FESE Response to the ESMA Call for Evidence on the market structure of European equity markets

Brussels, 30th June 2026

3. Evolution of the trading landscape for shares

3.1. Description of the trading landscape

Q1: Do you agree with the description of the market structure summarised in Figure 1 for the purpose of the study in sections 3 and 4 based on transaction reporting data? If not, could you provide an alternative description that you consider more adapted to the reality of the European trading landscape for shares?

FESE welcomes the ESMA Call for Evidence on the structure of European equity markets and appreciates the comprehensive analysis undertaken. The work carried out is both timely and necessary to support an informed discussion on the evolution of market structure.

FESE broadly agrees with the description of the market structure as summarised in Figure 1, although some specifications might be needed. Firstly, it is important to clearly understand and define what is reported under the different categories (e.g., NT3, TNCP, SI OTC), to ensure that those transactions indeed are addressable or non-addressable liquidity as indicated. In principle, the definition of addressable (i.e., economically relevant) and non-addressable liquidity is the right one, but in practice, there is uncertainty regarding which transactions get reported under each category. As a result, transactions mapped as non-addressable liquidity may in fact correspond to addressable liquidity, which is a major issue. For instance, NT3 transactions cannot all be considered as non-addressable and in particular transactions flagged as BENC are addressable. ESMA itself in the CfE acknowledges that in some instances there might be data quality issues where transactions are not properly flagged. Therefore, for the categorisation in Figure 1 to be effective, these issues must be addressed.

Secondly, while we agree with the proposed classification, we would like to point out that the distinction between lit and dark trading is not strictly binary. While we see the need for such a distinction for classification purposes, the market reality is more nuanced. Between fully lit and fully dark trading, there are execution mechanisms offering various levels of transparency, which should not be reduced simply to lit and dark only. Additionally, "dark trading" shall not be restricted to transactions under the Reference Price and the Large in Scale Waiver only.

Thirdly, we also suggest that grouping FBAs and standard auctions in the same overarching 'periodic auction' category is misleading. Both have different functions in the market, i.e. FBAs target intraday market quality by time-batching, closing auctions target end-of-day price formation and liquidity consolidation to set the market's reference price. Therefore they should be classified separately. Our understanding is that the MIC could be used to that effect. Opening auctions should also be added to Figure 1, as ESMA considers them as a distinct category from intraday actions, according to paragraph 10. Following ESMA's definitions, it would be useful to further clarify what it considers as intraday auctions.

In addition, while acknowledging ESMA's observation that transaction reporting data does not allow for a distinction between closing auctions and trades at the close, we consider

that these two categories should nonetheless be considered separately. As ESMA itself notes, trade at close is a non-price forming mechanism, whereas closing auctions are an important contributor to the price formation process. Therefore, these two mechanisms should be distinguished both conceptually and, to the extent possible, in the presentation of data, and notably in figures 1 and 36, in order to offer a more accurate picture of market structure. To that effect we would suggest, as we proposed under post trade transparency RTS 1, to add a flag CLSE which would allow for the identification of transactions outside of normal trading hours, be it for RMs and MTFs, but also investment firms (see also our response to Q12 and Q23).

In this context, FESE considers that it would be highly beneficial for ESMA to conduct a similar exercise on Europe's equity markets regularly (e.g., on an annual basis) to facilitate ongoing analysis and monitoring. FESE takes note of the recent letter on the prioritisation of ESMA's 2026 deliverables and wonders whether certain deprioritised, postponed, or potentially repealed mandates could be replaced with this type of analysis. Even in a less extensive format than the present Call for Evidence, such an exercise would provide a valuable reference point.

Q2: Do you have any insights on the XOFF transactions reported by investment firms who also act as an SI (SI-OTC trades)?

The quality of this data is often questionable and we suggest more needs to be done in respect of data reporting requirements, oversight and enforcement so that such data can be relied upon by the market in general and contribute accurately to overall data analysis.

3.2. Evolution of liquidity between 2022 and 2025

Q3: Do you agree with the general trends identified regarding on-book vs. off-book trading, and addressable vs. non-addressable liquidity? What other trends do you consider relevant, also in terms of competitive pressures?

Data available to market participants does not allow for a full cross-check of ESMA's figures, notably due to methodological differences, including the exclusion of UK data, and the lower level of granularity compared to transaction reporting data. Subject to these limitations, the overall trends identified are broadly recognised.

Key concerning trend: decline in lit multilateral activity

In particular (and as further developed in Q4), there is concern regarding the continued shift of activity away from price-forming venues, i.e., regulated markets and MTFs (including CLOBs and closing auctions), towards bilateral (e.g., SIs) and dark execution mechanisms. This trend is not limited to the period since 2022, but can be observed since the implementation of MiFID II in 2018.

While the MiFID II/MiFIR framework has supported innovation and competition, it has also contributed to a progressive fragmentation of liquidity across various execution channels, including towards less transparent environments. This development raises concerns from the perspective of transparency, price formation, investor access and protection, and the attractiveness of EU primary markets, and would warrant regulatory adjustments.

Recommendation: including UK activity on EEA shares

It is also important to consider the methodological impact of excluding UK activity in EEA shares from the analysis. The UK represents a significant centre for trading in EEA shares, particularly in bilateral and dark segments (including SIs, OBOE and OTC trading). Its exclusion may therefore lead to an underestimation of the overall share of off-venue trading on EEA shares and a partial view of competitive dynamics.

