explain

(14.2) If you replied "No" to question 14, do you believe any intermediary should ensure, in relation to those shares and ETFs it offers for trading to its clients, the possibility to trade such shares and ETFs on any EU regulated market, MTF and SME growth market?

To note, while the previous question concerned all shares and ETFs admitted to trading in the EU, this question limits the scope of instruments considered to those the intermediary decides to offer for trading to its clients.

☐Yes

☒No

☐No opinion/Don't know/Not applicable

Please explain your reasoning and provide where possible estimates of costs and benefits.

(14.2.1) If you responded “No” to the previous question, please specify if your answer would change if:

the scope of instruments was limited to only a subset of those shares and ETFs that an intermediary offers for trading to its clients, based on certain characteristics (e.g. market capitalisation above a certain threshold).	☐Yes ☒No ☐No opinion/Don’t know/Not applicable
the scope of trading venues was limited to only a subset of trading venues (e.g. only EU regulated markets and MTFs having a significant cross-border dimension).	☐Yes ☒No ☐No opinion/Don’t know/Not applicable

Please explain

15. Do you believe that intermediaries could improve clients’ access to liquidity across the EU by using Smart Order Routing or other similar technologies?

☒Yes

☐No

☐No opinion/Don’t know/Not applicable

Please explain. What would be the potential costs associated with it and what are the most useful/promising technologies in your view?

While Smart Order Routing could improve clients’ access to liquidity, it is necessary to specify that some brokers already use it on a voluntary basis. FESE supports the use of Smart Order Routing by intermediaries where they find client interest.

16. Beyond membership and execution fees, trading venues may charge connection fees. To the extent this information is available to you, could you provide figures on the amounts charged by individual trading venues or types of trading venues (e.g. regulated markets, MTFs, etc.)?

We understand that trading venues typically publicly display their direct connection fees. Please note that some members would rely on Independent Software Vendors (ISVs) or Application Service Providers (ASPs).

17. Increased access to financial instruments on a cross-border basis can also be ensured by improving the interconnection between all relevant EU regulated markets and MTFs. To that end, would you consider important to ensure an increased level of interconnection between trading venues in the EU?

☐Yes

☐Yes, provided it is funded/co-funded by public funds

☒No

☐No opinion/Don't know/Not applicable

In case you answered "no" to question 17, please explain the answer to question 17.

As explained in our response to Q14, FESE does not believe the real issue preventing increased cross-border trading lies in accessibility to lit multilateral trading venues or the connections between them. Lack of access is certainly not a problem for professional investors, who typically attain a global reach with their brokers, and many retail brokers already provide broad access to foreign stocks. The absence of commercial demand from clients often lies at the root of limited access to certain foreign shares or ETFs.
We believe the drawbacks of the two options proposed by the Commission to increase the interconnection among trading venues would outweigh their potential benefits.

1)Requirement to trade any share or ETF already admitted to trading

Requiring every EU RM and MTF to offer the possibility to trade any share or ETF that has already been admitted to trading would fragment liquidity, contrary to the overall objective of integrating liquidity pools and strengthening the price formation process. It would also increase trading costs without any corresponding benefits from a best execution perspective.

2)Requirement to offer rerouting

Requiring every EU RM and MTF to reroute orders to one of the venues where a given share or ETF is traded would entail significant costs and implementation challenges, with limited—if any—benefits. While we understand that this idea was inspired by other jurisdictions, such as the US Reg NMS, no jurisdiction has a perfect solution. Replicating another system carries substantial risks. It is useful to learn from other markets' experiences, but any EU solution must be tailored to local realities and subjected to a thorough impact assessment.

From a cost perspective, the expenses of a rerouting model are substantial, so much so that possible funding by public means has arisen. Furthermore, large brokers already have access to multiple trading venues, meaning interconnectivity would likely remain underutilised, resulting only in duplicated costs.

The experience of Reg NMS/Order Protection Rule in the US has revealed multiple drawbacks (see response to Q19), and it cannot be concluded that their framework delivers better results for best execution (see response to Q29). Besides, this model may not even be replicable in Europe, due to barriers such as geographical latency (see response to Q21).

Even with rerouting, brokers would still need separate clearing and settlement arrangements to access different markets. Therefore, this proposal should not be considered unless steps are taken to address the divergent national regimes that prevent more efficient cross-border post-trade mechanisms. We would like to reiterate that a holistic approach, looking at the different levels of the value chain, is crucial to identify significant barriers and inefficiencies; access to trading does not appear to be an issue in the EU.

Conclusion

FESE believes that the path to larger and more integrated capital pools does not primarily lie in connecting lit multilateral venues but rather in increasing the overall size and depth of liquidity. The focus should shift to demand-side measures that stimulate investment and expand the capital base, as well as to addressing existing barriers such as gold-plating, legal frameworks, divergent supervisory outcomes, and structural market inefficiencies.

These efforts will enhance transparency and help shift more trading activity toward lit venues. Regarding the latter, to further integrate EU liquidity pools, the role of dark and bilateral trading cannot be overlooked by focusing only on RMs and MTFs. It is important to recall that lit multilateral venues provide open, fair, and non-discriminatory access to all participants, serve a vital role in listing and price formation, and yet their market share is in steady decline in favour of bilateral and dark trading, which are subject to fewer transparency obligations, lighter regulatory requirements, and are less accessible to the broader market. See our responses to Q35, Q36, and Q52. Requiring retail orders to be executed on lit, multilateral venues should be considered (see response to Q53.2). That said, we remain open to exploring ways to further simplify brokers' access to different trading venues. For example, consideration could be given to harmonising trading venue membership rules and introducing an automated passporting system for members of any EU trading venue. To improve the visibility of the full range of listed equities, the creation of an Independent Software Vendor (ISV) register—identifying providers of connectivity across all EU markets—could be considered, along with a brokers' register to map brokers' trading offerings by financial instrument.

18. Which of the options referred to in questions 14 and 14.1 (better access to trading venues by intermediaries, option A) and question 17 (increased interconnection between trading venues, option B) would better achieve the following objectives:

For each line, select the most appropriate option.	Option A (better access to trading venues by intermediaries)	Option B (increased interconnection between trading venues)	No opinion/Don't know/Not applicable
Increasing the level of liquidity for shares and ETFs	☐	☐	☒
Improving the quality of execution	☐	☐	☒
Increasing the speed of execution	☐	☐	☒
Reducing the cost of execution for clients	☐	☐	☒
Delivering a more efficient EU trading landscape	☐	☐	☒

Please explain

19. In other jurisdictions, notably the US, an increased level of interconnection at the level of trading venues resulted from the application of the 'order protection rule' (Rule 611 of the Regulation National Market System) that established intermarket protection against trade-throughs for certain shares. Do you have any experience with this rule?

☒Yes

☐No

☐No opinion/Don’t know/Not applicable

Please explain.

(19.1) If case you answered “yes” to question 19, on a scale from 1 (not at all effective) to 5 (highly effective), please assess the effectiveness of this rule in terms of:

	1 (not at all effective)	2 (rather not effective)	3 (neutral)	4 (rather effective)	5 (highly effective)	No opinion/Don’t know/Not applicable
Guaranteeing the best price for clients/investor protection	☐	☐	☒	☐	☐	☐
Speed of execution	☒	☐	☐	☐	☐	☐
Level of execution fees	☐	☒	☐	☐	☐	☐
Split of liquidity	☒	☐	☐	☐	☐	☐
Interconnection between trading venues	☐	☐	☐	☒	☐	☐
Efficiency of the price formation process	☒	☐	☐	☐	☐	☐
Modernising trading protocols (e.g. digitalisation/electronic trading	☒	☐	☐	☐	☐	☐

(19.2) Are you aware of any issues that can arise from this rule? Please provide specific examples.

☒Yes

☐No

☐No opinion/Don’t know/Not applicable

Please explain and provide examples for the answer to question 19.2:

In the US, off-exchange trading (including OTC and Alternative Trading Systems) has surpassed the 50% mark—considered by many academics as a tipping point for markets and price efficiency. In fact, off-exchange trading has been steadily increasing since 2005. Between Q1 2018 and Q1 2025, it rose from 37% to 51% of total Average Daily Volume, a 14-percentage-point increase over seven years. Importantly, most of the recent growth has come from bilateral trading, which operates similarly to Systematic Internalisers in European markets. Part of this rise in bilateral trading is driven by increased retail trading, which is primarily executed within the National Best Bid and Offer (NBBO), and away from lit exchange market makers.

Academic studies show that off-exchange wholesalers generate substantial profits, even though these spread-crossing trades receive price improvement. This indicates that retail flow is less toxic than ordinary market flow. A study by BestEx Research estimated that if these “less toxic” orders were added back into the lit market, spread capture would improve and bid-ask spreads would narrow by more than offsetting the current price improvement. In short, wholesalers are benefiting from what academics describe as

"cream skimming" the market, while all other traders are left facing worse market conditions and higher trading costs. The rise of bilateral and dark trading is ongoing and reaching peak levels in both the US and the EU. Since the introduction of MiFID II, lit activity in the EU has declined, while the share of bilateral and dark trading has increased—undermining transparency, the attractiveness of EU capital markets, and the long-term viability of price formation. See responses to Q35 & Q36 for additional statistics and information on the implications. The Order Protection Rule (OPR) in the US requires exchanges and trading venues to implement rules, procedures, and technology that prevent violations of the rule. This means trading venues must have data feeds from all protected quote venues to ensure compliance. In practice, US exchanges primarily use direct data feeds from trading venues to price orders and meet OPR obligations, even though the consolidated tape is available. Additionally, it requires trading venues to create order types that comply with OPR. These order types—often labelled with names like "hide not slide"—add significant complexity, as venues must support mechanisms that avoid locking, crossing, or trading through other markets. This complexity carries real costs and is ultimately borne by brokers, who must navigate an increasingly intricate trading environment. If Europe were to adopt a similar OPR framework, trading venues would need to dedicate time and resources to compliance, diverting attention from innovation and services that investors value more. We do not believe that Reg NMS—or specifically the OPR—is appropriate in the European context. The central question for a regulation like OPR is: what is it meant to achieve? There is no clear evidence that implementing OPR would lead to a significant increase in venues trading securities they currently do not. What OPR does enable is a guaranteed quoting audience for any venue, regardless of its size or the difficulty of accessing it. This can lead to greater market fragmentation and increased trading costs for end investors—outcomes that run counter to the Commission's stated objectives. In our view, implementing an OPR-style rule would raise the cost of operating trading venues, deliver limited benefits to end investors, and ultimately reduce the competitiveness of European capital markets. Last, it is important to appreciate that the Order Protection Rule in the United States applies to securities trades and not to derivative markets. Investors trading derivative markets are not solely driven by price efficiency but also by other factors, such as margin efficiency. This may lead them to direct their orders to a less liquid venue for a specific product to gain the margin efficiencies that overall give them the superior result. Mandatory auto-direction of orders to the venue with the best price could destroy an investor's margin optimisation and would be a retrograde step.

20. Where implemented, the order protection rules required technological adaptations, so to allow the swift rerouting of the orders.

    What is your assessment of the ability of the current state of connections among trading venues in the EU to cater for the rerouting of orders to venues offering the best price, as required by the order protection rule in the US?

1 (insufficient)	2 (rather insufficient)	3 (neutral)	4 (rather adequate)	5 (fully adequate)	No opinion/Don't know/Not applicable
☒	☐	☐	☐	☐	☐

Please explain

21. Do you consider that geographical dispersion of EU trading venues would pose issues to an effective implementation of similar rules?

☒Yes

☐No

☐No opinion/Don't know/Not applicable

Please explain.

The geographical dispersion of EU trading venues poses a significant challenge to the effective implementation of mandatory cross-venue order rerouting. A key issue is the prevalence of stale prices, which results from latency disparities across fragmented venues. This structural latency allows high-frequency traders to arbitrage outdated quotes, undermining fair price formation and investor confidence. While consolidating all data centres into a single location could mitigate this issue, such centralisation creates issues and is not seen as feasible within the EU due to legal, infrastructural, and sovereignty constraints.

(21.1) If you answered yes to question 21, are there any means to tackle them.

☒Yes

☐No

☐No opinion/Don't know/Not applicable

Please explain.

To address these challenges, a more viable approach would involve leveraging a post-trade consolidated tape with venue-level timestamps adjusted for routing latency. This would enable accurate measurement of execution quality and support the enforcement of best execution standards through principle-based regulation. Additionally, introducing trade-at rules that require off-exchange trades to offer meaningful price improvement would help preserve the economic value of price discovery and reduce harmful market segmentation. Importantly, regulatory frameworks should avoid mandating the protection of quotes on a consolidated tape, given their inherent staleness in a geographically dispersed environment.

22. If the current set-up does not allow for it, what are in your view the necessary arrangements to allow for sufficiently fast connections, and what would be the associated costs? Please provide cost estimates where possible.

With the current geographic location of the major EU data centres, there is no way to arrange sufficiently fast connections.

23. Crypto-markets have seen the emergence of a market architecture whereby retail investors have direct access to a crypto-asset trading venue. Do you see merit in allowing or promoting the direct access of retail participants to trading venues for financial instruments, without an intermediary?

☐Yes

☒No

☐No opinion/Don't know/Not applicable

Please explain the advantages and disadvantages of such a model, as well as the risks and how they could be mitigated.

Allowing retail investors direct access to all trading venues would come at the cost of higher expenses, reduced investor protection, and the loss of netting benefits—particularly in the post-trade phase. The current structure, in which orders are routed through intermediaries, is designed to enable cost-effective trading and ensure robust investor safeguards, including post-trade protections. Without intermediaries, these safeguards would be lost, and costs for retail investors would rise significantly. Trading venues would also likely face increased operational costs, as they would need to take on additional controls currently managed by intermediaries.

2.4. Ensuring fair access to market infrastructure to foster deep and liquid EU-wide markets

24. What is your assessment of the effect of the removal of exchange-traded derivatives from the so-called 'open access' to CCPs and trading venues provision under Articles 35 and 36 of the reviewed MiFIR? Please include elements in terms of costs of trading and clearing, depth of market, switch to OTC.

FESE strongly supports the removal of exchange-traded derivatives (ETDs) from the open access provisions under Articles 35 and 36 of MiFIR. The decision to exclude ETDs from open-access, taken in the recent MiFIR Review, reflects the distinct characteristics of ETD markets and the need to preserve the integrity, stability, and innovation capacity of trading venues. ETD markets are structurally different from markets for transferable securities—with innovation, issuance, trading, position-keeping, and risk management being inseparable. The global standard is an integrated trading and clearing model which ensures market integrity and resilience, rather than a regulatory mandate. Choice in trading and clearing should add value, rather than simply fragment the market and increase costs for end customers.

ETD markets are highly competitive and offer product innovation both in regional products and in internationally active markets. ETD markets, in general as well as in the EU, are highly consolidated as liquidity concentrates in a few specific marketplaces, which compete with each other. This means that EU ETD markets do not suffer from the fragmentation that exists in the equity markets. The integrated system of trading and clearing ETDs has fostered intra- and extra-EU competition and product innovation. Because ETD markets function efficiently under integrated models, introducing "open access" rules in EU ETD markets would lead to a split in liquidity, thereby actually imposing fragmentation and additional costs for market participants; hence why ETDs are excluded from open access. No other jurisdiction has mandated open access for ETD for these reasons.

Imposing open access on ETDs would cause the market to fragment and would drive up the cost to customers of finding liquidity. This would be to the benefit of intermediaries rather than end customers, as they would charge customers more for connectivity and execution. In addition, arbitrators will support open access as it causes fragmentation from which they benefit. It would drive product innovation outside the EU. If it also drives business towards OTC again, the costs for customers would increase to reflect a dealer-driven market structure. Moving to the OTC sphere would have the additional negative effect of less transparency for supervisors related to critical commodity markets such as energy markets.

Furthermore, EU infrastructures' global competitiveness should not be undermined by access requests from within or outside the EU: the "Non-discriminatory" Access provisions were advocated by the UK and the London Stock Exchange Group, which are no longer

part of the EU Single Market. The EU was the only jurisdiction in the world to propose such an experiment with ETDs. The Draghi analysis is that EU policy prioritising competition within the single market has led to fragmentation. To remove the ETD exclusion from open access would demonstrate that the Commission has not listened to the calls for EU policy to change. We support open access where it adds value, i.e., in cash equity and repo markets, but in ETD markets, instead of unrestricted open access, we believe an integrated trading and clearing model would ensure better stability, efficiency and competitive pricing without regulatory intervention. Therefore, FESE strongly supports the current text of MiFIR, which excludes ETDs from the open access provisions.

25. What is your assessment of the effectiveness of the open access provisions under Articles 35 and 36 of the reviewed MiFIR on other financial instruments, notably equity?

1 (Not at all functioning)	2 (Not functioning very well)	3 (Neutral)	4 (Functioning quite well)	5 (Perfectly functioning)	No opinion/Don't know/Not applicable
☐	☐	☐	☐	☒	☐

Please explain

FESE believes that the current open access provisions for equity markets strike the right balance between fostering competition and maintaining market stability.

[…]

2.5. Enhanced quality of execution through deeper markets

28. When the same financial instrument is traded on multiple execution venues, the best execution rule plays a key role. The rule seeks to protect investors, ensuring the best possible result for them, while also enhancing the efficiency of markets by channelling liquidity towards the most efficient venues. What is your assessment of the effectiveness of the best execution rules in the EU?

1 (insufficient)	2 (rather insufficient)	3 (neutral)	4 (rather efficient)	5 (fully efficient)	No opinion/Don't know/Not applicable
☐	☐	☐	☒	☐	☐

Please explain

Research indicates that the implementation of Reg NMS led to changes in market quality: both quoted and effective spreads increased, while quoted dollar depth decreased significantly. Evidence further suggests that Reg NMS had a greater adverse impact on larger traders, who experienced higher price impacts of trades and more pronounced transitory price movements (i.e., pricing errors) in the post-Reg NMS period. Overall, these findings suggest that Reg NMS led to higher trading costs, smaller market depths, and lower market efficiency. Additionally, there is evidence of slower execution speeds, lower order fill rates, and higher order cancellation rates for the majority of trades after Reg NMS came into effect. Thus, Reg NMS appears to have adversely affected liquidity and execution quality, as many scholars and market participants have predicted. *[See Chung*

and Chuwonganant*, 2012, "Regulation NMS and Market Quality", Financial Management, Vol. 41(2), pages 285-317.]*

This empirical and theoretical evidence stems from several studies on the US market, which is harmonised in terms of laws and regulations, and therefore faces no legal barriers to scaling in financial and goods (issuers) markets.

