

To:

Sharon BOWLES, Chair, Economic and Monetary Affairs Committee, European Parliament
Markus FERBER, Member, Economic and Monetary Affairs Committee, European Parliament
Rimantas SADZIUS, Minister of Finance, Republic of Lithuania, Presidency of the European Council
Michel BARNIER, Commissioner, Internal Markets and Services, European Commission

25 September 2013

Dear Sirs and Madam

EU FINANCIAL SERVICES BROAD INDUSTRY REPRESENTATION : COMMON PRINCIPLES ON MIFID-2

As the MiFID/MiFIR dossier reaches a crucial stage in the process, we, the undersigned and the stakeholders we represent, would like to highlight common views that we share on important issues through this letter. In particular:

- **We support open access, to deliver investor choice in execution and minimise risk**
- **We support common and harmonised standards for high quality post-trade data**
- **We seek a transparency regime which delivers investor choice:**
 - **Supporting price formation, and allowing for trading using the Reference Price Waiver (RPW) and Negotiated Trade Waiver (NTW) in equities when it offers meaningful price improvement for investors; and**
 - **Ensuring a proportionate and calibrated regime for non-equity markets**
- **We support a flexible regime for SME Growth Markets to enable access to finance for a wide range of EU SMEs**

Our organisations span EU financial services, and our stakeholders include investors and the asset management industry; capital market infrastructure providers across equity, fixed income, derivatives and OTC; wholesale participants including banks, brokers and professional services firms; and corporates, who all together create jobs and growth in the EU real economy.

MiFID-2 is of critical importance to our organisations and our stakeholders. We recognise and appreciate the hard work contributed by policy makers on this dossier over the last 24 months, and fully support their goals. The strength of the recovery depends on the ability of companies and investors to access financial markets with confidence, and the MiFID review should build such a safe, efficient, robust and socially useful financial system. It should allow growing companies to access financing, facilitate investor choice in execution, decrease the cost of capital and avoid the concentration of risk.

We believe that the views we share are in line with these goals and in the best interest of the stakeholders we represent and the Single Market. We discuss these below.

1. Access (Art 28-30, MiFIR)

The original MiFID provided investor choice in the trading of equities, which led to clearing choice and reduced investors' and companies' cost of capital. The MiFID review must continue this work, extending the MiFID reforms and the benefits of choice to non-equity markets. A key component is the delivery of the **open access requirements in the Council approach as a minimum**. Access will benefit end-investors, stimulate true choice in the execution and clearing of products such as Exchange Traded Derivatives, create deep pools of liquidity for given instruments, reduce costs and minimise risk in the financial system. It is also consistent with IOSCO and the Financial Stability Board's recent statements, as the delivery of the G20 commitments will lead to investors being required to clear progressively more business and to trade it on venue.

2. Market data (Art 61-68, MiFID)

The MiFID review also allows for the re-integration of market data, through the arrangements for distribution of harmonised, high quality and timely **consolidated post trade data**. This will represent an authoritative picture of the market to investors, market users and regulators, and allow users to trade with confidence. Time should be of the essence with this work, thus we believe that common standards for data must be applied as a priority across the market and on vendors in MiFID-2. Once implemented, authoritative post-trade data at reasonable costs should develop, reflecting the diverse needs of investors. However, in case no commercial solution emerges, a strong review clause should also be in place to reassess the situation.

3. Transparency (Art 4, 7-12, MiFIR and Art 20 MiFID)

- In **equity markets**, we support the policy goal of protecting price formation in public markets. However, we urge policy makers to consider that many investors seek a genuine choice for execution in sizes below Large-in-Scale through the waivers, to serve their investment needs and deliver better results for customers, savers and pensioners. One way that this choice can effectively be made available, whilst supporting price formation in public markets, is by setting a general requirement for **trading through the pre-trade transparency waivers to deliver meaningful price improvement** to investors. This would also have the effect of reducing the overall level of trading through waivers. For instance, in Canada, dark trading has more than halved since the implementation of such a policy.
- Similarly, in **non-equity** markets, we support the introduction of pre- and post-trade transparency regimes. Where the MiFID approach is new to these markets, we believe that investors and issuers will benefit from appropriate arrangements which allow for a calibrated approach (based on market model, liquidity, participants etc with waivers), to ensure that these critical markets continue to function effectively for users and to finance long-term investment in less liquid instruments. Similarly, the limited and appropriate provision of liquidity through use of own account capital, in less liquid corporate bonds for instance, will not increase the cost of capital and thus benefit issuers, investors and support growth in Europe.