In particular, based on FESE calculations using xyt statistics, UK venues recorded €9.7 trillion in total trading of STOXX 600 EEA shares in 2024, of which 25% was executed through SIs, 23% on OBOE, and 46% OTC. This amount is even higher than the total trading in STOXX 600 EEA shares recorded on EEA venues, which amounted to €7.2 trillion in 2024. When adjusting for the addressability condition applied by xyt, addressable trading in STOXX 600 EEA shares amounted to €4.2 trillion on UK venues, with 48% executed through SIs, 12% on OBOE, and 26% OTC, compared with €7.2 trillion on EEA venues. Such figures illustrate the extent to which actual bilateral activity in EEA shares could be underestimated in the current Call for Evidence. FESE strongly believes that **an enhanced data cooperation between ESMA and the UK FCA would contribute to a more comprehensive and evidence-based assessment of market structure developments**. Trading in EEA shares remains economically and operationally interconnected across EU and UK markets. Without incorporating this dimension, current analyses provide only a partial representation of effective liquidity and substitution effects across execution mechanisms.

Key considerations include:

(1) **Material activity outside the EEA:** A significant portion of trading in EEA shares takes place on UK bilateral and dark channels. Visibility across jurisdictions is important given the close interlinkages between markets.

(2) **Implications for issuers and market efficiency:** These trading flows directly affect EU market dynamics and carry important implications for policy decisions. EEA issuers are directly affected by insufficient depth and liquidity on EU lit venues. High volumes on third-country venues may increase capital costs, reduce investor visibility, and weaken price discovery in EU markets.

(3) **Assessment of market structure and regulatory effectiveness:** Incorporating UK data for analytical purposes would improve the calibration of transparency regimes (including waivers and volume caps) and support the assessment of whether the functioning of the STO and reverse solicitation mechanisms are operating and enforced as intended.

(4) **Transaction reporting and supervision:** Greater visibility on UK-related activity would support the verification of transaction reporting quality by EU investment firms and the consistent application of trade flags, particularly in cross-border trading scenarios. This would strengthen the overall supervisory framework and evidence base.

Q4: Do you have any concerns on the impact of the identified trends on the general functioning of the EEA markets for shares? In your view, what are the implications of the relative decreasing trend in trading on CLOB for the effective price formation in the EEA markets for shares? What are the implications on price formation should this trend persist or even accelerate?

As highlighted by ESMA, there is a broader trend away from activity on price-forming venues towards less transparent and/or accessible alternative execution mechanisms, accompanied by an increasing reliance, both implicit and explicit, on reference prices for both on-book and off-book trading. FESE considers these developments very concerning.

The gradual migration of liquidity away from lit multilateral markets raises important concerns about the long-term resilience and quality of price discovery. ESMA correctly identifies these markets as the foundation of the price formation process within European capital markets, providing the transparent reference prices on which other execution mechanisms rely.

An increasing share of trading activity today depends on prices formed on lit venues, while a declining share of overall trading contributes directly to that process. This creates a structural imbalance in market design: alternative execution mechanisms benefit from the transparency and efficiency generated by lit markets, yet are not subject to equivalent transparency obligations, nor do they contribute proportionately to sustaining those

markets. While alternative execution channels remain important for facilitating large transactions and reducing market impact, their growing prominence risks weakening the very pricing infrastructure upon which they depend. These characteristics would, over time, lead to a "price-driven" market structure which relies on dealers setting and filling against their own quotes, which embeds a structural conflict: the same party controlling the price also profits from the spread and inventory positioning. This can incentivize quote shading, selective liquidity, and execution choices that favour dealer P&L over best possible outcomes for retail investors, especially when transparency and competitive pressure are limited.

If volumes continue to shift towards bilateral and dark trading environments, exchanges may face a significant erosion of liquidity, undermining both market transparency and the robustness of reference prices across the broader ecosystem. Without appropriate safeguards, there is a risk that transparent public markets become progressively less viable, leading to greater reliance on dealer-driven models characterised by lower transparency, higher execution costs, and increased risks to systemic stability. Preserving strong and credible public price formation therefore requires targeted regulatory action aimed at reinforcing liquidity in lit venues.

Protecting the integrity of the price formation process is not only essential for secondary market functioning, but also for the health of primary markets, issuers' ability to raise capital, and the overall attractiveness and competitiveness of the EU financial ecosystem. Investors need confidence that European capital markets remain fair, transparent, efficient, and properly regulated. Ensuring investor confidence must remain central to the EU's regulatory agenda.

Looking forward, **FESE proposes that ESMA prepare an analysis assessing the contribution of various trading models to the price formation process and the impact of dark and bilateral trading on price efficiency**. To that end, ESMA could mandate independent academic research teams with the relevant analyses through the allocation of sufficient and appropriate research grants and draft a report based on the input received.

Q5: As the choice of trading facility has increased, it is important for ESMA to understand why market participants are choosing the execution facilities that they do. What are the drivers that you consider most relevant when choosing on which execution venue and with which execution method to trade?

FESE considers that the relative importance of the drivers guiding market participants' choice of execution venue or method may vary across firms and trading strategies. Individual market participants apply their own execution policies and may weigh a range of commercial and operational considerations.

In this context, it is nevertheless important to highlight that regulatory design plays a significant role in shaping market incentives and outcomes. In particular, **regulatory asymmetries between SIs and multilateral trading venues create distortions in incentives and competitive conditions**. These asymmetries can make certain execution models comparatively more attractive, irrespective of intrinsic execution quality.