As regards the EU, FESE believes that the removal of best execution reports under RTS 27, and notably RTS 28, pursuant to MiFID II, made it more difficult for market participants to assess execution quality. While these reports were sometimes criticised for their complexity and limited relevance to end investors, they nonetheless served an important function by promoting transparency and enabling comparisons of execution quality across trading venues.

In particular, the absence of structured reporting under RTS 28 has created a significant transparency gap and impeded the ability to evaluate best execution practices in the bilateral trading space. To address this shortcoming, investment firms should be required to publish more detailed, structured, and standardised disclosures on how they ensure best execution, potentially within their existing quarterly or annual reporting obligations.

As noted in our response to Q29, the US model's overreliance on price has led to certain inefficiencies. By contrast, the EU uses a broader set of criteria to assess the effectiveness of investment firms' order execution policies. Within this framework, we recommend that the quality of the order book and the role of transparent trading in enhancing price formation should be taken into account when investment firms define or revise their best execution policies. Including related metrics could also help reinforce and deepen EU liquidity pools.

To ensure meaningful comparisons and homogeneous results, the structure and content of the information provided must be uniform across all best execution report providers. At the same time, market structure should promote order execution on transparent venues to the benefit of both investors and issuers. There is no substitute for a well-designed market structure and rigorous enforcement of rules, and a key regulatory priority should be discouraging flawed and easily gameable benchmarks for best execution.

Best execution policies defined by investment firms should, in general, include more than one possible execution venue. Policies relying on a single venue should only be allowed under clear rules and based on simple and observable objective criteria. Regulation should aim at a level playing field between execution venues and support a healthy mix of order flows. As an example, the ban on payment for order flow (PFOF) contributes to these objectives. Retail investors should be enabled to make informed decisions regarding their brokers based on clear and transparent information about, and comparisons between, the execution venues used by their brokers. To that end, it would be useful to require brokers to change their selection of trading venues more regularly if it is proven that their only offered execution venue does not consistently deliver best execution.

Regarding the potential inclusion of a comparison between the prices obtained for client orders and a reference dataset based on Consolidated Tape (CT) data, we stress that CT data should not be used ex-ante for best execution or order routing decisions due to its inherent latency issues. For the CT to provide data of a quality that serves as a reliable reference for monitoring and assessing best execution, some important enhancements are still needed—such as improved flagging accuracy, robust reporting, and more granular, dependable timestamps for both inbound and outbound data. Achieving this will greatly benefit from the collective readiness and engagement of all relevant stakeholders alike.

29. There are important differences between best execution rules in the EU and in the US. In particular, in the EU, the obligation to obtain the best possible result for the clients lies on the intermediary. In the US, the quality of execution is guaranteed also through

the aforementioned “order protection rule” that prevents trading venues from executing orders if a better execution price can be found on another exchange. Which of the following options would most accurately reflect your assessment of the best execution framework in the EU vis-à-vis the US?

☒The EU framework is better suited than the US framework to obtain the best results for clients

☐The US framework is better suited than the EU framework to obtain the best results for clients

☐Both models are equally effective

☐Both models are equally ineffective

☐No opinion/Don’t know/Not applicable

Please explain your choice.

Given the multiple differences between the EU and US markets, comparing the two models is highly challenging. What may function effectively in the US is often not fit for purpose in the EU due to several factors:

- The geographic dispersion of trading venue data centres in the EU affects execution outcomes, particularly if a model similar to the Order Protection Rule (OPR), including exchanges’ routing, were implemented.
- The lack of post-trade harmonisation, namely the lack of CSD links enabling seamless and cost-efficient cross-border arrangements.
- The OPR is not a best execution rule in itself. While FINRA provides best execution guidance—such as FINRA Rule 5310—OPR is not the most effective means to get the best results for clients.

In the US, achieving best execution is also complex. However, the existence of a pre-trade consolidated tape, the OPR, and other structural elements simplifies this task relative to the European context. But to be clear the US market is more centralised and operates under a more unified regulatory framework where: (i) trading venues are located in close physical proximity; (ii) all trading occurs in a single currency; (iii) there is one national regulator; (iv) exchange rules are aligned; (v) insolvency laws are more standard; (vi) market participants operate in a common language; (vii) there is a more unified tax regime and (viii) clearing is centralised. These factors simplify trading processes and thus the best execution obligations. In contrast, many of these conditions are not replicable in the EU, or at least not in the short term. While latency between trading centres is significantly higher in Europe, latency is still a major issue of concern in the US market structure.

Moreover, the US market’s strong focus on price, enforced through the OPR, has introduced its own set of problems. Brokers are compelled to connect to and attempt to trade on venues that may increase their costs with little corresponding value. As a result, trade size and other factors important to end investors take a back seat to the “protected” price obligations. This restricts brokers’ flexibility in fulfilling client needs. Furthermore, this emphasis on price has driven trading innovation in the US to focus primarily on speed—being the first to reach a price—rather than addressing other investor pain points, such as trading in size. In conclusion, a more nuanced approach to best execution, tailored to the European context rather than modelled directly on the US, would better serve European markets.

Furthermore, given the latency and geographic dispersion in Europe, implementing an OPR-like rule could lead to higher slippage costs than those seen today. Orders may attempt to execute against quotes that are no longer available, while prices on other

venues continue to move against the original order, forcing them to worse execution prices than if the orders are traded immediately in more easily accessible markets. An OPR-like rule may have a detrimental effect on price discovery and market liquidity, as it could increase the internalisation of orders at large dealer firms, thereby removing these orders from a public market. OPR permits the internalisation of order flow as long as trades occur at or within the National Best Bid and Offer (NBBO) *[O'Hara, 2004, "Searching for a New Center: US Securities Markets in Transition," Federal Reserve Bank of Atlanta Economic Review, 37-52].*

30. For equity instruments, the consolidated tape will disclose the European Best Bid Best Offer (EBBO) in an anonymised form. The tape will allow to have increased and integrated visibility on the different pools of liquidity available. How effective would lifting the anonymity of the EBBO be in achieving the following objectives?

	1 (not at all effective)	2 (rather not effective)	3 (neutral)	4 (rather effective)	5 (highly effective)	No opinion/Don't know/Not applicable
Improving the ability of investment firms to assess the quality of execution	☐	☒	☐	☐	☐	☐
Ensuring a more integrated market whereby investment firms are able to direct their order to the most efficient options	☐	☒	☐	☐	☐	☐
Contributing to the efficiency of the price formation mechanism	☐	☒	☐	☐	☐	☐
Other	☒	☐	☐	☐	☐	☐

If so, what other objective(s) you refer in your answer to question 30?

The CTP may not be fully comprehensive in terms of venue coverage from the start. Indeed, while smaller exchanges may decide to join the CTP (opt-in), large SIs are being excluded from the outset. Additionally, due to its inherent latency issues, the CTP is not intended for trading purposes. One reason for this is enhanced investor protection (i.e., to avoid front-running by brokers).

Please explain your answer and provide a cost/benefit assessment

FESE believes that, at the moment, the current priority should be delivering an efficient and effective post-trade CT and an anonymous EBBO. We should recall that the equity CTP is not yet operational, and it may be premature to assess the implications of proposals for the pre-trade space. The lifting of anonymity for top-of-book data would significantly

impact market structure and warrants careful analysis. We are concerned this change could weaken the central role of CLOBs in concentrating liquidity and increase market fragmentation, while fostering unfair competition.

Execution quality

Even with non-anonymous quotes, a centralised EBBO does not inherently provide the full context of execution quality, such as speed, market impact, probability of filling, and costs. Costs may not only differ according to execution venue, but also as regards post-trade costs and different taxations at the Member State level. Hence, the EBBO represents only a small piece of information needed for best execution in the EU.

Further key limitations to execution include latency and fragmentation. In a fragmented market, quotes may be stale or not executable due to latency introduced by the CTP. Non-anonymity does not solve this problem. On the contrary, it will likely aggravate it by systematically displaying incorrect BBOs and incorrect trading venues at the top of the book.

Further, the EBBO only reflects displayed liquidity, not solving the issue of increasing hidden/dark liquidity due to rising non-pre-trade transparent bilateral trading, a trend also observed in the US market, despite the US having a CTP and a Trade-Through rule.

The growth of bilateral trading has raised significant concerns, not only in the US but also in the EU. While systematic bilateral liquidity has existed for some time, its accelerating adoption amid evolving market conditions is raising growing awareness of the potential implications such structural changes may have for market transparency and efficiency. For instance, read The Trade article entitled *"Participants keeping watchful eye on growing bilateral trading segment in 2025"*.

Market Integration

A non-anonymous EBBO does not guarantee true market integration, even in the case of order-routing. While "best price" is not necessarily "best execution", non-anonymous quotes may lead to strategic behaviour by market participants (e.g., quote stuffing or spoofing), reducing trust in the displayed prices, and hence in the venues behind them.

Furthermore, a non-anonymous EBBO could systematically display incorrect venues at the top, purely due to the fact that the trading venue is optimally located to deliver to the tape. It is known among academics that loss of liquidity/trust in secondary trading may lead to less interest of issuers in such venues for IPOs *[see Mahoney, 2020, Equity Market Structure Regulation: Time to Start Over, 10 MICH. BUS. & ENTREPRENEURIAL L. REV. 1]*. Hence, regulators must keep this in mind during the debate. In the end, exchanges need to be in a position to fund the EU economy.

Price formation

While we may agree that, in theory, routing of orders to trading venues, instead of to bilaterally organised execution venues, may support price formation in the EU, an EBBO may centralise visibility but not enable (cost-)efficient routing or execution across trading venues.

At the same time, it must be clear that the EU is significantly different compared to the US with regard to its fragmented basis of different member states, different rules and regulations at the Member State level, different languages, different demand for investing, etc., which presents significant additional challenges for all affected parties in the market.

In this context, the flaws regarding the top positions at the EBBO and the availability of liquidity may significantly impact EU exchanges to the point of negatively impacting IPOs in the EU (Mahoney, 2020). Hence, the inherent trade-off should be carefully considered by regulators and be based on a thorough cost-benefit analysis. **Conclusion** Overall, we strongly recommend focusing on creation in the EU of the anonymised EBBO as planned. Thorough cost/benefit analysis is an indispensable pre-requisite for any changes to the CTP going forward, even more so in the current environment.

31. For equity instruments, the consolidated tape will disclose the EBBO only in relation to one layer of quotes (i.e., show only the best bid and offer, but not the second, third, etc.). How important do you deem expanding the depth of the EBBO displayed by the equity tape? Please explain and provide a cost/benefit assessment.

1 (not needed)	2 (not really needed)	3 (neutral)	4 (rather needed)	5 (essential)	No opinion/Don't know/Not applicable
☒	☐	☐	☐	☐	☐

Please explain and provide a cost/benefit assessment

The priority should be to ensure that the Consolidated Tape (CT), as defined by the co-legislators in the MiFIR Review, can be effectively delivered and become a reality. We strongly advise against revisiting the parameters of the CT before gaining practical experience with its current format. This is a necessary and important step that can also help inform the view on these questions. In any case, any revision of the CT's scope would first require a fundamental review of its economic model. Without a thorough reassessment of the CT's underlying economics, such changes could pose a significant threat to the business model of exchanges, which play a vital role in equity financing across the EU. The CTP is intended to serve a broad audience, including retail investors, who typically do not require market-depth data. By focusing on top-of-book and post-trade data, the CTP can deliver high-value, low-cost information that meets the needs of most users. Sourcing and processing full order book data across approximately 150-200 trading venues is technically complex and expensive. Market depth information and levels of granularity vary widely across EU trading venues. These differences make it difficult to aggregate market depth data in a cost-efficient, meaningful and consistent way. Including market depth data would not only significantly increase the volume of data but also the CTP's latency and infrastructure costs, which could undermine the CTP's goal of being affordable and widely accessible. Furthermore, the CTP is not intended for trading purposes. Expanding the pre-trade CT beyond top-of-book data would only amplify concerns about its use as a benchmark for trading and execution. At the same time, the CTP is not comprehensive. It does not include bilateral trading, Systematic Internaliser quotes, or hidden liquidity. Requiring depth-of-book may further discourage small trading venues from opting-in to the CTP, as they fear losing their market data revenues, and hence their funding. We anticipate that extending the CT in this direction would further reduce market data revenues for regulated markets, beyond the already negative effects expected from the existing CT, with the revenue-sharing model unlikely to offer sufficient compensation. Smaller and less-diversified markets would be

particularly vulnerable, posing significant risks to the development of local capital market ecosystems. This would further discourage smaller venues from participating as data contributors to the CT, further reducing the scope of the CT. The European Commission and ESMA have opted for a phased approach, starting with core data (e.g., trades, best bid/offer). Market depth could be considered in future iterations, but only if it proves to be feasible, cost-effective, and free of unintended negative side-effects.

32. Under the current MiFIR, the speed at which core market data is disseminated by the equity consolidated tape is not regulated. How important do you deem defining in legislation the speed at which core market data should be disseminated by the equity consolidated tape?

1 (not needed)	2 (not really needed)	3 (neutral)	4 (rather needed)	5 (essential)	No opinion/Don't know/Not applicable
☒	☐	☐	☐	☐	☐

What should be the adequate speed? Please explain.

The speed of CT data dissemination cannot be assessed in isolation; the physical location of the equity CTP and resulting geographical latency play a critical role. Furthermore, the volume of data that needs to be processed will impact the latency of the consolidation of data. It is also impossible to request a finite speed between the CTP outbound Application Programming Interface (API) and the receiving party, as the latter can be located even far outside the EU. Additionally, there may be network issues when disseminating CTP data that are outside of the control of the CTP. This makes it rather impossible to define a uniform speed for market data dissemination. Setting overly ambitious thresholds could also compromise data accuracy. Regardless of the ultimate speed achieved, the CT will inevitably lag behind direct feeds, making its data unsuitable for trading, which should be clearly acknowledged. In our view, rather than focusing on defining the dissemination speed for core market data, the priority should be to establish a clear sequencing methodology and allow sufficient time for the CTP to properly order incoming best bid and offer prices. This would help mitigate the impact of network latency and geographical distance from incoming data, ensuring more accurate and reliable outbound core data. Failing to require re-ordering of messages would result in a misleading representation of the BBO across European markets, introducing systematic flaws to the CTP data quality, including: (i) over-reliance on the latency variability inherent in networks and geographical distances, and (ii) presenting an EBBO view from the location of the CTP data centres, creating an unfair competitive advantage for data contributors closer to these centres, as their BBO will reach the CTP first with a higher chance to set the EBBO. Unlike the US, where trading venues are situated within a 65 km triangle, European data contributors are widely dispersed; the average and median distances between the five main trading data centres are 1300 km.

33. Which of the following options reflects your assessment of the impact on the consolidated tape of requiring systematic internalisers to contribute to the equity pre-trade consolidated tape?

☐It would improve the quality of the data displayed by the tape.

☐It would reduce the quality of the data displayed by the tape, also considering that systematic internalisers, under certain conditions, can trade at prices that are better than the quoted prices.

☐It would be irrelevant.

☒No opinion/Don't know/Not applicable

Please explain your answer

Including Systematic Internaliser (SI) quotes in the EU Consolidated Tape for equities could significantly enhance market transparency and support the goals of the SIU. By incorporating SI data, investors would gain a more comprehensive view of available liquidity and pricing across the EU, fostering better-informed investment decisions and promoting a level playing field among trading venues. However, for this goal to be achieved, SI quotes must be genuinely informative. This means that every time an SI intends to offer a price improvement on its public quotes, it should update those quotes prior to the execution of the transaction—thereby providing true visibility on available prices. Additionally, price improvements should also be covered by the tick size regime to ensure they are material and can easily be tracked and understood by clients. Today 75% of transactions on SIs do not receive any price improvement, and 17% receive immaterial price improvement, below a tick (source: AMF). That said, the inclusion of SI quotes may also present certain challenges. These quotes can vary in quality and may not always be directly comparable to those from regulated markets, potentially leading to confusion or misinterpretations unless they are clearly displayed as a separate category. Additionally, the operational burden of aggregating and standardising data from numerous SIs could increase costs and complexity for the consolidator. Overall, while the integration of SI quotes into the EU CT, as currently defined in the L1 text, could advance market efficiency and investor protection, the implementation must be carefully designed to ensure data reliability, cost-effectiveness, and fair competition. With regard to the provision of post-trade data to the CTP, FESE would undoubtedly see value in clearly identifying SIs. If SIs disclosed their identities in post-trade reports—rather than using generic labels like "SINT" or "OTC"—this would enhance market transparency and allow investors to better assess execution quality. It would also increase accountability and support more effective regulatory oversight of SI transactions, which is particularly necessary, as they are especially exposed to potential conflicts of interest. This would align with the EU's goals of fair and transparent financial markets.

34. Which amendments to their regulatory framework would be required to effectively include systemic internalisers as contributors of equity pre-trade data?

To effectively include Systematic Internalisers (SIs) as contributors of equity pre-trade data in the EU Consolidated Tape, several amendments to the regulatory framework—primarily under **MiFIR** and its associated technical standards—would be required: 1. **Amendments to RTS 1 (Regulatory Technical Standards)** The current RTS 1 under MiFIR outlines pre-trade transparency obligations for equity instruments. It would need to be revised to: • Mandate the inclusion of SI quotes in the consolidated tape. • Ensure that SI quotes meet standardised formatting and quality criteria. • Clarify that SI quotes must reflect prevailing market conditions, including adherence to tick size regimes.

2. **Clarification of Scope and Definitions**
   Amendments would need to clearly define which SIs are subject to the obligation (e.g., based on activity thresholds) and what constitutes a "quote" for inclusion (i.e., not the mid-point of the trading venue's quotes).
3. **Obligation for Real-Time Data Contribution**
   SIs would need to be legally required to submit their pre-trade quotes in real time to the Consolidated Tape Provider (CTP), similar to trading venues.
4. **Standardisation of Data Formats and Protocols**
   The regulatory framework would need to define—or delegate to the CTP the authority to standardise—data formats and transmission protocols to ensure interoperability and data quality.
5. **Supervisory and Compliance Mechanisms**
   National Competent Authorities and ESMA would need enhanced oversight powers to monitor compliance and enforce data contribution obligations.

