Amendments to the Markets in Financial Instruments Directive (MiFID 2)

2021/0384(COD) - 25/11/2021 - Legislative proposal

PURPOSE : to amend the Markets in Financial Instruments Directive (MiFID) in order to enhance market data transparency.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the MiFID/MiFIR framework is the rulebook governing participation in European capital markets. It consists of a directive (Directive 2014/65/EU, MiFID II) and a regulation (Regulation (EU) No 600/2014, MiFIR).

In 2007, MiFID I introduced competition in the market for equity trading. Later iterations of MIFID extended competition to trading in non-equity asset classes, such as bonds and derivatives. The consequence is that, when a broker or investor wants to execute an order to buy or sell an asset, they can choose from different venues, such as regulated markets (RMs), multilateral trading facilities (MTFs), dark pools, and systematic internalisers (SIs).

Today, financial instruments, such as shares and bonds, are traded in the EU across about 500 execution platforms (across all asset classes). All these platforms need to publish information about each transaction, such as the volume, time and price of the transaction. This makes the information very fragmented and only few big players are able to have a comprehensive overview of the market.

As regards **data consolidation**, the proposal already comprises the concept of ‘consolidated tape’ meaning a centralised database that will provide easy access to consolidated market data to all investors, large and small (asset managers, pension funds, retail investors), and to financial intermediaries, such as brokers. The idea behind a ‘consolidated tape provider’ (CTP) is that exchanges and alternative trading venues would send real-time data streams to an accredited CTP. This CTP would make available to the public the exact same information, at so-called reasonable cost, using identical data tags and formats.

The proposal is part of a package of measures for the CMU which also includes:

- a legislative proposal to revise the Markets in Financial Instruments Regulation (MiFIR);

- a legislative proposal to establish a European Single Access Point (ESAP);

- a legislative proposal to revise the European Long Term Investment Fund (ELTIF) Regulation;

- a legislative proposal to revise the Directive on Alternative Investment Fund Managers.

CONTENT: this proposal aims to amend the MiFID. It is **strictly a complement to the proposal to amend MiFIR**. It is limited on the one hand to the deletion of certain provisions in MiFID II which will become superfluous as a result of the modifications to MiFIR, and on the other hand to the creation of legal obligations for Member States to organise the supervision of rules newly set out in MiFIR.

More specifically, the proposal:

- deletes or replace s provisions in MiFID II that will become superfluous as a result of the proposed amendments to MiFIR in this package;

- removes the licensing requirement for persons dealing on own account on a trading venue by means of direct electronic access to the extent that they do not provide or perform any other investment services;

- requires Member States to oblige investment firms and market operators operating a multilateral trading facility or organised trading facility to have arrangements in place to ensure they meet the data quality standards now enacted in MiFIR;

- requires Member States to oblige regulated markets to have arrangements in place to ensure the data quality standards now enacted in MiFIR;

- requires Member States to also provide for sanctions for infringements of certain new provisions in MiFIR in relation to the reviewed volume cap mechanism, to mandatory contributions to consolidated tape providers, to the quality of data reported to consolidated tape providers as well as to payments for order flow.