For example, where SIs benefit from more flexible regulatory treatment compared to trading venues, irrespective of order sizes (e.g., the ability to select counterparties and execute each counterparty differently, to execute off-tick, etc.), the incentives to internalise order flow may be heightened, while there are limited mechanisms to steer activity towards lit multilateral markets. As a result, order flow may be diverted away from lit venues not necessarily on the basis of best execution outcomes, but due to differences in regulatory frameworks. This may have implications for overall market quality, including price formation and transparency (see response to Q20).

Q6: What are your experiences with regard to gaining access to liquidity? To what extent are you, either directly or via a broker, able to access liquidity on relevant trading venues or relevant systematic internalisers? If not, please explain what stands in the way of gaining such access.

FESE would like to recall that regulated markets (RMs) and multilateral trading facilities (MTFs) provide open, transparent and non-discriminatory access, enabling all participants, directly or via brokers, to interact with available liquidity on equal terms.

However, access to overall market liquidity is increasingly affected by market fragmentation. A growing share of trading takes place in bilateral and less transparent environments. Access to these liquidity pools is not open to all participants, but is rather restricted to those who have signed up, through their Execution Management System, to certain off-exchange liquidity providers. Therefore, liquidity is not equally accessible across the market, and participants without access to bilateral networks may face reduced ability to interact with certain liquidity pools.

The key issue is the dispersion of liquidity across execution models with different access conditions. Addressing this requires improving transparency and ensuring a more level playing field between multilateral and bilateral trading, so that liquidity remains broadly accessible to all market participants on an equal basis.

Q7: If you are an issuer, how do you see these market developments? Do you consider this an attractive environment for listing? If not, why?

While not representing issuers, FESE would like to highlight that the attractiveness of primary markets for listing is strongly related to the depth, liquidity and well-functioning of secondary markets.

Primary and secondary markets are intrinsically interconnected. Efficient secondary markets support capital formation, liquidity provision and risk management, all essential for an attractive listing environment. In particular, strong, visible secondary-market liquidity is one of the most powerful drivers of IPO activity: it enables credible valuations, reduces spreads, and lowers the cost of capital. Consolidating liquidity around transparent primary venues would therefore create a positive feedback loop, enhancing price formation, reducing volatility, improving funding conditions and IPO prospects.

However, **these benefits are increasingly undermined by a dispersion of liquidity across bilateral and less transparent channels**. In this context, it should also be considered that while exchanges play a vital role as listing venues, other execution mechanisms operate solely in the secondary market, competing with trading venues under lighter regulatory frameworks. Addressing this asymmetry is essential to preserving the sustainability of primary markets.

Academic research confirms that strong, transparent secondary markets encourage IPOs and support vibrant equity financing (see Demir, I., Ghofrani, E., and Liu, Y. (2025). "Attracting new listings: what shapes IPO activity across markets", *WFE research working paper,* No. 10). By contrast, reduced liquidity or trust in secondary trading may lead to less issuer interest in such venues for IPOs (see Mahoney, P. (2020). Equity Market Structure Regulation: Time to Start Over, *10 MICH. BUS. & ENTREPRENEURIAL L. REV. 1)*. **Strengthening liquidity and price formation in lit venues, where companies are listed, is therefore not only a trading-related objective but a strategic priority for the attractiveness of the EU listing landscape**.

Other structural factors, such as fragmented investor pools, limited retail participation, and national barriers, also weigh on IPO activity.

3.3. Distribution of liquidity across EU issuers

Q8: What conclusions would you draw from the distribution of liquidity across EEA ISINs? Do you identify any policy recommendations in this context, with a view to enhancing price formation while ensuring a level playing field across different types of venues? Do you have explanations for the high share of OTC trading observed in the ISIN's of some jurisdictions?

The distribution of liquidity appears to vary significantly across countries, with smaller markets tending to rely more heavily on continuous lit trading**.** Any structural diversion of order flow away from lit venues may have disproportionate effects on price discovery and market quality.

In this context, it would also be important to consider the potential impacts that an expanded pre-trade consolidated tape (CT) could have on market structure and on the diversion of order flow away from lit continuous order books towards bilateral or larger venues, weakening liquidity and price formation.

Besides this analysis on the distribution of liquidity across EEA ISINs, **it could be interesting to examine the distribution of trading volumes by type of shares (e.g., blue chips, mid- and small-caps)**. This would help assess whether increasing fragmentation is associated with a concentration of liquidity in the largest caps.

Lastly, as a general comment and as developed in Q3, **the absence of UK trading data on EEA shares represents a significant limitation.** A material share of trading in EEA equities takes place in the UK, especially through bilateral, SI and OTC channels. In 2024, based on FESE calculations on the basis of xyt data, UK's recorded trading volumes in STOXX 600 EEA shares was 1.35 times that recorded on EEA venues (25% through SIs, 23% on OBOE, and 46% OTC). As a result, the current analysis risks providing only a partial view of liquidity. From an issuer and market structure perspective, it is essential to work towards a more comprehensive and holistic view of trading activity across jurisdictions, reflecting the economic reality of interconnected EU and UK markets.

4. Deep dive into some selected developments

4.1. Footprint of dark trading on trading venues

Q9: What is your view on the evolution of dark trading on EU trading venues? Are there any structural shifts that you noticed, which you believe should be further monitored?

Regarding dark trading, FESE would like to reiterate the point made in the response to Q1 on the limitations of a purely binary distinction between lit and dark trading, as there is increased diversity in terms of market models.