These changes would help ensure that SI data is integrated in an effective, transparent, and fair manner into the EU's consolidated market infrastructure.

(34.1) Are there other hurdles (e.g. technical)?

☒Yes

☐No

☐No opinion/Don't know/Not applicable

Please explain.

The inclusion of SI quotes may also present certain challenges. These quotes can vary in quality and may not always be directly comparable to those from regulated markets, potentially leading to confusion or misinterpretations unless they are clearly displayed as a separate category. Additionally, the operational burden of aggregating and standardising data from numerous SIs could increase costs and complexity for the consolidator. There is also concern among SIs about the potential loss of competitive advantage and the exposure of proprietary pricing strategies.

2.6. Building quality liquidity for EU market participants: impact of recent trends

2.6.1. Non-transparent ('dark') trading (for equity instruments)

35. The EU's trading landscape is witnessing a decrease of lit order book equity trading (i.e. order book trading with pre-trade transparency). In your view, what are the main reasons that explain such a trend? Please select one or more of the options below and explain your reasoning.

☒ Regulation (please specify)

☒ Liquidity fragmentation

☐ Order flow competition (e.g. development of EMS/OMS)

☒ Technological developments (e.g. algorithmic trading/HFT)

☒ Surge in ETFs and passive management

☐ Other (please explain)

Please specify to which regulation(s) you refer in your answer to question 35

MiFID II/R

Multilateral Trading Facilities, Systematic Internalisers (SIs), and dark pools often leverage this transparency without contributing equally. These venues can use the price signals and liquidity from RMs to execute trades in less transparent environments, often with reduced disclosure obligations or delayed reporting. This creates regulatory arbitrage, where trading activity migrates to venues with lighter oversight, undermining the very transparency the EU seeks to promote.

Recent updates by ESMA, such as stricter quoting obligations for SIs and revised liquidity thresholds, aim to address some of these imbalances. Yet, the core issue persists: transparency is asymmetrically enforced, and fragmentation is deepening as market participants route orders to venues that offer cost or speed advantages at the expense of market integrity.

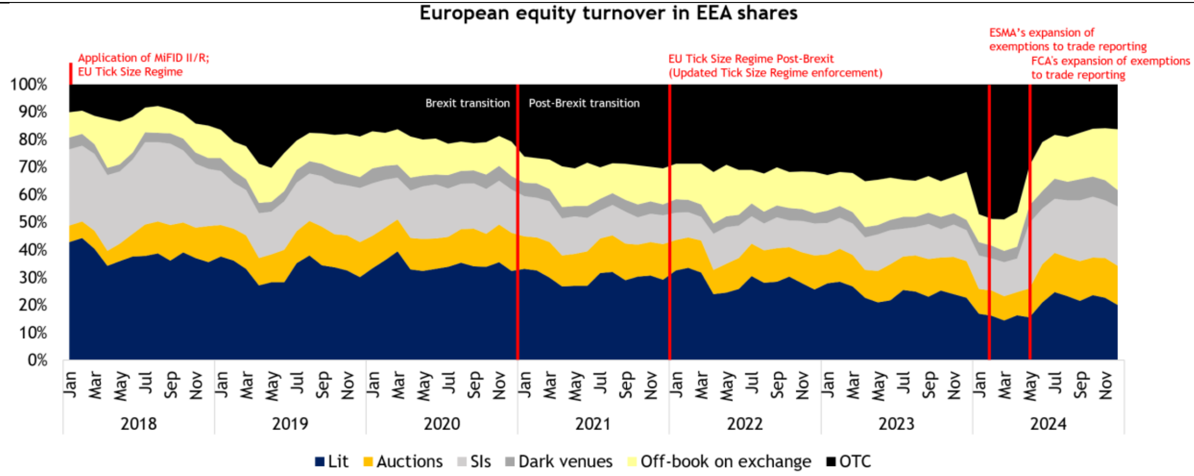
This is also evident in the US, which is increasingly grappling with the rise of so-called "private rooms" *(see articles: The Trade, "Building success in a fragmented US"; Bloomberg, "Darker Than a Dark Pool? Welcome to Wall Street's 'Private Rooms'"; and Global Trading, "Frustration builds over Europe's hidden liquidity")*. This development can be closely linked to the transparency provided by exchanges and the consolidated tape, while the order flow is increasingly controlled by brokers who may internally match transactions at mid-point. Over time, as volumes in bilateral/dark transactions continue to grow, exchanges risk rapidly losing their "lighthouse" status, along with their trading income and their attractiveness to issuers.

In effect, the EU's transparency framework, while well-intentioned, inadvertently incentivises fragmentation by allowing certain venues to freeride on the transparency provided by others. A more balanced and unified approach is needed to ensure that all trading venues contribute fairly to a transparent and efficient equity market.

Please explain your answer to question 35

The main issue of fragmentation in trading is at functional level, not geographical. MiFID II enabled the proliferation of alternative trading mechanisms, including Systematic Internalisers (SIs) and dark venues, which, together with persistent OTC trading practices, have led to an increased fragmentation of the EU equity market since 2018. While these developments have fostered competition, they have also diverted liquidity away from lit regulated markets, often with little to no transparency. Sufficient transparency, however, is crucial for the price formation process and, therefore, the well-functioning of capital markets.

According to big xyt statistics, the share of total equity turnover for EEA shares in Stoxx 600 traded via European lit venues decreased from 47.2% (38.3% CLOB and 8.9% auctions) in 2018 to 31% (20% CLOB and 11% auctions) during the 12 months prior to May 2024. The remaining liquidity was channelled through SIs, dark venues, off-book on exchange and OTC trading. *[note: figures from May 2024 are excluded due to the lack of comparability following the UK FCA's expansion of trade reporting exemptions and the impact on non-addressable liquidity.]*



Note: Includes EEA, CH and the UK venues, as well as addressable and non-addressable liquidity.
Source: big xyt data, FESE calculations

For FESE, a key question is how the EU can attract more investment into a market where only such a low portion of liquidity is visible to all investors. If this approach persists, accessible and visible liquidity will continue to shrink, in a clear threat to the SIU.

The revised MiFID II text acknowledged the very low pre-trade transparency of SIs and the need for a level playing field between trading venues and SIs. We see these as two major factors behind the decrease in equity turnover in lit order books. However, we find that both the revised MiFID II framework and ESMA's RTS 1 proposals fell short of delivering effective solutions. SIs have become standard alternatives to trading venues in the EU, accounting for 21.5% of total liquidity for EEA shares in Stoxx 600 across European venues in December 2024 (source: big xyt). Given their established importance, the transparency requirements of SIs should be brought closer to those applicable to trading venues.

Compared to other jurisdictions, a transparency gap remains between the US and EU markets. Although off-exchange trading has also grown in the US, the lit multilateral venues still represent 55% of turnover in the US vs 45% in the EU over the past twelve months (source: BMLL, May 2025). Even dark facilities in the US disclose more information than their EU equivalent (SIs).

Periods of high volatility—such as the Trump administration's tariff announcements, the Covid-19 crisis, the 9/11 attacks, or the 2008 Lehman Brothers collapse—consistently show that, in times of crisis and uncertainty, trading activity shifts toward Regulated Markets. These types of events highlight the perception and high value of multilateral venues over dark or less regulated trading, as safe, transparent, and robust platforms with a central role in price formation, offering financial stability, integrity, and fairness when most needed. The lessons from these episodes should guide future policy—especially aimed at strengthening price formation—so public equity markets can better support companies in navigating crises and financing recovery and growth thereafter.

Overall, the ongoing decline in equity trading in lit venues drives us to call for a prompt re-evaluation of the current MiFID II/R regulatory framework to identify what needs to be improved for deepening and increasing liquidity. To achieve this, regulators should, among other things:

- Examine the equity market trading structure comprehensively, including the role of non-EU actors, to adequately assess the implications of current trends.
- Ensure adequate visibility in the bilateral/dark space to effectively shape policies, with trade reporting flags playing a key role.
- Streamline the complex waiver, transparency, and deferral regimes. In particular, the Reference Price and Negotiated Trade waivers should be repealed. In any case,

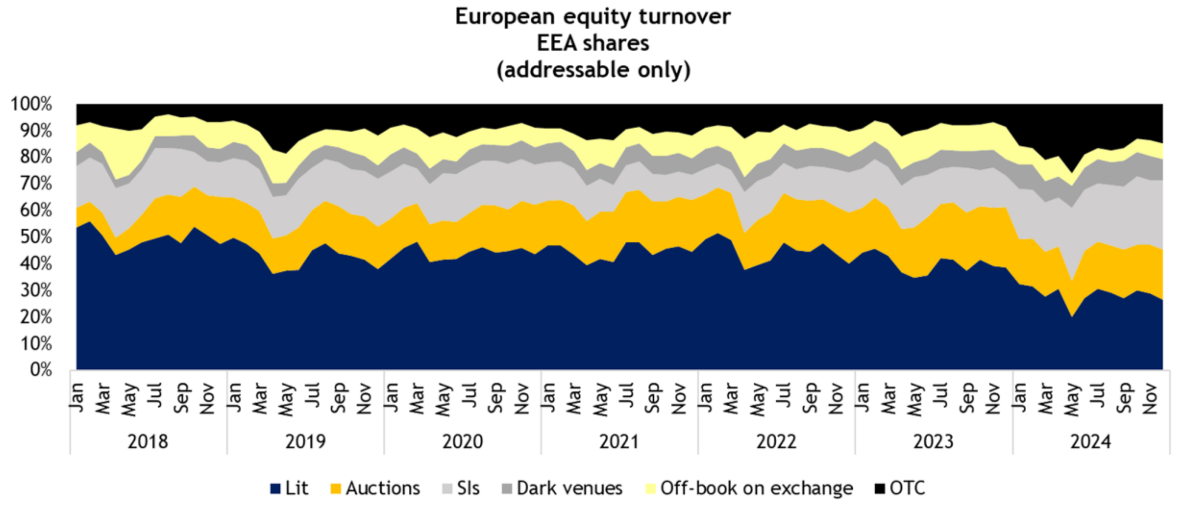
waivers should not be misused, and a level playing field should be safeguarded with respect to trading venues. • Promote a level playing field between bilateral and multilateral trading venues. Access, transparency and execution rules should be revised for bilateral trading. Specifically, transparency obligations for SIs should be brought closer to those applied to trading venues. Bilateral trading mechanisms should also locate data centers in the EU and obtain proper licensing if they provide alternative mechanisms beyond bilateral internal matching. An alternative to such a level playing field would be to contain Sis and bilateral trading at large to where it can bring value, i.e., technical transactions and large-in-scale transactions. • Strengthen and harmonise the authorisation, supervision and enforcement regime for SIs, and resolve data quality issues arising from OTC and SI trading.

36. What is your assessment of the current levels of dark trading in the EU on orderly markets and sound price discovery?

1 (too low to harm price formation)	2 (sufficiently low to hardly harm price formation)	3 (neutral)	4 (slightly excessive and harmful for price formation)	5 (excessive and very harmful for price formation)	No opinion/Don't know/Not applicable
☐	☐	☐	☒	☐	☐

Please explain

At the core of secondary equity markets lie lit venues, which serve two fundamental functions: providing access to large pools of high-quality liquidity and facilitating price formation. A well-functioning price formation process enables trading to take place, delivers more efficient markets, where all investors, regulators and participants can have full confidence, and also lowers capital costs for businesses. When assessing the impact of MiFID II, we have observed a growth in dark trading, consequently weakening the basis of price formation and the very basis of the equity ecosystem in Europe. According to big xyt statistics, the evolution between 2018 and 2024 of the proportion in addressable liquidity of equity turnover for EEA shares of Stoxx 600 across European venues has been as follows: • CLOB: 49.7% to 28.2% • Auctions: 11.5% to 17.1% • SIs: 16.4% to 22.4% • Dark venues: 4.6% to 8.7% • Off-book on exchange: 10.6% to 5.7% • OTC: 7.1% to 17.7% (Note: the definition of addressable liquidity derives from big xyt own methodology, and for the above, it would primarily exclude non-price forming trades and technical trades, among others.)



Note: Includes EEA, CH and the UK venues.
Source: big xyt data, FESE calculations

Alternative sources confirm similar trends. According to BMLL data focusing on addressable liquidity in EU indices, the bilateral and dark market share has risen to 45% in Q4 2024—an increase of 11 percentage points since Q1 2020—while the continuous lit market share has fallen from 49% to just 33% over that time.

As liquidity shifts away from lit venues, the price formation process becomes increasingly weakened. Whilst for large trades there is a need for alternative execution methods to mitigate potential market impact, price formation and transparency ultimately benefit all market users. Off-exchange venues play an important role in capital markets, but it must be recalled that even they rely on reference prices from lit markets and make use of them, i.e., exchanges provide reference prices to all market participants, including those that do not contribute to the price formation process.

In the absence of policy action, price formation on public markets may become non-viable in the long term, leading to the further flourishing of dealer markets with higher risk to systemic stability, higher cost and less transparency. Investor confidence must remain a key priority for the next regulatory plan, and to achieve that, investors should be reassured that capital markets remain open, well-regulated, transparent, and fair.

Safeguarding the price formation process is therefore essential, and priority must be given to deepening liquidity in lit venues—where companies are listed and prices are formed. Additionally, enhancing liquidity will support both issuers in their pursuit of growth, capital, and investment, and investors in executing effective entry and exit strategies. Consequently, it is also vital for the performance of primary markets and the overall attractiveness and competitiveness of the EU's capital markets.

Key objectives of MiFID II for equity markets were to protect the price formation process, increase transparency and address issues caused by dark trading and market fragmentation. Yet, market realities suggest that these ambitions remain unmet, and measures to bring trading out of the dark have not been as successful as originally expected. Based on this, we believe more needs to be done to ensure the transparency objectives of MiFID II can be fulfilled. FESE, therefore, calls policymakers to increase reflection on the most appropriate application and subsequent enforcement of market structure rules.

A study published by the Spanish regulator in December 2024, based on BMLL data, also concludes by suggesting that it may be appropriate to initiate a debate on whether the objectives of the MiFID regulation are being achieved and whether additional objectives should be considered. The study highlights that there does not appear to be a significant shift from OTC trading to on-exchange trading and raises the question of whether lit trading should be prioritised due to its central role in the price formation process. *[CNMV, 2024, "[Fragmentation, price formation and liquidity of Spanish equities in a European context](#)", Working Paper no.87]*

[…]

38. Do you believe that the existing provisions on the reference price waiver (RPW) are fit for purpose? Please explain your reasoning.

☐Yes

☒No

☐No opinion/Don't know/Not applicable

If you answered 'No' to the previous question, please specify what legislative amendments would be appropriate.

FESE supports repealing the Reference Price and Negotiated Trade waivers.

The current provisions for both the Reference Price Waiver and the Negotiated Trade Waiver are not fit for purpose. It is important to limit the use of waivers when they undermine transparency objectives. The level of transparency in EU equity markets needs to be improved, in line with the original intent of MiFID to ensure the highest levels of market efficiency, support effective price formation, and address the underlying causes of dark trading.

Only large orders in equity and equity-like instruments should be exempt from pre-trade transparency requirements. Pre-trade transparency contributes to a more efficient price formation process by disseminating price signals more quickly across the market. Consequently, all standard orders that are below the Large-in-Scale (LIS) threshold relative to normal market size, and for which sufficient liquidity exists on a trading venue, should be fully subject to transparency requirements. For this reason, FESE supports repealing the Reference Price and Negotiated Trade waivers.

The core purpose of the waiver regime should be to protect market participants from adverse price movements resulting from the execution of large orders. Therefore, FESE recommends limiting dark trading by reducing the number of waivers to mainly LIS.

In addition to simplifying the waiver regime, this approach would help address the concerning growing market shift towards bilateral and dark trading, and to deepen EU liquidity pools. Specifically regarding Systematic Internalisers, as outlined in our response to Q52, their transparency requirements should be aligned more closely with those of trading venues, and ideally limited to LIS transactions only. Small orders with no significant market impact should be executed on lit venues, as this would have a positive effect on price formation and investor protection.

39. Do you agree with the current criteria to determine the reference price?

☒Yes

☐No

☐No opinion/Don't know/Not applicable

If you answered 'Yes' to the previous question, please explain your answer.

FESE supports the current definition and calculation methodology for the reference price. We believe it is crucial that the reference price continues to be sourced from the lit order books of the reference market—i.e., a market that reflects a broad and diverse mix of investor types and trading flows, thereby representing the true liquidity of the instrument. We caution against using prices derived from markets that are not sufficiently liquid or representative.

40. Do you believe that the existing provisions on the NTW are fit for purpose? Please explain your reasoning.

☐Yes

☒No

☐No opinion/Don't know/Not applicable

If you answered 'No' to the previous question, please specify what legislative amendments would be appropriate. If possible, please provide estimates on the costs and benefits associated with the changes.

As explained in our response to Q38, it is important to limit the use of waivers when they undermine the much-needed increase in transparency in EU equity markets, in line with the objectives of MiFID. In this context, **FESE supports repealing the Negotiated Trade Waiver**.

Only large orders in equity and equity-like instruments should be exempt from pre-trade transparency requirements. All standard orders below the Large-in-Scale (LIS) threshold relative to normal market size, and for which sufficient liquidity exists on a trading venue, should be fully subject to transparency requirements. Therefore, we recommend limiting dark trading by reducing the number of waivers to primarily those applicable to LIS orders.

In addition to simplifying the waiver regime, this approach would help address the concerning and growing market shift towards bilateral and dark trading, as well as deepen EU liquidity pools.

Understanding the Negotiated Trade Waiver

The rationale for the Negotiated Trade Waiver (NTW) is to allow privately negotiated trades to be reported into a trading venue and be brought under the rules of the exchange. The overall picture suggests that its primary intended purpose has been to facilitate trading that would not easily transfer to the order book.

MiFID II initially applied the NTW to, among other conditions, trades within the volume-weighted spread or market maker quotes on the trading venue operating that system, subject to the double volume cap (4% per venue, 8% EU-wide). However, now, with the MiFIR Review and the removal of the Volume Cap, interest in this type of trading is accelerating.