4. SME Growth Markets (Art 2 and 35, MiFID)

Finally, we believe that, the proposals allowing for the fast and sustainable development of **SME Growth Markets** for investment in smaller and growing companies are vital, with resulting benefits to job creation and economic stimulus. The way in which these markets are defined is key. We urge a similar growth perspective, in the same way that the US JOBS Act does, by setting the majority threshold definition at €200 million suggested by the European Parliament, or preferably €500 million by the ESMA-Securities and Markets Stakeholder Group, and allowing eligibility criteria for SMEs issuing instruments other than equity.

We discuss these issues in more detail in the attached annex. We sincerely urge you to adopt the approach we set out, which we believe is consistent with policy goals, and in the interests of the Single Market. We remain at your disposal to provide additional views, if helpful.

Yours sincerely

Signatories (see Annex)

Cc: **Members of Economic and Monetary Affairs Committee, European Parliament**

Presidency of the Council of Europe

DG Internal Markets and Services, European Commission

Jonathan FAULL; Nadia CALVINO

ANNEX - SIGNATORIES AND DETAILED SUBMISSIONS

I. THE SIGNATORIES TO THIS LETTER INCLUDE

Organisation	Description
Investors and asset managers	
Allianz Global Investors Elizabeth CORLEY Chief Executive Officer	Allianz Global Investors is one of the world's leading active asset managers, operating across 18 markets, and with specialised in-house research teams around the globe. We manage over €300 billion in assets for individuals, families and institutions worldwide. We currently employ close to 2,800 employees around the world, of whom 500 are investment professionals.
APG Zöhre TALI Senior Counsel Legal, Tax Regulation & Compliance Theo TIMMERMANS Head International Public Affairs	APG, a financial services provider in the collective pensions market, provides pension fund administration, asset management, management support and communication services to pension funds. For these pension funds and their 4.5 million active and retired participants in the public and private sectors, APG manages pension assets totalling about EUR 335 billion (July 2013). APG administers over 30% of all collective pension schemes in the Netherlands.
Association of British Insurers Margaret CRAIG Director of Financial Conduct Regulation	The ABI is the voice of the insurance and investment industry. Its members constitute over 90 per cent of the insurance market in the UK and 20 per cent across the EU. Through the ABI their voice is heard in Government and in public debate on insurance, savings, and investment matters.
Assogestioni Fabio GALLI Direttore Generale	Assogestioni is the representative association of the Italian investment management industry. It has about 300 members and represents most of the Italian and foreign investment management companies operating in Italy, as well as banks and insurance companies involved in investment management, including pension schemes.
BlackRock Stephen FISHER Managing Director, EMEA Government Relations and Public Policy	BlackRock is a leader in investment management, risk management and advisory services managing just under € 3 trillion of assets across equity, fixed income, cash management, alternative investment and multi-investment and advisory strategies including the iShares exchange traded funds (ETFs). In Europe specifically, BlackRock has a pan-European client base serviced from 22 offices across the continent. Pension plans, insurance companies, third-party distributors and mutual funds, endowments, foundations, charities, corporations, official institutions, banks and individuals invest with BlackRock.
European Fund and Asset Management Association (EFAMA) Peter DE PROFT Director General	EFAMA is the representative association for the European investment management industry. EFAMA represents through its 27 member associations and 60 corporate members about EUR 15 trillion in assets under management of which EUR 9.4 trillion managed by over 54,000 investment funds at end March 2013. Just over 35,500 of these funds were UCITS (Undertakings for Collective Investments in Transferable Securities) funds.