Furthermore, we consider that the term "dark trading" as defined by ESMA (namely, trades executed under the reference price waiver or the large in scale waiver) does not fully capture the scope of trading that should properly be regarded as dark. In fact, any trade executed under a waiver, and therefore not subject to pre-trade transparency, should be considered dark trading. In this respect, it is notable that, while ESMA includes transactions executed under the negotiated trade waiver in Figure 13, it does not classify them as dark trading in its broader categorisation.

In terms of the evolution, we concur with ESMA's observation that dark trading has remained relatively stable over the period, and the trades below LIS in particular. This was the direct consequence of the DVC, proving the effectiveness of the mechanism, at least within its defined scope. While the introduction of the former DVC resulted in limiting trading under the waivers, analysis has shown that when the RPW was suspended, much of this flow appeared to be redirected towards execution mechanisms other than continuous order books. This has accelerated under the revised SVC. We suggest further analysis of these trends is warranted.

Q10: What concerns/issues do you highlight at this stage? Do you see a need for specific regulatory interventions also in consideration of evidence available regarding practices related to dark trading functionalities (please provide details)?

At this stage, and as mentioned in Q9, FESE would recommend that further monitoring and analysis of these trends is warranted.

4.2. Periodic auctions: closing auctions and FBAs

4.2.1. Periodic auctions: closing auctions

Q11: What is your view on the evolution and effects of trading in closing auctions on the EU markets? Do you agree with the presented rationale for trading in closing auctions or do you consider other drivers more important for explaining the growth and increasing significance of closing auctions trading?

FESE concurs with ESMA's remarks on the importance of closing auctions for the functioning of equity markets, both in terms of their relevance for market participants and their contribution to price formation. Closing auctions are an important complement to strong and continuous price formation on transparent markets. **They play a key role in equity markets by concentrating liquidity at the end of the trading day and delivering a robust closing price that is critical for transparency and market stability**, without undermining lit order books during the trading session. Their growing importance can be partly explained by the rise of index-tracking and passive investment strategies, which require execution at the end-of-day price for accurate replication. This trend reflects genuine investor demand and structural shifts in market behaviour rather than any lack of competitive dynamics. One factor behind the growth of closing auctions in the EU may be linked to MiFID II itself. This trend has been driven in part by the increased market fragmentation following the framework's introduction, which has weakened liquidity sourcing and transparent price formation through the increase of systematic internalisers and alternative trading systems, as well as the growing number of venues operating under pre-trade transparency waivers. This strengthens the need for a robust and accessible-to-all liquidity and price formation event during the day. In light of these developments, operators of closing auctions have invested in further strengthening the resilience of this mechanism and in developing alternative solutions in case of outages. In particular, FESE members have co-developed public playbooks (https://www.fese.eu/publications/exchange-playbooks-on-outage-protocols/) to support market participants in the event of potential outages. It is worth noting that, despite their size, there has not been any major failure of closing auctions in the last 5 years. It is also worth noting that the growing trend for closing auctions is not deterministic or always constant in time, as it depends on a range of factors. For instance, during the Covid crisis, the high volatility led to a drop in the closing auctions volumes to the benefit of continuous trading.

Q12: What is your view on the effects of alternative closing mechanisms offered by MTFs and SIs?

FESE considers that there is a good level of competition in the closing space among trading venues and also with the alternative solutions offered by MTFs and SIs (Market at Close mechanisms). These alternative products typically operate in parallel with the official closing auction and match orders at the official closing price once it is fixed. For example,

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.

In order to improve the visibility of activity executed at the closing price across execution mechanisms, it would be beneficial to introduce a dedicated post-trade flag, similar to the CLSE one used in the UK. This would provide greater clarity on the extent and impact of alternative closing mechanisms and support a more comprehensive analysis of market dynamics.

Q13: What will be in your view the effects of 24h/extended trading hours on closing auctions?

Liquidity in European equity markets remains highly concentrated in opening and closing auctions, which play a central role in price formation. The potential introduction of 24-hour trading or extended trading hours may lead to a partial redistribution of liquidity across the trading day. However, these potential consequences remain uncertain and subject to ongoing analysis.

Unlike in other jurisdictions, such as the US, closing auctions in Europe do not operate in parallel with continuous trading but rather constitute a price formation mechanism that determines the final reference price of the trading day. That said, based on public information, the US venues aiming at moving to 24/7 or 22/5 trading seem committed to maintain a closing auction at the same time as today, meaning that, for the time being, this liquidity and price formation event is not being challenged, even in a near 24/7 environment, in the US.

Extended trading hours, where available in Europe, are typically limited in scope and largely oriented towards retail participants.

Q14: Are there any structural shifts that you noticed, which you believe the competent authorities should monitor? Would you like to highlight any concerns/issues at this stage? Do you see a need for specific regulatory interventions (please provide details relating them possibly to the data and observations available)?

FESE does not see particular developments or issues that should be monitored by authorities or that would warrant regulatory intervention.

Competitive dynamics in the closing auction space remain robust. There are no structural or regulatory barriers preventing entry or competition, and trading venues compete both among themselves and with bilateral execution models, including systematic internalisation. Alternative solutions exist, allowing participants to execute transactions without participating at the primary market’s closing auction.