Even though these changes have not yet come into effect, we are already seeing increased use. Investment firms are now leveraging this mechanism to facilitate significant bilateral trading, where they trade bilaterally in an automated, systematic manner and then report the trades to a trading venue without any pre-trade transparency. This is done either through their own negotiation and streaming systems or via third-party negotiation and streaming systems.

This practice should clearly be seen as a circumvention of the Systematic Internaliser (SI) regime, where firms would otherwise be required to provide quotes up to a certain threshold for liquid shares. This issue is further exacerbated by the revision of the SI regime, which no longer includes a quantitative assessment of a firm's trading activity that would require them to register as an SI.

As a result, market transparency is significantly reduced, with no visibility of these orders.

Increase in bilateral trading (off-book on-exchange)

As explained in responses to Q35 & 36, the proportion of trading occurring in lit venues—critical for an efficient price-formation process—is declining, contrasted with the increasing share of bilateral and OTC trading. Regarding the negotiated trade waiver, particular attention should be given to the increase in off-book on-exchange trading, i.e., trades printed on an exchange but executed off-book. Its share has been increasing, reaching 22% of total equity turnover in December 2024 for EEA shares of Stoxx 600 across European venues (big xyt).

Alternative sources confirm similar trends. According to BMLL data, when considering only addressable liquidity, the share of off-book on-exchange trading increased from 16% in Q1 2020 to 28% in Q4 2024 in EU indices, and from 8% to 20% over the same period if we focus on Nasdaq Nordic blue chips.

It is critical to monitor these ongoing dynamics, as they ultimately reduce liquidity in the EU's multilateral venues, weaken price formation, diminish the attractiveness of primary markets, and, ultimately, erode the competitiveness of EU capital markets.

41. The current state of EU legislation does not allow a trading venue to benefit from the negotiated price waiver for negotiated transactions that take place with the assistance of a system or trading protocol operated by the trading venue. This is in contrast to current trends observed in other jurisdictions (for example, in the United States, where "multilateral percentage of volume" or "trajectory crossing" venues are allowed). Do you think that trading venues should be allowed to use the negotiated price waiver to execute negotiated transactions that take place with the assistance of a system or trading protocol operated by the trading venue? Please explain your reasoning.

☒Yes

☐No

☐No opinion/Don't know/Not applicable

If you answered 'Yes' to the previous question, please explain your reasoning, specifying what legislative amendments would be appropriate and explain.

The prohibition mentioned in the question was first explicitly proposed by ESMA in the Final Report on RTS 1 in December 2024. While we recognise the merits of limiting the use of waivers when they undermine transparency objectives, the ESMA amendment appears to have been poorly executed, as it was introduced without prior consultation during the consultation process, and we question whether its implications had been thoroughly analysed.

In a nutshell, the prohibition fails to address the core issues related to the waiver and the rise in off-market trading (see response to Q40). It creates an unfair advantage for investment firms over trading venue operators, worsening the already uneven playing field between the two. This could lead to increased internalisation and off-market liquidity provision, further exacerbating the decline in liquid, multilateral, and transparent trading pools in the EU.

Uneven playing field vis-à-vis investment firms

Percentage of Volume (POV) trading is an order execution method that allows traders to execute a set percentage of the total market volume over a specified period to minimise price impact. The prohibition would effectively grant exclusivity for POV automated NDW trading to banks and SIs by excluding RMs and MTFs. This amendment risks further driving EU secondary liquidity into bilateral markets, exacerbating the trends and consequences highlighted in Question 40.

According to ESMA's opinion on the Trading Venue Perimeter (February 2023, particularly paragraphs 50–51), investment firms are permitted to use systems to pre-arrange transactions, provided that the trades are formalised on a trading venue using a waiver. In practice, at least five major EU investment banks are already using this waiver in an automated manner. However, ESMA's proposed prohibition prevents trading venues from doing the same thing that IFs are allowed to do. Multilateral venues in the UK, US, and Canada can offer these functionalities, whereas EU venues will face restrictions. It is important to consider the potential impact, including a possible shift in demand for POV trading outside the EU and a corresponding reduction in liquidity in EU multilateral venues.

The unique value proposition of exchanges should not be undermined: exchanges enable trading on an equal, transparent, and non-discriminatory basis, rather than limiting it to the bilateral space, where access is restricted to those who have signed up—through their Execution Management System—to certain off-exchange liquidity providers. RMs and MTFs are the only trading systems that offer true multilateral trading and liquidity provision.

Finally, the prohibition would put EU trading venues at a competitive disadvantage globally by hindering technology-driven innovation. Markets are already evolving due to technological advancements, including AI. With the consolidated tape about to be launched, further evolution is inevitable, and regulation must be future-proof.

Recommendations

In this context, FESE strongly recommends:

- As stated in our response to Q40, the preferred option is to repeal the Negotiated Trade Waiver. Alternatively, its use should be limited in cases where it undermines transparency objectives, and supervisory measures should be developed to ensure the waiver is applied as intended.
- Also, if the waiver is not entirely repealed, the reference to "operated by a trading venue" from Art. 5 of RTS 1 should be deleted so that it reads: "A negotiated transaction […] shall be considered to be a transaction which is negotiated privately **without the assistance of a system or trading protocol** but reported under the rules of a trading venue and where any of the following circumstances applies […]"

[…]

Closing auctions

43. In your view, what are the main reasons that explain the rising importance of closing auctions? Please select one or more of the options below and explain your reasoning.

☒ Rise of index investing/passive management

☐ Growing use of quantitative investment strategies benchmarked to the close.

☐ Increased emphasis on best execution under MiFID II.

☐ Move away/protection from HFTs

☒ Other

Please explain your answer to question 43

Closing auctions play a crucial role in equity markets. They offer investors the benefit of centralised liquidity at the end of the trading day. Therefore, it is an essential component for efficient price discovery and for determining the closing price of securities, which are critical for market stability and transparency.

As noted by the AMF (2019), the growing importance of closing auctions is partly explained by the expansion of passive investment strategies, whose mechanism for creating and cancelling units usually uses the net asset value at the end of day and which requires trading at the closing price for exact replication. *[AMF, 2019, "*Growing Importance of the closing auction in share trading volumes*"]* One of the reasons for the growth of closing auctions in the EU can be associated with MiFID II itself. Contributing factors include the increased fragmentation since the introduction of the framework, which has harmed liquidity sourcing and transparent price formation with the proliferation of systematic internalisers and alternative trading systems like frequent batch auctions, and the rise in the number of venues operating under pre-trade transparency waivers. According to statistics from big xyt, closing auctions accounted for 25.1% of trading flows on EEA Regulated Markets and Multilateral Trading Facilities in 2024, compared to 21.4% in 2018 or 29.8% in 2019.

44. What is your assessment of the current level of competition on closing auctions, including between trading venues that offer trading for the same financial instrument?

1 (no competition)	2 (low level of competition)	3 (neutral)	4 (high level of competition)	5 (very high level of competition)	No opinion/Don't know/Not applicable
☐	☐	☐	☒	☐	☐

(44.1) If you assessed that the level of competition is below 4, please point to the main causes for such a situation and to the main implications on the broader functioning of EU markets. Please specify which changes to the EU legislation would increase competition?

[Please note that FESE would like to vote for 5-(very high level of competition), but voted 4-(high level of competition) to have the box for comments] FESE considers that there are no structural or regulatory barriers preventing competition in the closing auction market. If regulators consider the number of challengers as insufficient, it is not due to any exclusionary practices but rather to commercial decisions by others either not to enter the space or to withdraw. Competition among trading venues is strong—not only between venues themselves but also with bilateral systems and internalisation from banks. Market participants highly value the benefits of closing auctions, such as efficient price formation and not paying the spread. As a result, several competing offerings have emerged in recent years. A range of alternative solutions now allows participants to execute transactions without participating at the primary market's closing auction. These products typically operate in parallel with the official closing auction and match orders at the official closing price once it is fixed. Alternatively, other competitive offers would run in parallel of existing closing auctions on primary markets with price formation. Additionally, some investment banks offer "market at close" products that match orders internally to avoid exchange auction fees. This includes principal liquidity guaranteed at the close via their Systematic Internaliser. The growing importance of closing auctions over recent years is largely explained by broader market developments, particularly the rise of passive investment strategies and index tracking, which naturally concentrate volumes at the close. This trend reflects genuine investor demand and structural shifts in market behaviour rather than any lack of

competitive dynamics. We strongly recommend allowing competition and innovation to continue in this area. To our knowledge, there has been no call or analysis supporting the need for price regulation or anti-competitive intervention.

(44.2) Do you believe that the consolidated tape could play a role in that regard? Please explain your reasoning.

☐Yes

☐No

☐No opinion/Don't know/Not applicable

Please explain

45. What is your assessment of the level of fees charged by trading venues for orders submitted during a closing auction, compared to any other time of the trading day?

1 (very low)	2 (rather low)	3 (neutral)	4 (rather high)	5 (excessive)	No opinion/Don't know/Not applicable
☐	☐	☐	☐	☐	☒

Please explain your reasoning, in particular as regards the potential impact of these costs on the attractiveness of EU capital markets, should the concentration of trading in closing auctions continue to increase.

Each trading venue sets its pricing based on its own commercial strategy, competitive positioning, and cost structures. This does not imply any abuse of market position, particularly in a market where competition remains robust and entry is possible. Therefore, we do not see any justification for regulatory intervention in either the structure or pricing of closing auctions.

(45.1) Do you believe that measures should be taken to reduce costs for investors?

☐Yes

☐No

☐No opinion/Don't know/Not applicable

If so, could you please specify these measures.

[…]

24-hour trading

47. How positive do you deem extended trading hours / 24-hour trading for the development and competitiveness of EU markets? Please explain your reasoning.

1 (not significantly positive)	2 (significantly positive)	3 (sufficiently positive)	4 (very positive)	5 (extremely positive)	No opinion/Don't

					know/Not applicable
☐	☐	☒	☐	☐	☐

Please explain the reasoning of your answer to question 47

48. How advantageous or risky do you deem extended trading hours/24-hour trading for the orderly functioning of EU capital markets? If you provide a score pointing at advantages, please explain those advantages.

1 (very advantageous)	2 (rather advantageous)	3 (neutral)	4 (rather risky)	5 (highly risky)	No opinion/Don't know/Not applicable
☐	☒	☐	☐	☐	☐

If you provide a score pointing at advantages (1-2), please explain those advantages.

[Please note that FESE would like to vote for 3-(neutral), but voted 2-(rather advantageous) to have the box for comments]

FESE strongly believes that European trading venues must retain the flexibility to define their own trading schedules. Any harmonisation or shift toward 24-hour trading should be market-led, based on demonstrated investor demand, and technological capability. In light of the move to T+1, it is essential that operational cut-off times and post-trade deadlines be designed to support rather than restrict trading activity, particularly in the evening. The risk of inadvertently discouraging trading after a certain hour due to settlement constraints or disproportioned additional costs must be avoided.

Key considerations include:

- **Investor needs**:
  - **The length of the trading day in Europe is designed to serve investors as well as issuers and to cater to their preferences and trading needs**, supporting efficient price formation, transparent markets, and high liquidity. Exchanges provide a centralised environment with well-calibrated trading hours that allow institutional and retail investors to manage their positions effectively throughout the day. These hours are aligned with global markets and support deep liquidity, particularly during opening and closing auctions.
  - **Evening trading is especially critical for retail participation.** Many retail investors have daytime jobs and prefer or are only able to trade outside of standard market hours. With growing interest in U.S. equities and the emergence of asset classes like cryptocurrencies that trade 24/7, extended trading hours—already adopted in several local markets such as Germany—are increasingly essential. Restricting these hours would not only reduce the diversity of trading flows but also contradict broader EU goals to deepen retail involvement in capital markets, as outlined in the Savings and Investment Union (SIU) initiative.
- **Liquidity and price formation**: Liquidity in European equity markets is concentrated during opening and closing auctions. Extending the trading day may even out liquidity throughout the trading day. Further considerations and studies are still evaluating the efficiency of both models compared to one another.
- **Operational implications**: It should be noted that longer trading hours may strain operational capabilities on exchanges, intermediaries, market makers, and post-trade

service providers. A move toward continuous trading introduces challenges in trade reporting, transparency obligations, settlement processes, entitlement calculations (e.g., corporate actions and dividend rights), and staffing implications. Furthermore, there will be an increase in cybersecurity exposure and, subsequently, resilience requirements. Ensuring robust incident response, monitoring, and infrastructure protection mechanisms are thus key. Automation and digitalisation across the entire value chain are fundamental for providing these services even outside normal working hours.

- **ESG implications**: As Europe continues to advance its sustainable finance agenda, it would be useful to consider the potential environmental implications of extended trading hours. These include, among other, increased energy consumption and system load. Aligning trading developments with ESG goals—particularly those under the EU Green Deal—can help ensure coherence between market structure evolution and sustainability objectives.

49. In your view, do the advantages of extended / 24h trading outweigh the potential risks?

☐Yes

☐No

☒No opinion/Don't know/Not applicable

Please explain

FESE is closely monitoring global developments around trading hours, including the trend toward 24-hour trading in jurisdictions such as the United States. While extended trading hours may meet specific commercial and retail investor needs, decisions on operational trading times must remain at the discretion of each trading venue, reflecting their unique market dynamics.

Europe must be operationally and regulatorily ready to support such developments if market demand evolves in that direction. In the context of the upcoming transition to a T+1 settlement cycle, it is particularly important that post-trade processes remain flexible to accommodate extended trading hours and late-day cut-offs.

FESE strongly supports the principle that trading schedules should be venue-led and responsive to demonstrated investor demand and technological readiness. Any move toward harmonised or 24-hour trading must be market-driven. As T+1 approaches, care must be taken to avoid settlement constraints or disproportionate costs that could unintentionally limit trading activity in the evening.

Maintaining Europe's global competitiveness is a key priority. The region's time zone advantage—bridging Asian and U.S. markets—offers a strategic window for international capital flows. Prescriptive or rigid trading hours risk undermining this position.

At the same time, Europe should not automatically mirror developments in other jurisdictions without understanding their full implications. While the U.S. moves toward 24-hour trading, its long-term viability remains uncertain. Smaller or specialised venues in Europe may face greater challenges in adopting such models compared to larger exchanges. A flexible, inclusive approach is essential to ensure that evolving trading norms do not compromise the competitiveness or sustainability of European markets.

Ultimately, decisions must be based on clear evidence, with a focus on investor outcomes, market structure integrity, and the broader objectives of the Single Market.

The role of multilateral vis-à-vis bilateral trading

50. Based on the current legal framework, and considering developments in technology and market practices (including the development of smart order routing systems), is the dividing line between multilateral trading facilities and bilateral trading sufficiently clear?

☐Yes

☒No

☐No opinion/Don't know/Not applicable

Please explain and provide concrete examples.

The distinction between bilateral and multilateral trading is increasingly blurred, which poses a problem of a level playing field among market participants. This issue must be considered in light of the objectives of MiFID II/MiFIR, which aimed to shift OTC multilateral trading—such as broker crossing networks—onto transparent, regulated venues like RMs and MTFs to enhance price discovery and investor protection. However, despite these goals, the proportion of equity turnover executed in lit multilateral venues is declining, while OTC and systematic internalisers (SI) trading continue to grow, accounting for 21.5% and 16.3% of trading in EEA shares of the STOXX 600 across European Venues (big xyt). This trend has led to greater market fragmentation and reduced transparency, undermining the core principles of MiFID II/MiFIR. While SIs are regulated under MiFID II as execution venues providing bilateral trading, they provide less transparency than on-exchange trading. This can be problematic when the distinction between purely bilateral and hybrid multilateral trading is blurred. In theory, all trades executed through an SI must be executed against the operator's proprietary account. SIs are prohibited, when dealing on their own account, from entering into matching arrangements with entities outside their group with the objective of executing *de facto* riskless back-to-back transactions in financial instruments outside trading venues. However, some investment firms appear to have developed models that allow third-party trading firms to provide liquidity to SI clients. Hubs that may connect SIs with counterparties should be closely monitored to ensure they function strictly on a bilateral basis, and in case they do not but operate an internal matching system they must be authorised as an MTF. Such activities require oversight, as there is a risk that trading occurs on a multilateral rather than bilateral basis, potentially breaching existing regulation. Likewise, Execution Management Systems/Order Management Systems increasingly offer services comparable to those of trading venues, without any comparable licensing or rules, by streaming third-party quotes directly to clients. Functionally speaking, these should be considered as trading venues. Furthermore, MIFID III does not specify any operational details for the SI business model. This is in contrast with what MTFs and RMs need to fulfil. Hence, we would suggest levelling the playing field regarding the description of the business model and how regulatory compliance is maintained.

[…]

52. In your view, what are the main drawbacks stemming from competition between bilateral and multilateral execution venues? Please explain your reasoning and differentiate between different categories of clients (professional investors vs retail investors)?

Liquidity challenges in lit venues due to market fragmentation MiFID II enabled the proliferation of alternative trading mechanisms including systematic internalisers (SIs) and dark venues, which, together with persistent OTC trading practices, have led to an increased fragmentation of the EU equity market since 2018. While these

developments have fostered competition, they have also diverted liquidity away from lit regulated markets, often with little to no transparency. Sufficient transparency, however, is crucial for the price formation process and, therefore, the well-functioning of capital markets.

According to big xyt statistics, the proportion of total equity turnover for EEA shares in Stoxx 600 traded across European venues via lit venues decreased from 47.2% (38.3% CLOB and 8.9% auctions) in 2018 to 31% (20% CLOB and 11% auctions) during the 12 months prior to May 2024. The remaining liquidity was channelled through SIs, dark venues, off-book on exchange and OTC trading. *[note: figures from May 2024 are excluded due to the lack of comparability following the UK FCA's expansion of trade reporting exemptions and the impact on non-addressable liquidity].*

As liquidity shifts away from lit venues, the price formation process becomes increasingly weakened. A well-functioning price formation process enables trading to take place, delivers more efficient markets, where all investors, regulators and participants can have full confidence, and lowers capital costs for businesses. Off-exchange venues play an important role in capital markets, but it must be recalled that even they rely on reference prices from lit markets and make use of them. Safeguarding the price formation process is therefore essential. This critical goal has been consistently raised by various parties to the debate, e.g., IOSCO, 2021, "Principles for Dark Liquidity: Final Report"; CFA, 2010, "Comment Letter to U.S. SEC on Equity Market Structure" (22 June).

