Amendments to the Markets in Financial Instruments Regulation (MiFIR)

2021/0385(COD) - 02/03/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Danuta Maria HÜBNER (EPP, PL) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 as regards enhancing market data transparency, removing obstacles to the emergence of a consolidated tape, optimising the trading obligations and prohibiting receiving payments for forwarding client orders.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

While welcoming the Commission’s proposal for the review of the Markets in Financial Instruments Regulation and Directive (MiFIR/D), Members highlighted certain areas for improvement. The amendments included in the report are informed by the desire to establish a regulatory framework conducive to an environment where all market participants benefit from trading. The amendments are guided by four main principles:

1. reducing fragmentation and cross-border barriers;

2. levelling the playing field, supporting a healthy degree of competition between different execution venues and methods;

3. allowing EU firms to be competitive internationally and more attractive for EU and third-countries investors;

4. encouraging retail participation and strengthening investor protection.

The main changes classified into three areas:

- consolidated tape (CT);

- market structure and transparency;

- forwarding and execution of client orders.

Consolidated tape

The report seeks to facilitate the emerging of a consolidated tape provider cross markets for each asset classes and to amend certain aspects of the existing legislation in order to improve transparency on markets in financial instruments but also to further enhance the level playing field between regulated markets and systematic internalisers, as well as enhance the international competitiveness of the Union’s capital markets.

The amendments introduce an exemption from mandatory contributions for markets that either (i) represent less than 1% of the total EU average daily trading volume, or (ii) do not contribute significantly to the fragmentation of EU markets as they mostly trade shares for which they are also the venue of primary admission.

Regardless of the exemption granted to smaller regulated markets under this Regulation from the mandatory contribution of market data to the consolidated tape, a dedicated revenue participation scheme for the consolidated tape for shares and ETFs should be established, to incentivise their opt-in to the mandatory contribution scheme, which should remain nonetheless entirely voluntary.

Market structure and transparency

According to Members, to ensure an adequate level of transparency, the price and the volume of a non-equity transaction should be published as close to real time as possible and the price should only be delayed until maximally the end of the trading day. However, in order not to expose liquidity providers in non-equity instruments to undue risk, it should be possible to **mask the price and volume** of very large transactions for a longer period of time, which should **not exceed four weeks**.

To simplify the **pre-trade transparency regime** for bonds and derivatives, the size specific to the instrument should be removed, and the large in scale size should be lowered so that only one threshold remains at an adequate level. ESMA should regularly review the calibrations of the deferrals applicable to the various buckets, with the goal to gradually decrease them should the qualitative and quantitative evidence allow it.

Ban on payment for forwarding client orders for execution

The report noted that investment firms acting on behalf of clients shall not receive any fee or commission or non-monetary benefits from any third party for forwarding client orders to any third party for their execution. A new Article has been introduced stating that this provision should not apply to fees, commissions or non-monetary benefits related to the forwarding of professional clients’ orders for execution, where permitted under the approved and public tariff structure of a regulated market or MTF.