The growing use of closing auctions should therefore be understood as a market-driven development reflecting investor demand, rather than as a consequence of limited competition or market failures. Pricing practices of trading venues reflect normal commercial strategies, competitive positioning and cost structures, and market entry and innovation remain possible, as evidenced by the emergence of competing solutions in recent years. In Q4 2024, an analysis based on public market data (BMLL DataLab) showed that closing trading executed bilaterally - via EU or UK SIs, OBOE, or OTC - accounted for 8%, 11%, 8%, and 5% respectively of primary market volumes, i.e. 32% in aggregate (based on the 100 most liquid shares admitted to trading on Euronext). In terms of market share, closing activity could therefore be broken down as follows: 73% on primary markets, 3.4% on MTFs, and 23.4% executed bilaterally (SI, OBOE, OTC). Since 2024, competition has further intensified, notably driven by the growth of systematic internalisers.

On this basis, there is no evidence at this stage to justify targeted regulatory intervention in the structure or functioning of closing auctions. Regulatory focus should remain on monitoring market developments, while preserving the conditions for competition, innovation and efficient price formation. Premature or prescriptive interventions could risk disrupting well-functioning market mechanisms that currently respond to genuine investor needs.

4.3. Business models of Systematic Internalisers

Q20: What is your view on the evolution of trading of SIs on the EEA markets? What are the main drivers of their growth?

As regards the main drivers of this growth, the rapid expansion of SI activity reflects a broader structural shift in market design, likely driven by regulatory asymmetries. Differences in regulatory treatment between SIs and trading venues create distortion in incentives and competitive conditions, potentially diverting order flow away from lit multilateral venues—not necessarily on the basis of execution quality, but as a consequence of regulatory design. Key drivers include:

(a) ESMA explicitly points to the **more lenient tick-size regime and midpoint execution flexibility for SIs** as a factor contributing to the redirection of flows. We concur with this assessment.

(b) The MiFIR framework already recognises, in Recital 13, the low level of pre-trade transparency for SIs and the need to ensure a level playing field with trading venues. However, the revised MiFIR/D framework and RTS 1 have not fully addressed this issue. **Persisting differences in transparency and oversight, combined with weaker data quality in SI reporting, including insufficient pre- and post-trade information and inconsistent flagging**, limit supervisors' ability to monitor activity effectively and contribute to fragmentation. This points to the need for a stronger transparency and supervisory framework for SIs.

(c) The **increasing capacity of SIs to capture smaller and more frequent order flow in a bilateral setting, often characteristic of retail activity**, as highlighted in the ESMA report. This reflects a structural drift away from the intended role of SIs in executing larger orders and raises concerns regarding liquidity fragmentation, the weakening of price formation, and investor protection risks (see response to Q21). We would however caution against the assumption that small orders are automatically retail activity; to our knowledge the slicing of institutional orders can bring the order size to rather low values.

Taken together, these regulatory-driven factors risk displacing liquidity from transparent markets. **Targeted reforms are therefore needed to ensure a fair and balanced coexistence between bilateral and multilateral trading models**.

Finally, as noted in Q3, it should be borne in mind that the ESMA analysis excludes UK trading activity in EEA shares. In 2024, based on FESE calculations on the basis of xyt data, UK's recorded trading volumes in STOXX 600 EEA shares was 1.35 times that recorded on EEA venues (25% through SIs, 23% on OBOE, and 46% OTC). Given that such activity is largely conducted in the SI and OTC space, this may result in an underestimation of bilateral trading in the ESMA call for evidence and provide only a partial view of market dynamics, including implications for issuers, market efficiency, and the effectiveness of the regulatory framework. Enhanced data cooperation between ESMA and the UK FCA would help address this gap.

Q21: Does this picture reflect the trends you observe in SI trading? Do SI offer trading for both large and small sizes? Do these different trade size reflect different types of clients / SI businesses?

The picture broadly aligns with FESE observations: a significant proportion of SI transactions takes place below SMS. This raises an important policy question as to whether the observed mix remains consistent with the intended role of SIs and the efficient functioning of EU equity markets.

FESE recognises the value of SIs in facilitating large, bespoke, risk-trading quotes that enable institutional investors to execute sizeable orders with reduced market impact. However, there has been a structural drift towards the internalisation of a high proportion of very small trades. This development is particularly sensitive, as it can fragment liquidity across more opaque execution channels, reduce the visibility that retail investors have over true market conditions, and weaken the overall price formation process—especially considering that such smaller trades tend to carry a higher informational content.

The trade size does not necessarily reflect the type of client: whilst retail clients almost exclusively trade in smaller sizes, institutional clients can equally trade smaller and larger sizes, especially as the use of execution algorithms is becoming prevalent. Yet, when it comes to market structure rules, the type of clients matters but so does the size of orders. The purpose of markets is to reduce information asymmetries without compromising the execution outcome. A smaller order can be absorbed and executed on a multilateral price forming venue, thereby contributing to price formation, whilst this is more complex or not even possible without an adverse outcome for a larger order. So the increasing prevalence of smaller orders on SIs is problematic, as these do not contribute to price formation. Given the SI very particular regime (discretionary access, discretionary execution, off-tick) this raises important concerns.

In this context, **there is value in considering regulatory approaches that encourage the execution of below-SMS trades on multilateral trading venues**. This would enhance investor protection for retail participants, strengthen market transparency, and support more robust price formation.

From a price formation perspective, empirical studies suggest that most SI trades of comparable size to those executed on lit venues are not price-forming (see Besson, P. & Gu, C. (2024). "When Do Systematic Internalisers Choose to Provide Passive Liquidity to Investors?", *Journal of Investing*, 34(1), pp. 94-123). In fact, research indicates that exchange-traded transactions carry significantly greater informational value than those executed off-exchange, all of which tend to involve relatively uninformative transactions (see Hagströmer, B., & Menkveld, A. J. (2025). "Trades, Quotes, and (Unbiased) Information Shares", *SSRN Social Science Research Network)*. Ensuring the long-term quality and resilience of price formation should therefore remain a shared policy objective.