Challenge to EU capital markets' attractiveness

For FESE, a key question is how the EU can truly attract more investment into a market where only such a low portion of liquidity is visible to all investors. If this approach persists, accessible and visible liquidity will continue to shrink, in a clear threat to the SIU.

Compared to other jurisdictions, there is a transparency gap between US and EU markets. Although off-exchange trading has also grown in the US, the lit multilateral venues on equities account for 55% of turnover in the US vs 45% in the EU over the past twelve months (source: BMLL, May 2025). Even dark off-exchange facilities in the US disclose more information than their EU equivalent (SIs).

Besides, it must not be forgotten that the European market structure reflects both primary and secondary markets, which share a symbiotic relationship, and their efficient functioning is essential for capital formation, liquidity provision, and risk management—key factors for an attractive business and listing environment. Therefore, attention must be given to improving the depth of liquidity pools in lit venues, where companies list and the price formation takes place. Enhancing liquidity will support both issuers in their pursuit of growth, capital, and investment, and investors in executing effective entry and exit strategies. Consequently, it is also vital for the performance of primary markets and the overall attractiveness and competitiveness of EU capital markets.

Reduced transparency in the off-exchange space

The reviewed MiFID II text already acknowledged the very low pre-trade transparency of SIs and the need for a level playing field between trading venues and SIs. We believe these are two important factors behind the decrease in equity turnover in lit order books. However, we find that both the revised MiFID II framework and ESMA's RTS 1 proposals fell short of delivering effective solutions. SIs have become standard alternatives to trading venues in the EU, accounting for 21.5% of total liquidity for EEA shares in Stoxx 600 across European venues in December 2024 (source: big xyt). Given their established importance, SIs' transparency requirements should be brought closer to those of trading venues: indeed, without it, local investors as well as foreign ones are deprived of a view over a significant portion of available liquidity in EEA shares.

The reality is that SIs are trading in small sizes, contrary to their original purpose of facilitating large institutional orders (LIS). For instance, in 2024, 94% of total EEA SI trades in Stoxx600 components fell below the standard market size (SMS) with an average trade size of €1,500, while only 0.5% exceeded the LIS with an average trade size of €1,512,500 (big xyt). Had these small orders been channelled to lit multilateral venues instead, there would have been a positive impact on price formation and investor protection (see response to Q53.1). SI activity should ideally be limited to LIS transactions only.

53. In your view, do benefits stemming from competition between bilateral and multilateral execution venues outweigh the associated drawbacks?

☐Yes

☒No

☐No opinion/Don't know/Not applicable

Please explain your reasoning and differentiate between different categories of clients (professional investors vs retail investors)?

(53.2) If you responded "no" to the previous question, would you see merit in requiring that retail orders be executed on multilateral and lit venues?

☒Yes

☐No

☐No opinion/Don't know/Not applicable

Please explain your reasoning, in particular, please specify any impact that such a measure would have on the quality of execution of retail orders.

Requiring retail orders to be executed on multilateral and lit venues would offer significant benefits in terms of transparency and investor protection for retail investors, as well as for price formation and broader market integrity.

Multilateral lit venues offer significantly greater transparency than bilateral trading, which is particularly important for retail investors. This transparency ensures access and visibility to the best available prices and supports informed decision-making. Retail investors, who often lack the resources and expertise to navigate complex markets, benefit from the strict regulatory oversight governing these venues. Trading on lit and multilateral venues occurs on a fair, transparent, and non-discriminatory basis—unlike bilateral spaces that restrict access to select participants who have signed up with off-exchange liquidity providers. By reducing the risk of conflicts of interest and market manipulation, multilateral lit venues provide retail investors with fairer execution and stronger protection, while reinforcing overall market integrity.

Besides, the concentration of retail orders on multilateral lit venues would enhance the overall quality of price discovery in the market, benefitting all market participants. As highlighted in our response to Q36, safeguarding the price formation process is critical—especially at a time when its long-term viability is under threat due to liquidity shifting from multilateral lit venues to bilateral/dark trading environments. As noted in our response to Q52, the latter are increasingly capturing small trades, despite their primary purpose being to facilitate the execution of large orders with market impact.

Within the current regulatory framework, where investment firms are allowed to route retail orders to other venues, FESE has consistently advocated for greater transparency. When it comes to their execution policies as brokers, investment firms should provide retail investors with clear and transparent comparisons between execution venues, enabling them to make well-informed decisions. This includes full disclosure of all associated costs and any exclusivity agreements that may influence order routing. As previously argued, multilateral lit venues offer substantial advantages for retail investors, while contributing to the efficiency and integrity of financial markets—this should be duly taken into consideration.

54. Does the emergence of DLT-based/tokenised asset markets bring in a new element or dynamic, compared to bilateral versus multilateral venues? If so, how?

☐Yes

☒No

☐No opinion/Don't know/Not applicable

If you responded 'No' to the previous question, please explain your answer

(54.1) Should our regulatory framework be adapted to reflect this change?

☐Yes

☐No

☐No opinion/Don't know/Not applicable

Please explain your answer to question 54.1

2.6.2. Single market maker venues

55. In your view, what are the main benefits and drawbacks associated with so-called "single market maker venues" (i.e. where the venue operator limits market making to one participant)? Please explain your reasoning, in particular when it comes to quality of execution.

FESE would recommend caution when it comes to single market maker venues for a number of different reasons, which include regulatory arbitrage risks, distortion of incentives, and amplifying uncompetitive practices. Firstly, from a regulatory arbitrage perspective, while in some countries these practices might be accepted (Germany), in countries like France, regulators would not accept such a business model. This opens the door for 'jurisdiction shopping' behaviour and damages the level playing field.

Secondly, it distorts competition signals and the incentive structure for markets by allowing regulated markets with only one dealer on the venue. This outcome is the legacy of a regulatory loophole in which there was no requirement for the regulated markets to have at least three members/users who interact on the market in order to have a meaningful contribution to the price formation process. This loophole allowed regulated markets to remain 'regulated', despite only having one single market maker. This is problematic because it allows for practices akin to PFOF.

Finally, allowing single market maker venues creates a competitive disadvantage relative to other market participants. Single market maker venues present the risk of complete integration across the value chain, i.e., from the client order to the broker, to the trading venue, to the dealer, hence resulting in a silo protected from any competitive pressures.

If despite the risks mentioned above single dealer system continue to develop, they should be required to operate under certain conditions, such as allowing for other trading participants to become members; and offering an order book where orders from different trading members can be matched and where such matches between trading members have priority over the single dealer. The latter should only intervene to even out peaks.

[…]

2.7. Other issues on trading

58. Please provide any further suggestions to improve the integration, competitiveness, simplification, and efficiency of trading in the EU. Please provide supporting evidence for any suggestions.

- **PRIIPs Regulation and corporate bonds:** While the previous questions have predominantly addressed equity trading, there are also obstacles in non-equity trading, especially for retail investors who want to invest in corporate bonds. The PRIIPs Regulation classifies many corporate bonds with an investor protection clause as a "packaged retail product" for which a Key Information Document is required, but which issuers often do not prepare due to the burdensome requirements and liability issues. Regulators should quickly implement the proposal from the Retail Investment Strategy to exempt certain corporate bonds with a "make-whole clause" from the PRIIPs Regulation. The key is immediate entry into force, as implementation requires little effort.
- **Investment Firm Classification Regime:** Investment firms do not engage in traditional banking activities like deposit-taking or lending, making their classification as banks unsuitable. This is especially relevant for proprietary trading firms, which trade on their own account, support market liquidity, and do not provide investment services. The existing regulations impose unnecessary burdens, undermining EU capital market competitiveness. Proprietary trading firms should not be considered as traditional credit institutions.
- **Investment Firm Governance Requirements:** The classification regime should be simplified by deleting the distinction between class 1 and 2 minus firms and revise the existing thresholds to consider net trading book or net capital requirement as a size metric; apply IFR requirements and measurements only on an EU basis; exclude MTFs/OTFs from the scope.
- **Transaction Reporting:** For transaction reporting (MiFIR Art. 26-5), the trading venue must request data from the trading participant, which can be difficult to obtain. Also, the requested data is primarily personal, which must be provided by the trading participant within a short time frame. The trading venue must ensure that the data provided is accurate, complete and submitted in time. We suggest exploring the removal of the obligation for trading venues to report on behalf of non-MiFIR members.
- **Reporting Requirements Timelines:** Different types and numbers of updates in various reporting requirements take place on a frequent basis, i.e., new manuals and guidelines. Though these updates might be small or big, the required technical work at the background of the trading infrastructure might need significant implementation phases. We would suggest an extension of the timelines.
- **Retail investment strategy:** Exchange-traded derivatives (ETDs) are currently classified as high-risk products (score "7") under RIS as well as PRIIPs. ETDs, while traded on a highly regulated market and cleared by a recognised CCP, are considered highly risky and signal such a reputation to the market, especially to retail investors. We propose to rename it as "complex" for perception and reputational reasons, thus potentially attracting more clients, i.e., retail investors.

Section 3 - Post-trading

3.1. Barriers to cross-border settlement and other CSD services

[…]

3.1.4. Legal certainty

[…]

51. Are there any **other barriers to legal certainty** which are not mentioned above?

☒Yes

☐No

☐Don't know/no opinion

How many barriers on this topic have you identified?

☒ 1

☐ 2

☐ 3

Barrier 1

	Description of the barrier
Explanation of the barrier	The divergent approaches and definitions of dematerialised and digital securities across Member States.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying	From a digital finance perspective, advancing the discussion around the 28th regime to implement a common EU securities law could be a viable option.

which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	Given the divergent approaches and definitions of dematerialised and digital securities across Member States, cross-border utilisation of new technologies becomes significantly more complex, time-consuming, and resource-intensive than issuing securities in physical form.
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion

3.1.5. Barriers and other aspects under SFD

[…]

53. Are there any aspects of the SFD that have created barriers for the market or market participants, in particular in a cross-border environment?

☒Yes

☐No

☐Don't know/no opinion

How many barriers on this topic have you identified?

☐ 1

☒ 2

☐ 3

Barrier 1

	Description of the barrier
Explanation of the barrier	Article 39 CSDR mandates that CSDs provide settlement services exclusively within a settlement system as defined by the Settlement Finality Directive (SFD). While this framework ensures stability, it restricts the ability of CSDs to develop innovative DLT-based settlement solutions that could enhance capital market efficiency. Compliance with the SFD requires full control over the underlying technical infrastructure, which limits the adoption of decentralised technologies for settlement purposes. The DLT Pilot Regime attempted to address this challenge; however, its scope and temporary nature are too

	restrictive to justify major investments in research and development of DLT-based settlement solutions. This restriction creates a significant barrier to innovation in one of the most transformative technological developments in capital markets.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	Article 39 CSDR
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	1. **Remove the restrictions in Article 39 CSDR and SFD** to allow CSDs to leverage decentralised settlement infrastructures. CSDs should have the flexibility to decide whether to apply for recognition of such systems as securities settlement systems under the SFD, based on the specific use case. 2. **Ensure that CSDR outsourcing rules do not apply to decentralised settlement systems**, thus facilitating innovation and allowing market participants to benefit from DLT-driven efficiency gains.
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion

Barrier 2

	Description of the barrier
Explanation of the barrier	The lack of automation and straight-through processing across the issuance value chain remains a key barrier to efficiency. Many

	firms do not support machine-readable documents or structured data fields, as implementation would incur additional costs.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion

[…]

3.2. Barriers to the application of new technology and new market practices

3.2.1. Applicability of the CSDR to DLT-based CSDs and the provision of services

[…]

72. What are the main barriers in the EU framework to the use of DLT for the provision of CSD services, also in light of the experience gained through the DLTPR?

☐legal or regulatory requirements (or lack thereof);

☐fiscal requirements;

☒supervisory practice;

☐market practice;

☐operational requirements;

☐differences in national requirements;

☐Technical/technological aspects;

☐Other

[…]

75. Could the use of DLT help reduce the reporting burden?

☐Yes

☒No

☐Don't know/no opinion

If "no", please explain

[…]

78. Are there any other barriers that you consider relevant for the DLT based provision of CSD services?

☒Yes

☐No

☐Don't know/no opinion

How many barriers on this topic have you identified?

☐ 1

☐ 2

☒ 3

Barrier 1

	Description of the barrier
Explanation of the barrier	FESE supports the integration of **DLT trading and settlement systems (DLT TSS)** within a modernised **CSDR and MiFID II** frameworks. Embracing these technologies will enhance market efficiency and legal certainty, foster innovation, and support Europe's competitive edge in global financial markets.
Reason(s) why it is a barrier	One of the most critical elements is providing legal and economic certainty for participants, especially regarding the transition/graduation out of the pilot regime, when market size, volumes and especially risks get too big. In this case, DLTP licensed companies should be treated as regulated entities in CSDR/MiFID/EMIR.

	It is crucial to establish clear regulatory pathways for firms investing in infrastructure, enabling a predictable transition from the pilot phase ("sandbox"/"non-swimmer pool") to a modernised MiFID/MiFIR/CSDR framework ("real-world regulation"/"swimmer pool"). To facilitate firms' transition from the DLTPR to CSDR, appropriate incentives are necessary.
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	As certain services, such as DLT-based TSS, will no longer be viable after the pilot phase, we seek a well-defined process for transition and graduation to ensure continuity and regulatory clarity.
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion

Barrier 2

	Description of the barrier
Explanation of the barrier	FESE suggests allowing CSDs to offer IT-related ancillary services, such as data analytics and blockchain infrastructure, without requiring separate authorisations, enabling them to drive innovation and enhance value for market participants.
Reason(s) why it is a barrier	

Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	To foster efficiency and competitiveness, a notification-based approach with their supervisor should replace full licensing requirements for technology-related ancillary services, ensuring regulatory oversight while reducing unnecessary administrative burdens.
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion

Barrier 3

	Description of the barrier
Explanation of the barrier	It would be important to update CSDR to enable CSDs to issue MiCA-compliant instruments, including asset-referenced tokens (ARTs) and stablecoins, as well as provide additional MiCA-regulated services. Aligning CSDR with the broader EU crypto-asset framework will ensure regulatory coherence, support innovation in digital finance, and position CSDs as key infrastructure providers in the evolving digital asset economy. Generally, CSDs and CCPs should be permitted to use a wider range of digital settlement assets – including fiat, crypto-assets, ARTs, EMTs, and wholesale CBDCs – for settlement. Enhancing settlement systems to support these assets and enable Delivery versus Payments (DvP) in digital

	formats would significantly improve efficiency and flexibility.
Reason(s) why it is a barrier	
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Member State(s) in which the barrier exists, if relevant	
Estimation of the costs of the barrier	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	It would be important to update CSDR to enable CSDs to issue MiCA-compliant instruments, including asset-referenced tokens (ARTs) and stablecoins, as well as provide additional MiCA-regulated services. As a way forward, tokenised assets should be included in the CSDR and MIFID with clear rules. Furthermore, EMIR should be updated to allow for CCPs to hold collateral in other asset classes, such as tokenised and crypto assets.
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion

[…]

3.3. Barriers and other aspects under the FCD

[…]

98. Are there any other issues you would like to address regarding FCD financial collateral in a DLT environment?

The Luxembourg Blockchain Act introduces notable advancements in collateral management, and FESE supports the integration of these beneficial elements into European-level regulations, such as CSDR and FCD, to enhance market efficiency and legal certainty.

Under the Act, securities issued on DLT qualify as "securities instruments" and are recognised as financial collateral under the Law of 5 August 2005 on financial collateral arrangements. This recognition strengthens security and compliance.

Section 4 - Horizontal barriers to trading and post-trading infrastructures

[…]

4.2. Leveraging cross-border operational synergies between entities (outsourcing, treatment of group structures)

2. On a scale from 1 (it is inadequate) to 5 (it is adequate), do you believe that the current regulatory and supervisory set-up as regards outsourcing is adequate, and captures the risks linked to outsourcing appropriately?

1	2	3	4	5	No opinion/ Don't know
☐	☐	☒	☐	☐	☐

Please point to specific issues and to possible improvements, including, where relevant, any distinction between intra- and extra-EU outsourcing.

Regarding the outsourcing of ICT-service providers under DORA, the RTS on Subcontracting has already been challenged by the Commission and could include further simplification of the requirements on subcontracting. For example, the Commission deleted Article 5 on Conditions for subcontracting, which is a positive development.

In addition, it could be proposed to limit the layers of ICT-subcontractors for which requirements must be fulfilled (e.g., information-, access- and audit rights, due diligence, register of information, etc.) to certain levels of subcontracting instead of focusing on the whole value-chain, and primarily concentrate on ICT subcontractors whose failure could significantly impact the ICT services received by the financial entity.

MiFID
Option for a recognition of Groups: there is a clear need for some groups of trading venues to be enabled to choose to be recognised as such, so that requirements are adapted to ensure these trading venues can benefit from the synergies of being within a Group. Any recognition of groups of trading venues should be designed as an opt-in regime for eligible entities, streamline supervisory procedures and support uniform outcomes across jurisdictions and entities in scope.
Specifically, in relation to MiFID - Article 6(2)(b) of RTS 7, the outsourcing framework is not adequate and there is a need for a change in the approach taken on outsourcing depending on whether the entity providing the outsourced service belongs to the same group, intra-group outsourcing, or is a completely separate third-party service provider, external outsourcing. Notification should be sufficient in the Group context, and pre-approval should not be required.
We note that in ESMA's Final Report on RTS 7 published 10 April, there is an amendment to align with DORA so that only notification would be required, so we are hopeful this will be finalised and implemented, but still suggest there is a need for a definition of Group of Trading Venues to be included in MiFID and for there to be a tailored framework that willing groups can avail of.

3. In case of groups that include trading and/or post-trading infrastructures, does the legislative framework adequately cater for intra-group synergies, notably by way of outsourcing, on a scale from 1 (inadequate) to 5 (adequate)?

1	2	3	4	5	No opinion/ Don't know
☐	☒	☐	☐	☐	☐

Please point to which types of operations have been negatively impacted by the legislative framework, and what have been the costs (or alternatively: foregone cost synergies)? Please indicate which specific regulatory provisions or supervisory practices have hindered the ability to outsource functions within your group, notably across borders.