Organisation	Description
Fidelity Worldwide Investment Mark NORTHWOOD Global Head of Equity Trading	Fidelity Worldwide Investment is an asset manager serving investors in all corners of the world, outside North America. It was established in 1969 and manages all significant asset classes for institutional and retail investors in long-term savings products. Fidelity currently manages EUR 187.1 billion of assets worldwide.
Investment Managers Association Richard METCALFE Director, Regulatory Affairs	The Investment Management Association (the "IMA") is the leading trade association for investment management in the United Kingdom. IMA members manage over €5.3 trillion of assets on behalf of their clients. As such, our members constitute the second-largest investment management market in the world.
State Street Global Advisors Michael J KARPIK, CFA Head of EMEA	State Street Global Advisors (SSgA) is the asset management business of State Street Corporation, one of the world's leading providers of financial services to institutional investors, with a heritage dating back over two centuries. Backed by the strength and stability of the State Street organization, SSgA makes continual investments in our asset management and client service platform, resulting in a client-focused, solutions-driven orientation. SSgA manages \$2.1 trillion in assets on behalf of clients as of 31 December 2012.

Financial Market Infrastructures

London Stock Exchange Group Xavier ROLET Chief Executive Officer	LSEG operates a broad range of international equity, bond and derivatives markets across Europe, including London Stock Exchange, Borsa Italiana MTS, and Turquoise. Post trade and risk management services are also a significant part of the Group's business operations. LSEG operates CC&G, the Rome headquartered CCP and Monte Titoli, the significant European settlement business. The Group is also a majority owner of leading multi-asset global CCP, LCH.Clearnet.
LCH.Clearnet Group Jacques AIGRAIN Chairman	LCH.Clearnet is the world's leading clearing house group, serving major international exchanges and platforms, as well as a range of OTC markets. It clears a broad range of asset classes including: equity securities, exchange traded derivatives, commodities, energy, freight, interest rate swaps, credit default swaps, FX derivatives and bonds and repos.

Wholesale market community, banks brokers and professional services firms

AFME Simon LEWIS Chief Executive Officer	AFME (Association for Financial Markets in Europe) promotes fair, orderly, and efficient European wholesale capital markets and provides leadership in advancing the interests of all market participants. AFME represents a broad array of European and global participants in the wholesale financial markets. We focus on a wide range of market, business and prudential issues and offer a pan-European perspective, bringing to bear deep policy and technical expertise and constructive influence with European and global policymakers.
ASSOSIM (the Italian Association of Financial Intermediaries) Gianluigi GUGLIOTTA Segretario Generale	ASSOSIM represents the majority of financial intermediaries acting in the Italian Markets. It has nearly 80 members represented by banks, investment firms, branches of foreign brokerage houses, active in the investment services industry, mostly in primary and secondary markets of equities, bonds and derivatives, for some 82% of the total trading volume.

Organisation	Description
International Capital Markets Association (ICMA) John SEROCOLD Senior Director, Market Practice and Regulatory Policy	The mission of ICMA is to promote resilient and well functioning international debt capital markets. ICMA is committed to serving the needs of its members, which include issuers, primary and secondary market intermediaries, asset managers, investors and capital market infrastructure providers, through its activities as a trade association and as a self regulatory organisation.
Wholesale Market Brokers Association (WMBA) Alex McDONALD Chief Executive Officer	WMBA is an independent industry body. WMBA represents the world's largest Inter-Dealer Brokers (IDBs) operating in wholesale financial markets including interest rates, credit, and foreign exchange and equity derivatives.
Issuers	
Confederation of British Industry Matthew FELL Director, Competitive Markets	The CBI is the UK's leading business organisation, speaking for some 240,000 businesses that together employ around a third of the private sector workforce

II. DETAILED SUBMISSIONS

The signatories to the letter share the following views:

1. Non-discriminatory access to clearing, trading and indices (Art 28-30 MiFIR)

Whilst the provisions have been subject to intense political debate and have moved substantially from the original proposals, we note that investors, companies and our stakeholders have always supported the “open” access proposals in MiFIR. We believe that open access to Financial Market Infrastructure (FMI) and indices will give EU investors enhanced choice in trading and clearing services, thereby avoiding the concentration of risk presented by closed FMI, and leading to lower costs, deep pools of liquidity for given instruments, improved service levels, greater capital efficiency and innovation.