Q22: What is your perception of the application of price improvement by SIs? Does the data analysis reflect the reality, or do you believe that there are some data quality issues in the flagging of transactions subject to price improvement?

ESMA's finding that RPRI-flagged trades account for only a negligible portion of SI turnover is a concern, particularly when contrasted with frequent industry claims that price improvement is regularly provided. This discrepancy raises fundamental questions regarding transparency, execution quality, and the credibility of bilateral trading outcomes**.** Two complementary explanations are plausible, and both warrant regulatory attention:

(a) **Price improvement may not be delivered in a meaningful way in practice, or may be only marginal**. This would be consistent with empirical findings, including those of the AMF, which indicate that around 90% of SI transactions are executed at prices equal to, worse than, or only marginally better than primary-market prices (see Lucas, I. (2020).

"Quantifying systematic internalisers' activity: their share in the equity market structure and role in the price discovery process", *Autorité des marchés financiers (AMF)*. Further research confirms this trend, showing that approximately 85% of immediate transactions do not benefit from price improvement compared to the EBBO (see Besson, P. & Gu, C. (2024), "When Do Systematic Internalisers Choose to Provide Passive Liquidity to Investors?", *Journal of Investing*, 34(1), pp. 94–123).

(b) **Data quality and flagging practices may be incomplete or inconsistent**. We concur with ESMA's assessment that SI data quality is less robust than that of trading venues. The use of SI flags, not only for price improvement, requires significant improvement.

In both cases, the current framework does not provide sufficient assurance that price improvement can be effectively observed, verified, and assessed by investors and supervisors. In this context, and **as part of the MISP negotiations, there is a need to strengthen both transparency requirements and the supervisory framework to ensure that any claimed price improvement is visible, meaningful, and enforceable**. In particular, the following measures should be considered:

(1) **Quote-update obligations should apply to all orders subject to SI quoting requirements**, not only to retail orders, as currently envisaged under the proposed Article 15(2)(b). This would ensure that any price improvement is reflected in firm and public quotes prior to execution.

(2) **The practice of private quoting requires further examination**. SI quotes are required to be public and firm below twice the standard market size (2xSMS); however, under Article 15(2) MiFIR, such quotes may be subject to price improvement in "justified cases". This raises questions regarding how consistently the notion of "justified cases" is interpreted and applied, and, importantly, how this may affect the balance between public and private quoting, potentially undermining the (already relaxed) transparency requirements applicable to SIs quotes.

(3) **Price improvement should be clearly defined and meaningful, including through a minimum improvement threshold** (e.g., at least one tick relative to the Primary Best Bid and Offer (PBBO)) to ensure that it justifies the bilateral nature of execution and effectively contributes to best execution outcomes.

(4) **Strengthen SI reporting discipline and post-trade data quality in conjunction with a reinforced supervisory framework**. Reliable, granular post-trade data is a prerequisite for effective market monitoring and evidence-based supervision. This, in turn, requires stronger supervisory expectations and enforcement, including the provision of more standardised information to competent authorities on SI execution models and stricter compliance with reporting and flagging obligations, so that observed discrepancies can be credibly assessed and addressed.

Q23: Which flags do you consider important to identify certain trade related to SI trading?

Persisting deficiencies in SI flagging and reporting are a concern, as they undermine the ability to accurately assess execution quality, price formation, and overall market dynamics. Reliable and granular data is essential for effective supervision, market monitoring, and evidence-based policymaking. Ensuring adequate visibility in the bilateral space is therefore critical, both for regulators and for market participants seeking a comprehensive view of liquidity available in EU equity markets.

In this context, **strengthening data quality, consistency, and the enforcement of reporting obligations for SIs should be a priority**. In spite of the observed data quality issues, the SI flags used in the Call for Evidence (SIZE, ILQD, RPRI) have proven useful in assessing market dynamics. However, it should be noted that Commission Delegated Regulation (EU) 2025/1246 amending RTS 1 has removed these flags following ESMA's recommendation in its final report on equity transparency.

In our response to the relevant ESMA consultation, FESE expressed concerns about the removal of these flags in the absence of suitable alternative granular indicators. This raises questions as to how ESMA will be able to monitor key aspects of SI activity from now on, including trade size, execution in illiquid instruments, and the provision of price improvement. Ensuring sufficiently robust and accurate post-trade transparency should therefore precede any simplification of the SI flagging framework.

Moreover, despite the RTS 1 review, it remains difficult to distinguish the extent to which SI volume is executed at midpoint, off-tick or in a retail-driven context. This lack of granularity limits the ability to take informed decisions on key market structure parameters, including dark caps, tick size regimes, and the calibration of SI rules.

In this context, the following flags are considered particularly important to capture SI activity:

(1) **Retention (or replacement) of SIZE, ILQD and RPRI flags in RTS 22 and RTS 1:** In the absence of suitable alternative indicators, these flags provided valuable information to both supervisors and market participants and should either be retained or replaced with equivalent, sufficiently granular measures. For example, the SIZE flag or an alternative "above or below SMS" flag, remains important to provide greater visibility on the distribution of trade sizes in SI activity, helping to assess whether SIs are aligned with their intended use case of facilitating larger transactions.

