

13 July 2017

DG FISMA
European Commission
1049 Bruxelles/Brussel
Belgium

Re: Consultation document on proposed amendments to Delegated Regulation 2017/565.

Dear Sir/Madam,

CFA Institute appreciates the opportunity to respond to the proposed amendments to Commission Delegated Regulation 2017/565 as regards the specification of the definition of systematic internalizers (SI) for the purposes of the Markets in Financial Instruments Directive (MiFID).

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behaviour in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 140,000 members in 150 countries and territories, including 133,000 Chartered Financial Analyst® charterholders, and 147 member societies.

CFA Institute broadly supports the direction the Commission is taking with this amendment, specifically to clarify the definition of what trading behaviours are permissible under the systematic internalizer (SI) regime under MiFID II. With the continual development of sophisticated trading algorithms and electronic communications networks, a concern has been expressed by regulators that some market participants may be able to subvert the MiFID II rules by creating a network of bilateral trading connections that would act as a de-facto multilateral trading facility (MTF) outside of the MTF regulatory regime. We share these concerns and commend ESMA and the Commission for taking the opportunity to address this perceived loophole in the MiFID II rules.

We have previously acknowledged the positive effects that so-called dark (pre-trade non-transparent) trading can have on market quality¹ (with caveats²) and the SI regime broadly falls in that category, enabling market participants dealing on own account to execute over the counter transactions with clients efficiently.

However, this activity necessitates the SI (acting as principal and trading bilaterally with the client or other counterparty) being exposed to inventory risk for some amount of time. If market participants were internalising trades in a back-to-back manner, there would be no inventory risk exposure (except perhaps for some nominal network latency-related reasons) and the activity could no longer be satisfactorily described as that of a systematic internalizer. Rather, it would more closely resemble a de facto trading facility. (i.e. a venue facilitating multiple third party buying and selling interest).

¹ <https://www.cfainstitute.org/learning/products/publications/ccb/Pages/ccb.v2012.n5.1.aspx>

² <https://blogs.cfainstitute.org/marketintegrity/2015/09/30/investors-beware-new-dark-pools-report-issues-warning/>

We believe that the role of regulators is to ensure a level playing field for market participants and to minimise the amount of regulatory arbitrage that incentivises participants to misallocate resources. To this end, we are supportive of the Commission's proposed amendment to Article 1 of Delegated Regulation 2017/565 to not consider a firm to be dealing on its own account (i.e. acting as a systematic internalizer) when that firm participates in activities that result in de facto riskless back-to-back transactions outside a trading venue.

We welcome this opportunity to comment on the proposed amendments to the definition of systematic internalizers. Please do not hesitate to contact us should you wish further elaboration of the points raised.

Yours faithfully,



Sviatoslav Rosov, PhD, CFA
Analyst, Capital Markets Policy, EMEA
CFA Institute

+44 20 7330 9558
sviatoslav.rosov@cfainstitute.org



Rhodri Preece, CFA
Head, Capital Markets Policy, EMEA
CFA Institute

+44 20 7330 9522
rhodri.preece@cfainstitute.org