Whilst our preference is for the Commission proposal, we urge policy makers to retain as a minimum the Council text on access, and reflect the EMIR approach to the safeguards, for a level playing field between OTC and exchange traded derivatives

We believe that the key risk issues with access, identified by the European Parliament particularly with respect to CCPs (including systemic risk, interoperability and liquidity fragmentation) have been fully addressed through the safeguards in the Council General approach. This results in a final text that provides for trading and clearing access, including for exchange-traded derivatives with netting and cross-margining, and non-exclusive licences for indices, as desired by the investment community.

Recent statements by CPSS-IOSCO and the Financial Stability Board also suggest that the extent of the potential risk arising from access may have been over-estimated. In fact, CPSS-IOSCO¹ identifies fair and open access to trading venues, CCPs and indices, based on transparent and objective criteria, as important for ensuring safe, efficient and continuous markets, in an environment driven by the clearing and trading of derivatives

2. Market Data (Art 61-68, MiFID)

In effectively regulating market structure, we believe that it is important, that a substantive consideration of such policies should be based on high quality and comprehensive market data. Thus, we believe that the introduction of arrangements that will deliver this data will clearly benefit market users, companies and investors.

The provision of consolidated trade data has been a concern since the implementation of MiFID-1; time therefore, should be of the essence in progressing this work. In our view, a pre-condition to the delivery of harmonised, high-quality data is the application of common and harmonised reporting requirements as a priority across the market and on all trading venues, SIs/OTC, investment firms and vendors. The requirements should specify the standards that must be adopted, including definition of the types of trade to be reported and their categorisation and time stamping convention. This is very important as our stakeholders will not be able to compare consolidated data across different venues and providers if these do not exist.

Only then will any pan-EU post-trade consolidated tape benefit investors, companies and all market users– by offering an authoritative and comprehensive view of post-trade activity based on harmonised standards, investors and their brokers would be able to make better informed investment decisions increasing the potential to achieve optimal investment performance.

¹ See Principle 18, page 101-102, [CPSS Principles for Financial Market Infrastructure](#), here

Once these standards are in place, authoritative post-trade trade data at reasonable commercial costs should emerge, reflecting the diverse needs of investors. However, if no commercial solution is found for the provision of comprehensive consolidated trade data, a strong review clause should be in place for the Commission to reassess the situation, e.g. through mandating a single authoritative tape provider. Any period for review should only start once the harmonised trade definition and data standards referred to above have been introduced.

3. Transparency

3.1. Equity markets (Art 4, MiFIR)

We recognise the policy goal of maintaining the integrity of the price formation process in public markets. However, we ask policy makers to recognise that the choice to transact in non pre-trade transparent environments in sizes below Large-In-Scale (LIS) can offer several benefits to investors, issuers and the wider market. For e.g., it can facilitate the interaction of natural buyers and sellers with similar interests and time horizons at improved prices and allow immediate execution for investors at the best price, but at a larger size than normally available on public markets.

We thus support a policy approach that seeks to meet the goal of mitigating any unintended consequences of the current pre-trade transparency waivers for equities, whilst continuing to allow investors the choice of executing in non-pre trade transparent venues when it offers meaningfully better execution results.

In our view, whilst volume based trading venue and total caps (“double cap mechanism”) for the Reference Price Waiver (RPW) and Negotiated Trade Waiver (NTW) proposed by the Council would have the limited effect of capping the total level of EU trading under waivers, its operation is very likely to prove to be impractical and will have a profound and damaging impact on the efficiency of EU financial markets and the real economy. It will result in investors reducing their willingness to trade and, as opposed to shifting liquidity from dark to lit, may indeed reduce overall liquidity. It will lead to: (1) an increase in costs for investors (as investors, users and market operators factor in the risk of discontinuous trading); (2) an increase in the cost of capital for companies; (3) an increase in trading in substitutes like Contracts For Difference (CFDs) and spread betting; and (4) potential leakage of business from the EU.