(2) Midpoint flag (MIDP) in RTS 22 and RTS 1: In light of the increased midpoint trading possibilities available to SIs following the Level 1 review, a MIDP flag would allow regulators to monitor developments in this area. This is particularly relevant given the need to ensure a level playing field with trading venues, as highlighted in Recital 13 of the MiFIR review.

(3) SI-direction flag (BAGR/SAGR) in RTS 1: A flag indicating whether the SI is on the buy or sell side ('BAGR' or 'SAGR', respectively), would allow market participants to conduct transaction cost analysis and, in particular, toxicity analysis. Even if published with a one-month delay, such information would still provide significant value to the industry.

(4) Closing price flag (CLSE) in RTS 22 and RTS 1: This flag would allow to better map volumes executed at the closing price across execution venues, similarly to the UK present regime.

Finally, and also linked to post-trade transparency reporting, we also consider crucial that, similar to trading venues, SIs are also required to **use a unique, venue-like identifier in all post-trade transparency reports**, with a Delegated Act specifying which identifier should be used (e.g., a dedicated MIC). Such an SI identifier in post-trade feeds could be deferred if needed, following a system similar to that in place for bonds (Article 11 MiFIR), enriching the SI post-trade feeds to fill after a specific delay (e.g., one month) the field related to the SI identifier.

Venue-like SI identifiers (rather than generic labels such as "SINT" or "OTC") would enhance market transparency by making SI activity visible to the market. This would also support better analysis of fragmentation and execution quality and allow more targeted and proportionate policy responses. Without clear identification, market participants cannot accurately measure how much volume individual SIs internalise or how this affects lit markets and retail execution and cannot perform granular transactions costs analysis.

Q24: What is your view on the evolution of SI trading on the EU markets? Are there any structural shifts that you noticed, or envisage, which you believe should be further monitored?

For our views on the evolution of SI trading in EU markets, please refer to our response to Q21, as our assessment of EU markets is consistent with that for EEA markets.

Regarding observable structural shifts, which we consider concerning and which should be closely monitored, please refer to our responses to Q20–23 and Q25. We believe the trends described therein warrant both continued scrutiny and regulatory action. In short, this would concern the continued increase in SI activity, often at the expense of continuous order books, reinforced by existing regulatory asymmetries and not sufficiently supported by reliable data or adequate scrutiny. If these deficiencies are not addressed, they may further exacerbate these concerning developments, with potential negative consequences for price formation, as well as the efficiency, transparency, and competitiveness of EU capital markets.

Q25: Please highlight any concerns/issues you may have at this stage? Do you see a need for specific for regulatory interventions (please provide details possibly relating to the information and data available or observed)?

Main concerns

More broadly, FESE remains concerned about current trends in the EU equity market structure, which point to a gradual but persistent shift away from multilateral lit trading towards alternative execution mechanisms, including bilateral trading through systematic internalisers. Without corrective action, existing regulatory asymmetries between SIs and trading venues risk further reinforcing these trends, with potential negative consequences for the efficiency, transparency, and competitiveness of EU capital markets.

While these concerns have been elaborated in previous questions, the key issues can be summarised as follows:

- **Level-playing-field distortions:** regulatory asymmetries, particularly in relation to pre- and post-trade transparency, applicability of the tick size regime and supervision, may steer order flow away from trading venues on the basis of regulatory design rather than execution quality.

- **Market integrity and price formation:** the continued migration of small, price-informative order flow from multilateral lit venues to bilateral execution risks weakening visible liquidity and the robustness of reference prices relied upon by the wider market ecosystem.

- **Investor protection:** retail investors generally benefit from transparent, open, and non-discretionary multilateral execution. Increasing levels of retail-like internalisation within SIs are difficult to reconcile with demonstrable price improvement and may raise conflicts-of-interest concerns.

- **Transparency and data quality gaps:** ESMA has recognised that SI data quality is weaker than on-venue data and that SI flagging requires improvement. FESE considers this a significant obstacle to effective supervision and evidence-based policymaking.

- **Unverifiable claims of price improvement:** the discrepancy between industry claims and the negligible use of the RPRI flag undermines confidence in execution outcomes. This suggests that price improvement may either not be delivered meaningfully, not be properly reported, or both.

- **Implications on primary markets:** The implications of these dynamics extend beyond secondary market trading. The quality of price formation is intrinsically linked to the attractiveness of EU capital markets for listings and capital raising. Fragmentation of liquidity and reduced transparency can negatively affect valuations, increase the cost of capital, and weaken the attractiveness of EU markets for issuers.

Targeted regulatory interventions

The above trends call for targeted and proportionate regulatory action. While some measures have been referenced in previous responses, the following elements are particularly relevant:

1. Introduce SI-level identifiability in post-trade transparency (venue-like identifier / dedicated MIC)

This would address a key transparency gap by allowing supervisors and market participants to distinguish activity across individual SIs, rather than relying on generic labels such as "SINT" or "OTC". Greater granularity is essential to assess fragmentation and monitor execution quality, as well as to understand how much volume individual SIs internalise and how this activity interacts with lit markets and retail execution, including for transaction cost analysis. A harmonised deferral approach (e.g., one month) could also be introduced where appropriate (see response to Q23).

2. Strengthen SI flagging and reporting quality (and enforcement), including SI-specific flags

Improving the consistency, completeness, and correct use of flags (e.g., midpoint, price improvement, below/above SMS, SI direction) is critical to ensure that post-trade data accurately reflects execution outcomes. Enhanced reporting discipline should be combined with stronger supervisory oversight and enforcement to ensure compliance and support effective, evidence-based policymaking (see response to Q23).