In some instances, the legislative framework does not adequately cater for intra-group synergies.

DORA

Article 7(1) of DORA RTS provides for the possibility to aggregate incident reports under certain conditions, including that:

d) the major ICT-related incident affects financial entities within a single Member State and the aggregated report relates to financial entities which are supervised by the same competent authority;

(e) competent authorities have explicitly permitted this type of financial entities to aggregate their reporting.

This provision does not allow financial entities located in different Member States to aggregate incident reports even though they belong to the same group and share the same ICT provider (which usually is also part of the same group). In our view, provided that all other conditions listed in article 7(1) are met—in particular, the explicit consensus by competent authorities—there are no objective reasons not to allow the aggregation of the incident reports in this scenario. The aggregation of reports among financial entities located in more than one Member State is in line and facilitates the assessment of cross-border impacts to be performed by ESMA.

In addition, Article 7(2) of ITS 2025/302 clarifies that aggregated reporting provisions set forth in Article 7(1) do not apply to operators of trading venues and CCPs.

Therefore, at present, operators of trading venues may not provide aggregated information about a major ICT-related incident impacting multiple financial entities in one single notification or report, as well as submit such a notification or report to the competent authority on behalf of all impacted financial entities.

Article 7(2) of ITS 2025/302 does not take into account operators of trading venues and/or CCPs belonging to the same group and sharing the same ICT providers/systems that may aggregate information through a single report encompassing all trading venues and/or CCPs

Article 7(2) of ITS 2025/302 should not affect this opportunity for operators of trading venues belonging to the same group and sharing the same ICT platform to aggregate information through a single report encompassing all trading venues.

The opportunity for operators of trading venues belonging to the same market infrastructure to outsource the submission of the notification of the incidents—as well as to aggregate information through a single form encompassing all trading venues of the market infrastructure—would ensure aligned communication standards, improving response times when multiple trading venues are affected by the same ICT-related incident and reducing the regulatory burden on trading venues operating in multiple jurisdictions.

Therefore, we are proposing amendments to Article 7(1) and (2) as included in the next question.

MiFID

"Trading venue group" means a group consisting of more than one trading venue, which consists of a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries hold a participation.

This could be introduced in Level 1 or 2 of MiFID, and a review of all requirements should be undertaken to identify other areas where group recognition should be introduced. There should be a tailored framework that groups could avail of in areas such as where NCAs carry out reviews/audits of trading venues anti-money laundering (AML) and know your customer (KYC) regimes, and Regulatory Reporting – these provisions should not apply at individual entity level if the whole Group is impacted, as it only leads to much duplication of work that should not be necessary.

If you consider that the current regulatory and/or supervisory framework should be adapted to more effectively facilitate intra-group operational synergies, please detail the specific legislative amendments that should be implemented. Should any safeguards be maintained in this process (e.g. for preventing/managing conflict of interests)?

Please explain.

DORA – we are proposing the following amendment to Article 7(1) and (2):

- Deletion of Article 7(1)(d), and
- Deletion of the wording "operators of trading venues, and central counterparties," in Article 7(2).

[…]

4.3. Issuance

[…]

10. Are there barriers relating to the settlement period of primary market operations?

☒Yes

☐No

☐Don't know / no opinion / Not applicable

If yes: How many barriers on this topic have you identified?

☐ 1

☐ 2

☒ 3

__Barrier 1__

	Description of the barrier
Explanation of the barrier	Access to retail
Reason(s) why it is a barrier	Greater digitalisation would help expand and facilitate retail investor participation at a pan-European level. However, this also depends on banks being willing and able to

	support such access, particularly for large transactions. This was done—albeit with difficulty—in the case of Porsche.
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion/Not applicable

Barrier 2

	Description of the barrier
Explanation of the barrier	Post-placement settlement
Reason(s) why it is a barrier	Differences in national laws governing post-placement settlement can complicate the final step required to formally complete a capital increase. This has been observed, for example, in Switzerland and Belgium.
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	

Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion/Not applicable

Barrier 3

	Description of the barrier
Explanation of the barrier	Pledge of shares
Reason(s) why it is a barrier	Listing shares in the form of conditional securities or "share pledges" is not permitted in all European countries—Italy being one example—which can be a drawback for institutional investors in large transactions.
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	

Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion/Not applicable

[…]

14. Are there barriers related to the lack of a harmonised approach for investor identification and classification?

☒Yes

☐No

☐Don't know / no opinion / Not applicable

If yes: How many barriers on this topic have you identified?

☐ 1

☐ 2

☒ 3

Barrier 1

	Description of the barrier
Explanation of the barrier	Diverging national rules
Reason(s) why it is a barrier	Member States have implemented SRD II inconsistently. Thresholds for shareholder disclosure differ (e.g. 0.5% in Italy and the Netherlands vs. none in France and

	Germany), and the scope of instruments varies: France includes bonds and ETFs, while others cover only equities. Communication protocols, formats and timelines are also fragmented. This fragmented implementation has consequences in SRD II adoption by issuers from different Member States—for instance, only 4% of issuers within the SRD II scope are actually using the SRD II framework vs. 47% in France. These issues result in the issuers and the entities responsible for the collection of the information on behalf of the issuers receiving invoices from intermediaries, over the intermediation chain, charging for the shareholders' information provided. Issuers and intermediaries further up in the chain face difficulties in the reconciliation of these amounts, as there is no harmonisation about the processing of those charges. This disincentivises the issuers from calling for shareholder identification to the detriment of the transparency of the whole system. Aligning thresholds, scope, and communication protocols would significantly improve shareholder engagement across the EU.
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of	

supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion/Not applicable

Barrier 2

	Description of the barrier
Explanation of the barrier	Operational inefficiencies and costs
Reason(s) why it is a barrier	Intermediaries (custodian and sub-custodian banks) must navigate multiple national regimes, increasing compliance complexity and cost. Fragmented processes cause delays, errors, and data mismatches, reducing the quality and comparability of shareholder information. These issues result in the issuers and the entities responsible for the collection of the information on behalf of the issuers, receiving invoices from intermediaries, over the intermediation chain, charging for the shareholders' information provided. Issuers and intermediaries further up in the chain face difficulties in the reconciliation of these amounts, as there is no harmonisation about the processing of those charges. This disincentivises the issuers to callfrom calling for shareholder identification to the detriment of the transparency of the whole system. Aligning thresholds, scope, and communication protocols would significantly improve shareholder engagement across the EU.
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	

Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion/Not applicable

Barrier 3

	Description of the barrier
Explanation of the barrier	Limited transparency and investor classification
Reason(s) why it is a barrier	Issuers often cannot identify final investors, particularly in cross-border chains, which weakens shareholder engagement. In addition, the absence of a common EU classification of investor types (e.g. retail vs. institutional) makes it difficult to tailor shareholder rights and communication. These issues result in the issuers and the entities responsible for the collection of the information on behalf of the issuers receiving invoices from intermediaries, over the intermediation chain, charging for the shareholders' information provided. Issuers and intermediaries further up in the chain face difficulties in the reconciliation of these amounts, as there is no harmonisation about the processing of those charges. This disincentivises the issuers from calling for shareholder identification

	to the detriment of the transparency of the whole system. Aligning thresholds, scope, and communication protocols would significantly improve shareholder engagement across the EU.
Specific legal requirement(s) that create(s) the barrier, if relevant (national or EU level)	
Which financial instrument the barrier refers to	
Supervisory or market practice(s) (national or EU level) that create the barrier, if relevant	
Operational requirements that create the barrier (national or EU level)	
Technical/technological aspect(s) related to the barrier, if relevant	
Type of intermediary structure(s)/chain(s) that create(s) the barrier, if relevant	
Estimation of the costs of the barrier and a description of where the additional costs come from and how much they are	
Potential solution(s) to remove or lower the barrier, in **descending order of importance** Suggestions for solutions can include for instance legislative changes (specifying which changes are being suggested), use of supervisory convergence tools (specifying which tools are being suggested), centralised EU supervision, adoption of market practice(s).	
Data on the potential costs and benefits of the suggested solution(s)	
Assess the priority level for addressing this barrier in tackling the topic mentioned in this question.	☐ High priority ☐ Medium priority ☐ Low priority ☐ Don't know/No opinion/Not applicable

[…]

18. On a scale from 1 (very complex) to 5 (very straightforward), what is your assessment of the current procedures for issuing debt or equity instrument in the EU, in particular for the first time?

    ☐ Very complex

    ☒ Rather complex

☐ Neutral

☐ Rather straightforward

☐ Very straightforward

☐ Don't know/No opinion/Not applicable

Please point to the main difficulties you might have identified, if any.

- **Access to retail**: Greater digitalisation would help expand and facilitate retail investor participation at a pan-European level. However, this also depends on banks being willing and able to support such access, particularly for large transactions. This was done—albeit with difficulty—in the case of Porsche.
- **Post-placement settlement**: Differences in national laws governing post-placement settlement can complicate the final step required to formally complete a capital increase. This has been observed, for example, in Switzerland and Belgium.
- **Pledge of shares**: Listing shares in the form of conditional securities or "share pledges" is not permitted in all European countries—Italy being one example—which can be a drawback for institutional investors in large transactions.

[…]

4.4. Innovation - DLT Pilot Regime (DLTPR) and asset tokenisation

23. Do you believe that the DLTPR limit on the value of financial instruments traded or recorded by a DLT market infrastructure should be increased?

☐Yes

☒No

☐Don't know/No opinion/Not applicable

If "no", please justify your answer to question 23, in particular identifying potential risks:

FESE supports the refinement of the DLT Pilot Regime (DLTPR) to ensure its effectiveness in fostering innovation while providing legal and economic certainty for participants, investors, and customers. Beyond providing clarity on the duration of the DLTPR, one of the most critical elements is providing legal and economic certainty for participants, especially regarding the transition/graduation out of the pilot regime, when market size, volumes and especially risks get too big. In this case, DLTP licensed companies should be treated as regulated entities in CSDR/MiFID/EMIR. It is crucial to establish clear regulatory pathways for firms investing in infrastructure, enabling a predictable transition from the pilot phase ("sandbox"/"non-swimmer pool") to a modernised MiFID/MiFIR/CSDR framework ("real-world regulation"/"swimmer pool"). To facilitate firms' transition from the DLTPR to CSDR, appropriate incentives are necessary. As certain services, such as DLT-based TSS, will no longer be viable after the pilot phase, we seek a well-defined process for transition and graduation to ensure continuity and regulatory clarity.

To make the DLTPR more commercially viable and strive for higher uptake of the DLT Pilot Regime, the Commission could also consider reviewing the DLTPR limit and the scope of the eligible assets. However, we would like to underline that the extension of the scope as well as the elimination of the thresholds could potentially increase fragmentation in the EU market, contrary to the current policy objective. Therefore, any proposed changes should be carefully evaluated.

24. Do you believe that the scope of assets eligible within the DLTPR should be extended?

☒Yes

☐No

☐Don't know/No opinion/Not applicable

(24.1) If "yes", please provide details on the preferred changes to the DLTPR and explain your reasoning (how limits should be increased, which concrete assets should be eligible and why)

FESE supports the refinement of the DLT Pilot Regime (DLTPR) to ensure its effectiveness in fostering innovation while providing legal and economic certainty for participants, investors, and customers. Beyond providing clarity on the duration of the DLTPR, one of the most critical elements is providing legal and economic certainty for participants, especially regarding the transition/graduation out of the pilot regime, when market size, volumes and especially risks get too big. In this case, DLTP licensed companies should be treated as regulated entities in CSDR/MiFID/EMIR. It is crucial to establish clear regulatory pathways for firms investing in infrastructure, enabling a predictable transition from the pilot phase ("sandbox"/"non-swimmer pool") to a modernised MiFID/MiFIR/CSDR framework ("real-world regulation"/"swimmer pool"). To facilitate firms' transition from the DLTPR to CSDR, appropriate incentives are necessary. As certain services, such as DLT-based TSS, will no longer be viable after the pilot phase, we seek a well-defined process for transition and graduation to ensure continuity and regulatory clarity. To make the DLTPR more commercially viable and strive for higher uptake of the DLT Pilot Regime, the Commission could also consider reviewing the DLTPR limit and the scope of the eligible assets. However, we would like to underline that the extension of the scope as well as the elimination of the thresholds could potentially increase fragmentation in the EU market contrary to the current policy objective. Therefore, any proposed changes should be carefully evaluated.

(24.2) If "yes", please provide a ranking of the importance of the issue

☐ High priority

☒ Medium priority

☐ Low priority

☐ Don't know/No opinion/Not applicable

(24.3) If "yes", please provide an estimation of the benefits and risks that result implementing the changes to the DLTPR that you propose. For example, if you suggest extending the scope of instruments, or increasing the threshold, you are encouraged to estimate how much additional financial activity would the DLTPR attract, and opine on the associated risks

25. Do you believe that the DLTPR should be extended to cover other types of systems, such as clearing systems?

☐Yes

☐No

☒Don’t know/No opinion/Not applicable

26. Should the DLT trading and settlement system (DLT TSS), allowing for trading and settlement activities within a single entity, become embedded into the regular framework (CSDR, MIFID)?

☒Yes

☐No

☐Don’t know/No opinion/Not applicable

Please explain your reply, noting in particular the risks and the benefits.

FESE supports the integration of **DLT trading and settlement systems (DLT TSS)** within a modernised **CSDR and MiFID II** frameworks. Embracing these technologies will enhance market efficiency and legal certainty, foster innovation, and support Europe’s competitive edge in global financial markets.

One of the most critical elements is providing legal and economic certainty for participants, especially regarding the transition/graduation out of the pilot regime, when market size, volumes and especially risks get too big. In this case, DLTP licensed companies should be treated as regulated entities in CSDR/MiFID/EMIR. It is crucial to establish clear regulatory pathways for firms investing in infrastructure, enabling a predictable transition from the pilot phase (“sandbox”/”non-swimmer pool”) to a modernised MiFID/MiFIR/CSDR framework (“real-world regulation”/”swimmer pool”). To facilitate firms’ transition from the DLTPR to CSDR, appropriate incentives are necessary. As certain services, such as DLT-based TSS, will no longer be viable after the pilot phase, we seek a well-defined process for transition and graduation to ensure continuity and regulatory clarity. However, it is important that the derogations included in the DLTPR are maintained in the regular framework to ensure business certainty.

Key recommendations:

- Opening TSS access to already existing MTFs and CSDs, enabling broader industry participation.
- Facilitating CSD involvement by allowing CSDs meeting equivalent standards to operate as TSSs without requiring additional MiFID II licenses.

We would like to stress that unequal regulatory frameworks for different market participants would foster an even more fragmented European capital market and increase systemic vulnerabilities (e.g. undermine financial stability, create regulatory arbitrage, threaten the integrity of the system and reduce consumer trust). An asymmetric or dual-track regulatory framework could result in uneven risk management due to greater opacity, potentially heightening contagion risks and complicating crisis management and regulatory oversight.

FESE also advocates for a technologically neutral approach in MiFID/MiFIR and CSDR, ensuring fair competition, fostering innovation, and allowing market participants to choose the most suitable solutions for their services. This includes explicit support for both centralised and decentralised technologies, such as publicly qualified blockchains, enabling trading venues and CSDs to adopt the most effective frameworks without regulatory constraints. Extending these capabilities to the beneficial owner level will further promote retail access to DLT benefits, enhancing market inclusivity and strengthening Europe’s position in digital finance.

27. What other changes to the DLTPR are needed to ensure that it remains a framework that is fit for the purpose of allowing new entrants and established financial companies to deploy pioneering innovation with DLT in the EU, while also ensuring appropriate risk mitigation?

FESE supports the refinement of the DLT Pilot Regime (DLTPR) to ensure its effectiveness in fostering innovation while providing legal and economic certainty for participants, investors, and customers. It is crucial to establish clear regulatory pathways for firms investing in infrastructure, enabling a predictable transition from the pilot phase ("sandbox"/"non-swimmer pool") to a modernised MiFID/MiFIR/CSDR framework ("real-world regulation"/"swimmer pool"). To facilitate firms' transition from the DLTPR to CSDR, appropriate incentives are necessary. As certain services, such as DLT-based TSS, will no longer be viable after the pilot phase, we seek a well-defined process for transition and graduation to ensure continuity and regulatory clarity. We would like to stress that unequal regulatory frameworks for different market participants would foster an even more fragmented European capital market and increase systemic vulnerabilities (e.g. undermine financial stability, create regulatory arbitrage, threaten the integrity of the system and reduce consumer trust). An asymmetric or dual-track regulatory framework could result in uneven risk management due to greater opacity, potentially heightening contagion risks and complicating crisis management and regulatory oversight. Moreover, regulatory certainty must be reinforced through clear guidelines on the duration of the DLT Pilot Regime, ensuring stability for market participants and allowing them to plan for the long-term integration of innovative technologies into financial markets. Additionally, we believe the SS licenses should be available to non-CSDs. The same entities that are eligible for the TSS license should also be able to apply for an SS license.

28. What type of below-specified changes to the DLTPR would improve business certainty and planning for businesses that are considering to join the DLTPR?

    Please rank each set of changes on a scale of 1-5 (1 denoting 'least important').

    (a) remove the references in the DLTPR to the limited duration of licenses;

    ☐ 1 (not important)

    ☐ 2 (rather not important)

    ☐ 3 (neutral)

    ☐4 (rather important)

    ☒5 (very important)

    ☐Don't know/No opinion/Not applicable

    (b) size-proportional requirements within the DLTPR, whereby the greater the size of the business of the DLTPR participant (e.g. measured in terms of volume of transactions traded/settled), the greater the compliance obligations;

    ☐ 1 (not important)

    ☐ 2 (rather not important)

    ☐ 3 (neutral)

    ☐4 (rather important)

☐5 (very important)

☒Don’t know/No opinion/Not applicable

(c) clearer regulatory pathways to ‘graduate’ into the ‘regular’ CSDR framework;

☐ 1 (not important)

☐ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☒5 (very important)

☐Don’t know/No opinion/Not applicable

(d) other

☐ 1 (not important)

☐ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☒5 (very important)

☐Don’t know/No opinion/Not applicable

Please specify to what other set(s) of changes you refer in your answer to question 28:

Under “other”, we refer to “SS-license obtainable for non-CSDs”.

Please explain your reply. Where possible, please include examples from other jurisdictions that can serve as a model.