We suggest that a better approach might be an obligation for all trades executed using a waiver to offer meaningful improvement to the public price. This would achieve the same policy objective – i.e. decreasing the level of dark trading and mitigating any impact on price formation, without the unintended consequences. It is also consistent with international regulation on dark trading – Canada and Australia have implemented this policy with positive results. **For example in Canada the proportion of non-displayed trading has more than halved since the introduction of the “meaningful price improvement” rule in October 2012²** (where for instance meaningful price improvement is defined as the execution at mid-point, or improvement of the public price by a tick size). As a principle, we believe MiFID should support investor choice for execution in continuous markets and achieve regulatory certainty – the meaningful price improvement approach can accomplish this.

3.2. Non-equity markets (Art 7-12, MiFIR and Art 20 MiFID)

We support the extension of appropriate pre- and post-trade transparency regimes to non-equity markets in MiFID-2. These markets are extremely important for their end-users –

² In January 2013, US\$5.3 billion was traded in dark pools (3.4% share) in Canada. In September 2012, dark pool trading was US\$10.67 billion (7.4%). Source: Thomson Reuters and TheTradeNews

companies and sovereigns who gain access to capital and reduce their risks, and investors who diversify their portfolio holdings and optimise their investments. We suggest that it is important to recognise that they function very differently from the EU equity markets, and it is important to ensure that they continue to serve EU investors, issuers and the users we represent, once a regime is put in place.

We believe that it would benefit the real economy if a calibrated regime for transparency should be adopted, which takes into account the market model (e.g. electronic, negotiated, RFQ and voice-brokered markets), participants involved (market makers, inter-dealer markets, dealer-to-client markets) and the liquidity of the financial instrument. Both the Parliament and Council recognise these features, and we would believe that this approach should be retained. Large-in-Scale and negotiated trades should also benefit from appropriate waivers, to avoid the potential market impact of large orders and provide certainty of execution for trades conducted under the rules of a trading venue, allowing investors to exercise appropriate choice as to where, when and how they execute their business.

We also suggest that there is a case for allowing some/appropriate use of own account and/or matched principal trading in OTFs for illiquid corporate bonds, in particular if a trading obligation applies to them. In illiquid markets, it is important to ensure that the cost of capital for corporates is kept low, so that they do not have to pay more to raise new non-bank sources of finance, which in the long run would damage jobs and growth in the EU economy.

4. SME Growth Markets (Art 2 and 35, MiFID)

We support the introduction of the SME Growth Market regime. This would be a useful step towards embedding a 'think small first' principle in EU legislation. It would provide visibility and further credibility to existing SME markets, increase investor confidence, liquidity and reduce the cost of non-bank capital for SMEs.

In our view, a wide definition of SMEs, based on market capitalisation or turnover, is most appropriate. A higher figure provides more of an opportunity for a diverse range of growing European companies to access SME Growth Markets and to attract and increase the confidence of a diverse range of investors, particularly institutional investors. It would also enable venture capital access to a more dynamic market environment for exits and further capital. A majority threshold definition of €200million proposed by the European Parliament is appropriate; but we would encourage policy makers to increase this to at least €500m, as suggested by the ESMA-Securities and Markets Stakeholder Group³.

In defining the eligibility criteria for the SME Growth Market framework, it will be important to ensure that they also apply to SMEs that issue instruments other than equity (e.g. fixed income), rather than basing the definition only on market capitalisation, which is an equity based measure.

We urge policymakers to take these principles, and the support they receive from the constituencies we represent and our stakeholders, into account when considering the finalisation of MiFID-2 in dialogue.

³ ESMA-SMSG Report on Helping Small and Medium Sized Companies Access Funding, October 2012. This is similar to a provision of the US JOBS Act that seeks to tailor IPO requirements on the basis of a \$1 bn market capitalisation threshold.