3. Reinforce the authorisation and supervision of SIs

As SI activity has become more systemic and, in some cases, functionally closer in nature to venue-like execution, supervisory frameworks should evolve accordingly. Requiring SIs to publish rulebooks and provide authorities with detailed information on their execution models, compliance with best execution, and interactions with other market participants would strengthen supervisory convergence, reduce the risk of regulatory arbitrage, and help ensure that SI activity remains consistent with its intended bilateral nature.

4. **Expand the SIs' quoting scope**

Enhancing quoting requirements—either through an expanded liquid market definition [at least 70% of shares admitted to trading in the EU] or by extending transparency obligations to all instruments regardless of the liquidity—would improve visibility of available liquidity in the bilateral space and support a more consistent transparency framework. This would contribute to better price discovery and help rebalance the current asymmetry with trading venues. Current liquidity thresholds appear too low, with only a small proportion of shares classified as liquid under the existing framework (i.e., 8.2% for 2023 based on ESMA's Table 17 in its third consultation package on MIFIR). In addition, the practice of private quotes should also be investigated (see reference in response to Q22).

5. Strengthen SIs quote-update obligations for price improvement

Given the limited observable evidence of price improvement, it is important to ensure that any such improvement is both genuine and visible. This requires applying quote-update obligations to all relevant orders and defining a minimum level of price improvement (e.g., at least one tick versus PBBO). This would enhance transparency, ensure that price improvement is meaningful and contributes to execution quality, and allow for broader interaction with SI quotes (see response to Q22).

6. **Enhance market integrity through multilateral execution for below-SMS orders or a broader volume cap coverage**

Given the significant share of small and retail-like trades executed in SI environments, there is a strong case to ensure that the most price-informative order flow is executed on transparent multilateral venues. Encouraging the execution of below-SMS trades on regulated markets or MTFs would strengthen price formation, improve investor protection, and reinforce overall market integrity. As an alternative, expanding the scope of the volume cap framework could help limit excessive migration of such flow into non-transparent channels.

7. Improving the evidence base through data coverage of UK activity in EEA shares through a data sharing agreement between ESMA and the UK FCA

A comprehensive assessment of EU equity market structure requires full visibility of economically relevant activity, including trading in EEA shares taking place in third-country venues such as the UK. Enhanced data sharing arrangements between ESMA and the UK FCA would help close existing data gaps, improve the robustness of market analysis, and support more informed regulatory decisions (see response to Q3).

5. Other developments

5.2. Member preferencing

Q31: Does member preferencing lead to unfair outcomes for end-investors, other members or the markets? Please explain, if possible on the basis of data.

Member preferencing or member segmentation is one of the only mechanisms available to trading venues seeking to compete with single market-maker platforms or Systematic Internalisers, which can select their counterparties and apply different execution depending on the counterparty type.

Therefore, this practice cannot be assessed in isolation, and any regulatory action should apply across the full range of execution venues.

Q33: Should member preferencing be (a) prohibited, (b) should there be rules restricting the practice, or (c) should nothing be done? If you suggest there should be rules (b), which rules would you suggest? Please explain.

Please refer to our response to Q31.

Q34: What would be the consequence of prohibiting certain forms of member preferencing? Please explain, if possible on the basis of data.

Please refer to our response to Q31.

6. The concept of addressable liquidity

6.1. The definitions

Q36: Do you agree with the above three approaches?

FESE broadly agrees with the approach to define addressable liquidity, non-price forming transactions, and transactions subject to conditions other than the current market price.

Further consideration should be given to whether misused or inconsistently applied flags may affect the classification of transactions as addressable or non-addressable liquidity. This may be especially due to the uncertain applications of flags and reporting requirements for chains of transactions, where regulatory guidelines, notably based on the recommendations of the European Commission Data Expert Group from 2024, could be adopted.

6.2. The framework

6.2.1. List of transactions in RTS 1

Q37: Do you agree with this first part of the table on addressable liquidity and price forming?

Yes, in principle, provided there are clear guidelines to ensure consistent application, notably in the case of chains of transactions. For instance, a benchmark VWAP trade (parent)

may not always be addressable as such, but may give rise to child trades that can be considered addressable liquidity; the same applies to portfolio trades.

As a general comment on this section covering Q37–45, it is difficult for exchanges to fully opine on these questions given the lack of visibility of these transactions. We suggest feedback from market participants and banks is essential here, as it is important that ESMA is able to create clear recommendations in this area.

We also suggest it could be worthwhile for ESMA to host a dedicated technical call to discuss these points in more detail, or to reconvene the European Commission Data Expert Group from 2024 to progress this further.

Lastly, given the potential ambiguities in defining these, one of the key aspects that needs to be addressed in our view is the inconsistency of implementation and regulatory oversight once the framework is agreed.

6.2.2. Other transactions not flagged in RTS 1

Q44: Do you agree that intragroup transactions executed by SIs should not constitute addressable liquidity and therefore, could be flagged (i.e. a new flag in RTS 1 could be added to disentangle those transactions)? Do you agree that intragroup transactions executed by SIs should be classified as non-price forming?

No. Intragroup transactions are not addressable only if their execution on another venue than on the intragroup SI would be impossible. For instance, a risk management hedging activity could be conducted on the intragroup SI of an investment firm or on another venue, and in this sense should be considered addressable.