29. Does the DLTPR create a sufficiently clear and flexible framework for the use of EMTs as a settlement asset, bearing in mind the overarching need to ensure high level of safety for cash settlement in DLT market infrastructures?

☐Yes

☐No

☒Don’t know/No opinion/Not applicable

Please explain your reply.

30. Do you think that in addition to, or instead of the current derogations-based approach (allowing switching off of certain MIFID and CSDR provisions), the DLTPR should take a principles-based approach whereby high-level provisions govern trading and settlement services, with the purported aim of creating more flexibility for deploying innovative DLT-based projects?

☐Yes

☒No

☐Don't know/No opinion/Not applicable

Please explain your reply.

While principles-based regulation allows for flexibility in adapting to innovation and evolving market conditions, clear and well-defined rules remain essential to ensure stability and effective implementation.

FESE supports a regulatory framework that fosters innovation; however, a purely principles-based approach to DLTPR risks undermining predictability and could create challenges in the transition/graduation towards comprehensive, modernised regulation, such as CSDR and MiFID.

We also have significant concerns regarding the per-service authorisation model under CSDR, often referred to as the "slice and dice" or "pick and choose" approach. It is essential to uphold the high regulatory standards established after the financial crisis to safeguard risk mitigation, ensure transparency, and maintain market integrity.

(30.1) What would be the advantages and disadvantages of such an approach and how can the disadvantages be mitigated?

(30.2) Please provide examples of principles-based standards or regulation (EU or non-EU), in the financial or non-financial domain, that may serve as a useful model or inspiration for a principles based DLTPR, and why you think these examples are insightful.

31. Do you believe that DLT is a useful technology to support trading services in financial instruments?

☒Yes

☐No

☐Don't know/No opinion/Not applicable

Please explain your response.

FESE supports the European Commission's efforts to modernise financial regulation and accelerate the development of digital financial markets across the EU. As representatives of European exchanges, we recognise that fostering innovation—particularly through the adoption of transformative technologies such as Distributed Ledger Technology (DLT)—is crucial to enhancing market efficiency, enabling new business models, and ensuring the EU maintains its global competitiveness.

We support the integration of digital solutions, including DLT, across the full value chain of financial services. Additionally, we advocate for further modernisation and digitalisation of financial market infrastructures and market participants by promoting machine-readable formats, standardised digital issuances, and the broader use of English to facilitate cross-border accessibility and harmonisation.

DLT is already delivering concrete advantages today. In the future, providers of DLT market infrastructures will be able to facilitate near real-time settlements at significantly lower costs compared to conventional trade and settlement processes.

From our perspective, the main benefits of DLT are in the areas of issuance and settlement. Importantly, we believe the key advantage of the TSS license is the flexibility it provides: it allows users to continue using non-DLT trading systems while also enabling the development of new DLT-based trading systems. This approach allows different providers to pursue different pathways.

32. Do you believe there are regulatory barriers beyond those addressed by the DLTPR that may hinder or prevent DLT-based provision of trading services in financial instruments?

☒Yes

☐No

☐Don't know/No opinion/Not applicable

If 'yes', please specify and explain these regulatory barriers.

- Fragmented national laws (e.g. issuance)
- Prudential regulation of assets issued on permissionless blockchains
- Tokenised assets not being eligible as collateral for ECB credit

33. For a financial entity using DLT to deploy its services, the distributed ledger is often an external platform on which services are run, and this platform may have a very distributed governance structure.

    What are the benefits and risks of deploying financial services, including post-trading services, on distributed ledgers external to the financial service provider, and therefore outside its direct control?

Financial entities typically use external DLT platforms rather than building their own, as it is more cost-effective and efficient—just as most do not develop their own operating systems or cloud infrastructure.

DLT's true benefits emerge when multiple parties who may not fully trust each other need to collaborate on a shared platform, providing necessary trust guarantees through its distributed, cryptographic design.

Using external DLTs can help overcome today's fragmentation in the financial sector. Public DLTs, a subset of external DLT platforms, like Ethereum, offer a neutral, globally accessible, open, and modular base layer, enabling flexible, composable financial services "money lego").

The "money lego" concept refers to the modularity and interoperability of financial services on DLT platforms: just like Lego bricks, different financial products and services can be easily combined or built upon each other. For example, one entity can issue a tokenised asset, another can use it as collateral for a lending pool, and a third can create a fund with those loan tokens. The open base layer enables such interconnectivity, letting each entity focus on its expertise and innovate.

Regarding risks, a Business Continuity Management plan is essential for both internal and external (public) DLT platforms. Public, open-source DLTs allow an entity to fork the code and switch to an internal platform if needed, ensuring continuity, though the aforementioned benefits of external platforms usually prevent this during normal operations. Financial entities remain responsible for closely monitoring and assessing risks related to governance and DLT network integrity.

34. How should the regulatory perimeter between a technological service provider and a financial service provider, especially a CSD, be drawn in the above described DLT context?

35. The Commission recently published a study on the use of permissionless blockchains for enhancing financial services, which set out operational robustness criteria for assessing permissionless blockchains. Do you believe that beyond the Digital Operational Resilience Act (DORA), additional legislative or non-legislative action is needed to ensure appropriate mitigation of risk stemming from decentralised IT systems such as permissionless blockchains?

☐Yes

☒No

☐Don't know/No opinion/Not applicable

Please explain your reply.

As FESE, we support technology-neutral regulation and do not see the need for additional legislative or non-legislative action beyond DORA to address the operational risks associated with permissionless blockchains.

36. Basel prudential standards on crypto exposures applicable to credit institutions assign group 2 status to tokenised assets, including tokenised financial instruments, that are issued and recorded on permissionless distributed ledgers. The transitional prudential treatment of exposures to tokenised assets in the Capital Requirements Regulation currently applicable does not make a distinction based on the type of underlying distributed ledger.

Do you believe that prudential rules should differentiate between permissioned and permissionless distributed ledgers?

☐Yes

☒No

☐Don't know/No opinion/Not applicable

Please explain your reply.

FESE would like to stress that a technology-neutral approach to the regulation of tokenised traditional crypto-assets is essential for innovation and fair competition. The current discrimination against permissionless blockchains in the Basel Standard must be reconsidered in order to ensure sustainable and risk-oriented banking regulation.

For example, the bond on a permissionless blockchain is classified as a Group 2 crypto-asset as it does not meet the stricter requirements for Group 1. A significantly higher risk weighting of 1250% applies to Group 2 crypto-assets as compared to Group 1, with a risk weight of 20% for high-quality bonds. The drastic difference in capital requirements shows the significantly higher regulatory burden for crypto-assets on permissionless blockchains according to the SCO60 standard. As a result, this leads to a significant disadvantage for tokenised traditional crypto-assets issued on a permissionless blockchain, hampering their potential to drive innovation and deliver transformative financial solutions.

37. Do you believe that risks from permissionless blockchains, in particular operational risks and other risks set out in the BIS Working paper on novel risks, mitigants and uncertainties with permissionless distributed ledger technologies, can be mitigated?

☒Yes

☐No

☐Don't know/No opinion/Not applicable

Please explain your reply.

Banks engaging with permissionless blockchains face significant risks, as outlined by the Basel Committee on Banking Supervision (BCBS), though some risks may be addressed through targeted solutions.

1. 51% Attacks

While theoretically possible, large networks like Ethereum face practical barriers due to high costs and energy requirements. To strengthen decentralisation, banks could operate blockchain nodes themselves, increasing network stability and reducing attack feasibility. Shifting to Proof-of-Stake (PoS) consensus mechanisms also mitigates risks by requiring attackers to control a majority stake instead of computational power.

2. Settlement Finality

Permissionless blockchains use probabilistic finality (e.g., Bitcoin's 6 confirmations, Ethereum's ~10-minute finality). Hybrid blockchains or Layer 2 solutions could enhance clarity by adding security layers, aligning with traditional financial systems' need for definitive settlement.

3. AML/CFT Compliance

Blockchain's transparency enables traceability of transactions, creating immutable audit trails that aid detection. While pseudo-anonymity exists, regulated institutional participation could improve oversight and compliance efficiency. Public ledgers allow continuous monitoring, while controlled access to private ledgers enables enforcement.

4. Governance and Third-Party Risks

Decentralised governance complicates due diligence, but technological solutions like zero-knowledge proofs (ZKPs) are emerging to balance privacy and compliance. These tools, though nascent, could verify identities without exposing transaction details.

The BCBS emphasises that current mitigants remain untested under stress, but proactive measures like node operation, consensus upgrades, and hybrid models offer pathways to address key concerns while leveraging blockchain's inherent strengths in transparency and security.

38. Asset tokenisation concerns the use of new technologies, such as distributed ledger technology (DLT), to issue or represent assets in digital forms known as tokens. Where do you see most barriers to asset tokenisation in Europe?

Please rank each of the potential barriers on a scale of 1-5 (1 denoting 'least barriers').

(a) Member State securities and corporate law

☐ 1 (not important)

☐ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☒5 (very important)

☐Don't know/No opinion/Not applicable

(b) Member State laws other than securities and corporate law

☐ 1 (not important)

☐ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☐5 (very important)

☐Don't know/No opinion/Not applicable

(c) EU laws that relate to trading and post-trading

☐ 1 (not important)

☐ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☐5 (very important)

☐Don't know/No opinion/Not applicable

(d) EU laws other than laws that relate to trading and post-trading

☐ 1 (not important)

☐ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☐5 (very important)

☐Don't know/No opinion/Not applicable

Please explain your reply, pointing to concrete examples in areas beyond the SFD, FCD and CSDR.

Issuance is differently regulated in every Member State, leading to fragmentation and obstacles to scalability.

39. Should public policy intervene to support interoperability between non DLT systems and DLT systems?

☐Yes

☒No

☐Don't know/No opinion/Not applicable

If 'no', please explain your response.

40. Should public policy intervene to support interoperability between distributed ledgers?

☐Yes

☒No

☐Don't know/No opinion/Not applicable

If ‘no’, please explain your response.

Technology developments in this space are too dynamic and should not be left up to public policy intervention. The market will resolve this issue, as there is an inherent interest in a market-wide solution.

41. Lack of standardisation acts as a hindrance to interoperability. This is especially the case with a relatively new technology such as DLT. Where is the greatest need for standardisation in the area of DLT?

Multiple replies are possible. Please rank each of your reply from 1-5, with 1 denoting ‘least important’

(a) Business standards applicable to digital assets (for example data taxonomy to describe digital assets)

☐ 1 (not important)

☒ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☐5 (very important)

☐Don’t know/No opinion/Not applicable

(b) Technical standards applicable to digital assets and smart contract-based applications

☐ 1 (not important)

☐ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☒5 (very important)

☐Don’t know/No opinion/Not applicable

(c) Technical standards applicable to links (bridges) between DLTs

☐ 1 (not important)

☐ 2 (rather not important)

☒ 3 (neutral)

☐4 (rather important)

☐5 (very important)

☐Don’t know/No opinion/Not applicable

(d) Other

☐ 1 (not important)

☐ 2 (rather not important)

☐ 3 (neutral)

☐4 (rather important)

☐5 (very important)

☐Don't know/No opinion/Not applicable

Please specify to what other need(s) for standardisation you refer in your answer to question 41.

Please explain your reply to question 41.

We believe that these standards should not be set by the legislator, since that approach is too inflexible and deeper market knowledge is needed. The market develops these standards, or in many cases, has already established them. Technical standards applicable to digital assets and smart contract-based applications are very important, and they exist as the market has already largely agreed on standards, such as ERC-20.

[…]

Section 6 - Supervision

6.1. Effectiveness of the current framework

1. How effective are current EU supervisory arrangements in achieving the objectives or performing the tasks below? Please rate each objective from 1 to 5, 1 standing for "least effective" and 5 for "most effective":

	1	2	3	4	5	No opinion/Don't know/Not applicable
Contributing to financial stability	☐	☐	☐	☒	☐	☐
The functioning of the internal market	☐	☐	☒	☐	☐	☐
The integrity, transparency, efficiency and orderly functioning of financial markets	☐	☐	☐	☒	☐	☐
The enforcement of EU rules	☐	☐	☒	☐	☐	☐
The prevention of regulatory arbitrage and promotion of equal conditions of competition	☐	☐	☒	☐	☐	☐
Supervisory convergence across the internal market	☐	☐	☒	☐	☐	☐
Development of the Single Rule Book	☐	☐	☒	☐	☐	☐
Consumer and investor protection	☐	☐	☐	☐	☒	☐
Support financial innovation in the market	☐	☐	☒	☐	☐	☐
Market monitoring	☐	☐	☐	☐	☒	☐
Supervisory data management including data sharing	☐	☐	☒	☐	☐	☐
Responsiveness, transparency	☐	☐	☒	☐	☐	☐
Stakeholder engagement and involvement	☐	☐	☒	☐	☐	☐
Use of resources	☐	☐	☒	☐	☐	☐
Proportionality of the fees for direct supervision	☐	☐	☒	☐	☐	☐

2. What prevents the ESAs from reaching the objectives or performing the tasks listed in Question 1? Please explain your answer.

It is essential to foster legal certainty and regulatory coherence. On the one hand, NCAs are extremely important for the local financial ecosystems due to their proximity and expertise. NCAs, being closer to the entities they supervise, have a deeper understanding of the local market dynamics, regulatory environment, and specific challenges faced by these entities. On the other hand, certain large and pan-European (i.e. multijurisdictional) trading venues often encounter challenges stemming from divergent supervisory practices, fragmented oversight, divergent interpretations of EU law, gold-plating, and increased compliance costs. These actors, as well as their clients and markets as a whole, would benefit from more consistent, cohesive supervision that ensures uniform supervisory outcomes across jurisdictions.

Therefore, FESE advocates for consistent, efficient, and effective supervision, with identical supervisory outcomes.

[…]

6.2. Specific questions on supervisory arrangements for different sectors

[…]

5. Some national competent authorities (NCAs) have developed advanced expertise or specialisation in supervising certain sectors. What is your view on building on these NCAs and creating EU centres of supervisory expertise by sectors?

FESE always recognised the importance of NCAs for local financial ecosystems. It is natural that some of them have developed advanced expertise in certain sectors, which reflects the peculiarities and specialisation of certain Member States. In any future supervisory setup, FESE supports the sharing of expertise between NCAs and ESMA. However, we would like to stress that these centres of supervisory expertise should only function as intelligence-gathering and advisory bodies to the authority charged with supervision. They should not be granted decisional powers over supervisory tasks, in order to avoid creating or adding another layer of complexity that could lead to fragmentation of responsibilities, legal ambiguities, or increasing complexities and costs for supervised entities. It is also important to understand the underlying rationale behind this proposal, particularly which ‘certain sectors’ are being referred to, to ensure that the approach remains coherent and does not inadvertently undermine supervisory effectiveness.

6. Do you think supervision of EU financial markets would benefit from pooling together resources and expertise of individual NCAs in regional hubs?

Please see our response to Q5.

There is no harm in exchanging expertise amongst NCAs, but creating regional hubs adds unnecessary complexity to the supervisory architecture. In particular, FESE warns against introducing a complex supervisory structure that would split responsibilities among different supervisors and bodies, which could be the case with regional hubs.

7. What is your view on setting up regional hubs of ESMA to ensure closer interaction with market participants?

   Please explain your reply highlighting benefits and downsides

Please see our response to Q5.

FESE does not see a need for ESMA to set up regional hubs. A greater involvement of ESMA next to the local NCA would lead to unnecessary complexity, a split in responsibilities and lengthy decision-making procedures.

[…]

6.5. Questions on the supervision of significant EU trading venues

6.5.1. Identifying the pros and cons of the current supervisory framework and possible benefits of a more integrated EU supervision

28. How would you rate the convergence of supervisory practices across Member States in the area of the supervision of trading venues?

Please rate from 1 to 5 (1 very convergent, 5 very divergent)

1	2	3	4	5	No opinion/Don't know/Not applicable
☐	☐	☒	☐	☐	☐

Please provide examples of divergent outcomes of supervisory practices for trading venues in different Member States.

The national legislation in the Member States often goes beyond these requirements and regulates not only critical but also any activities of strategic significance for ordinary business management. We would like to note that some Member States introduced additional obligations on critical outsourcing beyond Article 6 of RTS 7 MiFID II. This is a concrete example of a divergence that impacts all types of trading venues.

<u>Regulatory Reporting</u>

In addition, in relation to MiFIR Regulatory Reporting, there is a need for harmonisation in terms of the requirement in RTS 24 for orders to be sent to NCAs 'on request' because in practice, differing approaches are taken: some NCAs request a daily file to be sent to them, others ask for it ad-hoc, while others manage this entirely separately.

A harmonised approach needs to be adopted in relation to regulatory reporting. We believe discussions around the 'common template' should also consider the required format for sending the data. Today, there are differences across the supervisors with some requesting files in 'xml' format, while the others can be sent in 'flat' files. The format needs to be harmonised. This is a clear example where, even though the requirement stems from an EU Regulation, there is a different supervisory approach.

<u>Rulebook approval</u>

The requirement in MiFID on market operators under Article 53 is that Member States shall require a regulated market to establish, implement and maintain transparent and non-discriminatory rules, based on objective criteria, governing access to or membership of the regulated market; it does not foresee specific ex-ante approval by the NCA being required. However, there are different approaches taken across the EU, with some requiring ex-ante approval but others not. This divergence in practice creates an uneven playing field, particularly if new innovative developments that require rule changes are being delayed due to these processes. There is a need for these differences to be eliminated. Transferring MiFID into a Regulation and stipulating that the management board of the regulated market is responsible for rulebook changes with no separate ex-ante approval required would ensure a harmonised and efficient approach is taken that supports innovation.

29. To which extent do you agree with the following statement about the pros and cons of the current supervisory framework for trading venues in the EU, compared to a possibly more integrated EU supervisory framework?

   a. The current supervisory framework enables an efficient supervision thanks to the proximity of NCAs with the supervised entities;

      ☐ 1 Strongly agree

      ☐ 2 Rather agree

      ☒ 3 Neutral

      ☐ 4 Rather disagree

      ☐ 5 Strongly disagree

      ☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

It is essential to foster legal certainty and regulatory coherence. Everyone recognises that NCAs are extremely important for the local financial ecosystems due to their proximity and expertise. NCAs, being closer to the entities they supervise, have a deeper understanding of the local market dynamics, regulatory environment, and specific challenges faced by these entities. At the same time, certain large and pan-European (i.e. multijurisdictional) trading venues often encounter challenges stemming from divergent supervisory practices, fragmented oversight, divergent interpretations of EU law, complexity, and increased compliance costs. These actors, along with their clients and markets, would benefit from more streamlined and cohesive supervision that ensures uniform supervisory outcomes across jurisdictions.

Therefore, FESE advocates for consistent, efficient, and effective supervision, with identical supervisory outcomes.

The current supervisory framework allows for:

- Enhanced understanding of local markets: NCAs, being closer to the entities they supervise, have a deeper understanding of the local market dynamics, regulatory environment, and specific challenges faced by these entities. This knowledge allows for more tailored supervision.
- Improved communication and collaboration: The geographical closeness facilitates better communication and collaboration between NCAs and the supervised entities. This can lead to quicker resolution of issues, more responsive regulatory actions, and a more cooperative relationship overall.
- Support for local SMEs: Proximity to local stakeholders plays a crucial role in supporting small and medium-sized enterprises (SMEs). Local markets often provide more suitable and accessible opportunities for SMEs, and the presence of NCAs ensures that these opportunities are effectively regulated and supported.
- Faster supervisory response in times of market stress: The proximity of NCAs allows for faster and more context-sensitive reactions to emerging risks, particularly during periods of market volatility or crisis. Local supervisors can detect early warning signs through regular interaction and adapt supervisory measures swiftly, which contributes to financial stability.
- Better alignment with national legal frameworks: Financial regulation often intersects with national laws (e.g., insolvency, company law). NCAs are better positioned to interpret and apply EU rules in line with national legal specificities, ensuring a more coherent and enforceable application of the regulatory framework.
- Contribution to supervisory convergence from the bottom up: The local expertise of NCAs feeds into the broader EU-level supervisory discussions, particularly through their

participation in ESMA working groups and peer reviews. This bottom-up input is vital for shaping realistic and effective EU-wide standards that reflect the diversity of market structures across Member States.

- Capacity building and knowledge dissemination: NCAs serve as hubs for developing regulatory and supervisory expertise at the national level, which supports capacity building across the EU. Their close relationship with local entities also enables effective dissemination of regulatory knowledge and best practices, particularly to less- resourced market participants.

However, as explained in other questions, this is not always the case for certain large and pan-European trading venues.

b. It results in sufficiently consistent supervision over EU trading venues;

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

On the one hand, NCAs are extremely important for the local financial ecosystems due to their proximity and expertise. NCAs, being closer to the entities they supervise, have a deeper understanding of the local market dynamics, regulatory environment, and specific challenges faced by these entities. On the other hand, certain large and pan-European (i.e. multijurisdictional) trading venues often encounter challenges stemming from divergent supervisory practices, fragmented oversight, divergent interpretations of EU law, gold-plating, and increased compliance costs. These actors, as well as their clients and markets as a whole, would benefit from more consistent, cohesive supervision that ensures uniform supervisory outcomes across jurisdictions.

Therefore, FESE advocates for consistent, efficient, and effective supervision, with identical supervisory outcomes.

c. It is optimal in terms of regulatory costs for trading venues (i.e. it allows costs to be kept to a minimum);

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☒ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

Whilst the statement may be true for trading venues that are only active in one Member State, this is, sometimes, not the case for those trading venues with a strong pan-European component being supervised by various entities.

d. It allows an efficient use of national and EU supervisory resources;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

e. It creates an uneven playing field for EU trading venues;

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

f. It creates legal uncertainty because of different implementation or interpretation of EU legislation in different Member States or by NCAs and ESMA;

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

As alluded to in our responses to the previous questions, some trading venues may have experienced cases of regulatory divergence or arbitrage. Such cases of inconsistencies may stem from:

- The transposition of EU legislations into national laws (for example, in the case of Directives)—despite this being a competence of governments,
- Divergent application at the local level of EU rules,
- Additional national laws on top of EU rules, which create extra barriers or constraints (the so-called "gold-plating").

g. It does not allow an effective supervision for groups operating across EU-borders;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

h. It prevents economies of scale for trading venues with operations cross-border;

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

i. It makes it more complex and costly for EU trading venues to develop their activities across borders;

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

j. It makes it more difficult for EU trading venues to attract market participants;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☒ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer, providing, where possible, quantitative evidence and examples

Changes in supervision will not incentivise/disincentivise market participants accessing capital markets.

k. Other (please specify in reply to the next question).

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please specify to what other statements you refer to and explain your answer, providing, where possible, quantitative evidence and examples

[…]

6.5.2. How could more integrated EU supervision function?

32. Please indicate to which extent you support the following possible models of more integrated EU supervision. (Note: the models are not mutually exclusive (e.g. an EU-level supervisor could be responsible for the supervision of all trading venues and have all or only some of the MiFID/R powers):

a. An EU-level supervisor, responsible for the supervision of all EU trading venues.

☐ 1 Strongly support

☐ 2 Rather support

☐ 3 Neutral

☐ 4 Rather not support

☒ 5 Strongly not support

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

This option proposes a one-size-fits-all approach, which FESE does not support.

b. An EU-level supervisor, responsible for the supervision of certain EU trading venues according to certain criteria described in the next section.

☐ 1 Strongly support

☐ 2 Rather support

☐ 3 Neutral

☐ 4 Rather not support

☐ 5 Strongly not support

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

c. An EU-level supervisor with all MiFID/R supervisory powers.

☐ 1 Strongly support

☐ 2 Rather support

☐ 3 Neutral

☐ 4 Rather not support

☐ 5 Strongly not support

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

d. An EU-level supervisor with powers in certain key MiFID/R areas.

☐ 1 Strongly support

☐ 2 Rather support

☐ 3 Neutral

☐ 4 Rather not support

☒ 5 Strongly not support

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

e. Joint supervisory colleges with enhanced powers

☐ 1 Strongly support

☐ 2 Rather support

☐ 3 Neutral

☐ 4 Rather not support

☒ 5 Strongly not support

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

It is important to avoid overlaps and ensure a unified regime for entities. Maintaining close ties between NCAs and ESMA is deemed crucial. However, the governance and decision-making model should be clear and agile. Exchanges strongly oppose a patchwork of supervisors and entities based on a college-style governance framework, advocating instead for clarity. Although joint supervisory teams might be politically more feasible, in practice, they would only increase complexities, red tape, and costs.

f. Other set-up (please explain)

☐ 1 Strongly support

☐ 2 Rather support

☐ 3 Neutral

☐ 4 Rather not support

☐ 5 Strongly not support

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

33. In the case of a single EU-level supervisor (a, b, c and d in question 32), to which extent would you support the two possible models described below?

a. ESMA is the direct supervisor, with decisions taken by the ESMA Board of Supervisors and certain tasks delegated to NCAs.

☐ 1 Strongly support

☐ 2 Rather support

☐ 3 Neutral

☐ 4 Rather not support

☐ 5 Strongly not support

☐ No opinion/Don't know/Not applicable

Please explain your answer on model a):

a. Within ESMA, a Supervisory Committee composed of representatives of ESMA, relevant NCAs and possibly independent experts is in charge of the on-going supervision. The ESMA Board of Supervisors could retain decision making powers on a limited number of important MiFID/R issues.

☐ 1 Very unsatisfied

☒ 2 Unsatisfied

☐ 3 Neutral

☐ 4 Satisfied

☐ 5 Very satisfied

☐ No opinion/Don't know/Not applicable

Please explain your answer on model b):

We "rather not support" the proposal. FESE stresses the need for clarity in supervisory practices. The proposed solution would only create a patchwork of responsible bodies that would make the system for trading venues in scope even more complicated than the current status quo.

34. Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under ESMA's lead be an efficient tool to achieve a more harmonised and efficient ongoing supervision of trading venues?

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☒ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer

The suggested composition includes a mix of local and EU supervisors with complicated and complex decision-making structures. This is not helpful. It splits responsibilities among different supervisors and bodies.

(34.1) If you consider that none of the above presented options would be adequate for (certain) trading venues, which alternative supervisory model would you support?

Please explain your answer providing, where possible, examples and quantitative evidence, including on potential costs and benefits.

[...]

6.5.3. How could the potential scope of a possible EU-level supervision be defined?

[...]

37. Assuming competences are split between an EU-level supervisor responsible for the supervision of significant relevant trading venues and NCAs responsible for the

supervision of less significant institutions ('LSI'), do you believe that the EU-level supervisor should also have any oversight function with respect to LSI supervision?

☐Yes

☒No

☐No opinion/Don't know/Not applicable

Please explain

FESE does not see benefits in this option.

[…]

6.7. Questions on the supervision of EU crypto-asset service providers (CASPs)

54. To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)?

a) It could reduce the CASPs regulatory costs;

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

b) It could enhance the quality of supervision over CASPs;

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

FESE maintains a neutral stance regarding supervisory practices of CASPs, as this decision lies with other relevant bodies. Given that MiCA licenses have only recently been granted to a limited number of CASPs by NCAs, we do not see a compelling reason to overhaul the current supervisory framework. Such a shift would impose unnecessary burdens on supervised entities, including a new licensing process, unclear reporting requirements, and an uneven playing field for already authorised CASPs. A structural change at this stage would also contradict the overarching goal of regulatory simplification.

c) It could simplify and accelerate the procedure to apply for authorisation to provide crypto asset services in the EU;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

d) It could simplify and accelerate the procedure for additional authorisations (e.g. to extend the scope of crypto-asset services or activities offered in the EU);

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

e) It could simplify and accelerate the procedures for obtaining supervisory approvals, e.g. with regard to outsourcing;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

f) It could lead to more efficient use of supervisory resources;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

g) It would decrease uncertainties that currently arise from different implementation or interpretations of the EU MiCA Regulation in different Member States or by Member States and ESMA;

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

h) It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

i) It would contribute to creating a level playing field between EU CASPs by eliminating regulatory arbitrage and gold plating;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

j) It would improve EU overview and cooperation over cross border activities;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

k) It could improve the resilience of EU CASPs;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

l) It would reduce the need for detailed regulations, extensive rulebooks and supervisory convergence activities to achieve harmonised supervision;

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

m) It could contribute to a harmonised understanding of complex organisational structures and the different CASP business models.

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer providing, where possible, quantitative evidence and examples

n) Other (please specify in reply to the next question).

☒ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

If you indicated 'Other', please specify what was intended.

We are convinced that the principle of subsidiarity should be given priority when considering the centralisation of the supervision of CASPs. The EU may only take action in areas where the Member States are unable to handle national supervision of CASPs. Against this background, we are in favour of the national authorities retaining their supervisory powers.

55. Please indicate whether you consider that centralised EU supervision could also produce negative side effects.

☐ Yes

☐ No

☒ No opinion/Don't know/Not applicable

Please explain your answer

56. Do you consider significant crypto-asset service providers to be subject to different risks than smaller crypto-asset service providers? If yes, what are these risks?

☐ Yes

☐ No

☒ No opinion/Don't know/Not applicable

57. Can these risks be addressed by supervision of crypto-asset service providers at EU level?

☐ Yes

☐ No

☒ No opinion/Don't know/Not applicable

Please explain your answer

58. Do you have other comments on the current supervisory framework of EU crypto-asset service providers (CASPs)?

6.7.1. How could more integrated EU supervision of CASPs function?

59. Please indicate to which extent you support the following possible models of more integrated EU supervision of CASPs:

a) A single EU-level supervisor, responsible for the licensing and supervision of all EU CASPs.

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

b) An EU-level supervisor, responsible for the supervision of a subset of CASPs, for example significant CASPs, while NCAs would be responsible for the supervision of not significant CASPs.

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

c) An EU-level supervisor over all EU CASPs, but with powers in certain key areas with other powers remaining at national level (see questions on areas below)

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

d) An EU-level supervisor, responsible for the supervision of only certain, systemic EU CASPs and with powers in certain key areas (other powers, as well as not significant CASPs to remain subject to national supervision)

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

e) A supervisory model for significant crypto-asset service providers, like the one for issuers of significant Asset Referenced Tokens in the current MiCA regime (authorisation by the NCA and if certain criteria are met, supervision passes to EBA with the help of a supervisory college)

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

f) Other set-up (please explain)

☒ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

If you replied 'Other', please indicate what was intended.

We are convinced that the principle of subsidiarity should be given priority when considering the centralisation of the supervision of CASPs. The EU may only take action in areas where the Member States are unable to handle the national supervision of CASPs. Against this background, we are in favour of the national authorities retaining their supervisory powers.

60. Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under ESMA's lead, be an efficient tool to achieve a more harmonised and efficient authorisation, supervision and monitoring of CASPs?

☐ 1 Strongly agree

☐ 2 Rather agree

☐ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☒ No opinion/Don't know/Not applicable

Please explain your answer

[…]

62. Do you consider the threshold for significant CASPs in Article 85(1) of MiCA adequate, high, or too low? (the threshold is currently 15 million active users on average in one calendar year)

☐ Too high

☒ Adequate

☐ Too low

☐ No opinion/Don't know/Not applicable

Please explain.

63. Would a threshold based only on size be an appropriate criterion for supervision at EU level, or would it be more appropriate to consider further nuanced criteria, taking into account the indicators mentioned in question 62.

☒ A threshold based only on size would be an appropriate criterion

☐ It be more appropriate to consider further nuanced criteria

☐ No opinion/Don't know/Not applicable

Please explain.

Section 7 - Horizontal questions on the supervisory framework

7.1. New direct supervisory mandates and governance models

1. Would you agree that EU level supervision is beneficial to achieve a more integrated market? Please provide your answer by choosing from 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), (no opinion).

☐ 1 Strongly agree

☐ 2 Rather agree

☒ 3 Neutral

☐ 4 Rather disagree

☐ 5 Strongly disagree

☐ No opinion/Don't know/Not applicable

Please explain.

Whilst integration of the supervisory architecture is an important component for the SIU, it is not the silver bullet for building deeper EU markets. In the end, any changes to the supervisory set-up should enhance the efficiency and resilience of EU capital markets. Considering that supervision policies are politically contentious, this debate should not overshadow reforms in other areas.

It is essential to foster legal certainty and regulatory coherence. On the one hand, NCAs are extremely important for the local financial ecosystems due to their proximity and expertise. NCAs, being closer to the entities they supervise, have a deeper understanding of the local market dynamics, regulatory environment, and specific challenges faced by these entities. On the other hand, certain large and pan-European (i.e. multijurisdictional) trading venues often encounter challenges stemming from divergent supervisory practices, fragmented oversight, divergent interpretations of EU law, gold plating, and increased compliance costs. These actors, as well as their clients and markets as a whole, would benefit from more consistent, cohesive supervision that ensures uniform supervisory outcomes across jurisdictions.

Therefore, FESE advocates for consistent, efficient, and effective supervision, with identical supervisory outcomes.

[…]

7.5. Possible new supervisory convergence tools [ESMA]

14. Do you see limitations in the current supervisory convergence tools to address home/host issues?

☐Yes

☒No

☐ Don't know/No opinion/Not applicable

[…]

16. Do you think that ESAs should be empowered to issue a binding advice in cases where national supervision is deemed ineffective?

☐Yes

☒No

☐ Don't know/No opinion/Not applicable

If your answer is 'no' to the questions above, please explain why. If your answer is yes, please specify in which areas.

Following the subsidiarity principle enshrined in the EU treaties, the current supervisory architecture in the EU, by default, clearly places supervision in the hands of local supervisors unless there is direct supervision foreseen in specific regulations. The existing supervisory convergence tools available to ESMA are sufficient for ESMA to react. A binding advice in case of inefficiency of local supervision would lead to uncertainty from the perspective of the supervised entity and unnecessarily create more complexity.

[...]

7.6. Data and technology hub [ESMA]

19. Which area(s) would benefit most from an ESA(s)' enhanced role as a data and technology hub?

FESE calls for caution and thinks that any reform of the data collection system, including implementing a data collection mechanism, should follow the existing statutory principles of confidentiality and strictly adhere to the need-to-know principle. Given that reporting data sets entail sensitive data which are compiled and reported for clearly determined and legally mandated supervisory purposes only, a potentially undefined re-use of data by other parties, even regards NCAs if out of their jurisdiction, would be questionable. Any data sharing that would facilitate the re-use of data for purposes other than those originally mandated shall be weighed against the principles of data protection and confidentiality. In this regard, we would like to point out that any EU data space for regulatory data creates risks of data loss and leakage—hence, access must be restricted to need-to-know only. Such risks can be witnessed in other jurisdictions. The US SEC recently reported a significant data leak involving the Consolidated Audit Trail (CAT), which exposed sensitive market data, raising concerns about the security of the system. An audit revealed an "elevated" risk of data leakage from the CAT, which is used for comprehensive market data surveillance. The SEC has acknowledged the need for additional oversight and monitoring to safeguard CAT data. In response, they have implemented measures to mitigate potential security risks, including exempting certain personally identifiable information (PII) from being reported to the CAT. Such risks may be elevated through overly and unnecessarily broad access rights, going beyond the need-to-know principle. To avoid the above scenarios, besides a strict need-to-know governance of access to the data, cybersecurity measures should be considered.

[...]

7.7. Funding [ESMA]

22. Do you consider the provisions on financing and resources for the tasks and responsibilities of the ESAs appropriate?

☒Yes

☐No

☐ Don't know/No opinion/Not applicable

Please explain your answer

23. ESAs face pressure to fulfil a growing number of mandates while staying within the ceilings of the multi-annual financial framework (MFF). Taking into account the limitations of public financing, should ESAs be fully funded by the financial sector?

☐Yes

☒No

☐ Don't know/No opinion/Not applicable

Please explain your answer

Supervision of financial markets is a public task, which should hence be funded by public contributions. This is also for the sake of supervisory independence. Question 23 very generally speaks of full funding by the private sector. It doesn't differentiate between direct supervisory mandates or the general regulatory work ESMA is conducting. Different sectors might be affected to differing degrees by ESMA's work. A more proportionate and nuanced approach should be taken in case the political decision is made to involve the private sector in funding.

(23.1) If not fully funded by the financial sector, would you be in favour of targeted indirect industry funding for certain convergence work (indirect fees), e.g. for specific tasks, like voluntary colleges, opinions, etc.?

☐Yes

☒No

☐ Don't know/No opinion/Not applicable

Please explain your answer

See response above.

[…]