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Presidency Discussion Paper

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This discussion paper should be read in conjunction with the corresponding Annex which contains consolidated draft legal text. This text reflects updates to the original Commission proposal; in accordance with the views expressed by Member States at Council Working Party meetings and through subsequent written feedback.

The discussion paper seeks to highlight and explain key changes to the legal drafting subsequent to the last CWP meeting on 2 July. All amendments to the original Commission proposal are provided in **bold, underlined text** in the Annex to this paper.

A. AUTHORISATION & SUPERVISION OF REGULATED MARKETS

A.1 Additional activities of regulated markets

The IE Presidency has revised recital 29a to include a reference to "*any other authorised exchange*".	
Relevant recitals	29a
Relevant articles	-

During the last Council Working Party ('CWP') meeting on trading on 2 July 2026, Member States ('MS') discussed proposals by the Presidency on the additional activities that can be performed by regulated markets.

The proposed recital 29a has been complemented to clarify that the additional activities referred to in that recital extend to the operation of any other type of an exchange, authorised under national law, including but not limited to a commodities exchange.

Delegations are invited to examine the suggested amendments and provide their views.

A.2 Exchange of information between ESMA and National Authorities

The IE Presidency has revised drafting relating to the provision of information by national authorities to ESMA. Supervisory authorities are empowered to provide additional ("*other*") information to ESMA. ESMA's role as a supervisory authority and the role of national surveillance authorities have also been clarified.	
Relevant recitals	33, 40, 43
Relevant articles	2b(2), 2c(2), 2n(4), 2q(1), 2q(3), 2zb(3), 2zc(1)

During the last CWP, Member States endorsed the approach proposed by the Presidency regarding the exchange of information between ESMA and national authorities in the context of the authorisation of trading venues (or the extension or withdrawal of authorisations).

Some Member States commented that the submission of factual information by national authorities to ESMA should not result in an additional layer of assessment, as this would undermine ESMA's role as sole competent authority for the entities under ESMA supervision, create unnecessary complexity and potentially delay procedures.

The IE Presidency has revised the relevant wording to "*may provide ESMA with factual **and other***" (information). This facilitates NCAs in providing relevant information which has been obtained through their supervision of an entity, which means that NCAs are not solely restricted to the provision of factual information such as the conclusion of an enforcement action. Clarification has been added to

the relevant recitals that the provision of information by national authorities to ESMA "*should only inform ESMA's assessment and should not result in any duplicative assessment…*".

Where ESMA is the supervisor of PEMOs and/or significant trading venues, the national surveillance authority will retain certain responsibilities. Drafting has been added to recital 40 and to article 2n to clarify that NSAs can request information from ESMA that has access to in its capacity as competent authority and that may be relevant for the purposes national security and preparedness, such as cyber resilience reports.

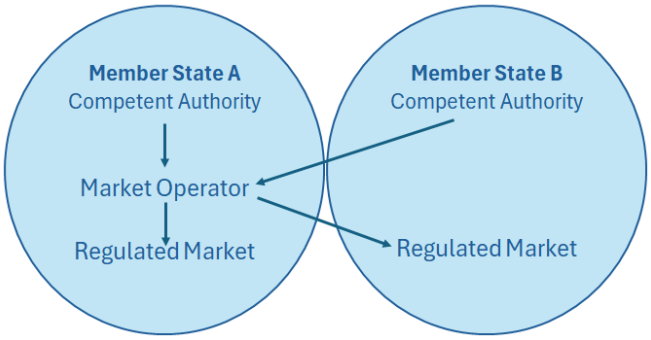
Delegations are invited to examine the suggested amendments and provide their views.

A.3 Operating a regulated market in another Member State

The IE Presidency has revised the approach to requirements for operating a regulated market in another Member State. It is proposed that a legal representative must be appointed in such cases, and that this legal representative be empowered to respond to supervisory requests.	
Relevant recitals	32
Relevant articles	2a(2)

During the last CWP, Member States discussed the approach to ensuring the effective supervision of regulated markets operated by a market operator established in a Member State other than the Member State where the regulated market is authorised and supervised – such a scenario is illustrated in the adjacent graphic[1].

MO is operating RM in another MS



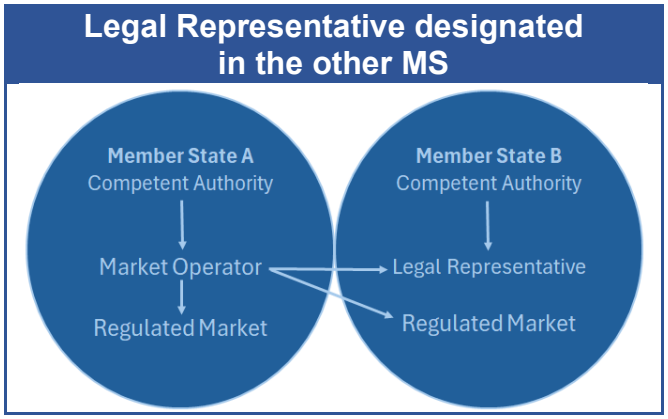
In order to ensure the effective supervision of a regulated market in such situations, and to ensure the effective receipt of and compliance by the market operator with

- decisions, including enforcement decisions and
- requests for information made by the NCA of the regulated market,

that market operator should be legally represented in the territory of the Member State in which the regulated market is authorised.

[1] This scenario is distinct from that of a PEMO which operates trading venues in multiple Member States under a PEMO license. PEMOs are supervised centrally by ESMA while this proposal relates to market operators who remain authorised and supervised at national level.

To address such concerns without creating a disproportionate burden on market operators, the IE Presidency proposes a requirement that where the market operator is a legal person established in a Member State other than that in which the regulated market it operates is authorised, a legal representative must be designated in that Member State. This new scenario is illustrated in the revised graphic below.



That legal representative should be expressly empowered to act on behalf of the market operator and mandated by the market operator to be addressed by the competent authority of the Member State in which the regulated market operates in relation to all matters necessary for the receipt of, compliance with and enforcement of decisions or requests for information issued pursuant to Regulation (EU) No 600/2014.

Delegations are invited to examine the suggested amendments and provide their views.

A.4 Self-regulatory arrangements

The IE Presidency has included a recital clarifying the ability of competent authorities to establish arrangements with self-regulatory bodies.	
Relevant recitals	29
Relevant articles	-

The IE Presidency has assessed comments from some MS on the need to provide clarifications as to ability of competent authorities to establish arrangements with self-regulatory bodies. This is intended to cater for existing market practices in certain jurisdictions.

The IE Presidency considers that Article 67 of Directive 2014/65/EU provides a robust framework for this type of arrangement, although it should be noted that the context of Article 67(2) relates to delegating tasks to other entities for the purposes of registering monitoring compliance of tied agents. The IE Presidency has proposed a revised recital which leverages some of the relevant language of Article 67(2).

Delegations are invited to examine the suggested amendments and provide their views.

B. EQUITY CONSOLIDATED TAPE

The IE Presidency has provided a compromise proposal regarding the expansion of the information contained on the equity consolidated tape. Depth of book information is reduced from five levels to two levels, while venue attribution is retained. A requirement for the consolidated tape operator to calculate a Volume Weighted Closing Price is modified and now only applies as a contingency when market outages occur.	
Relevant recitals	27, 28, 36
Relevant articles	2(1)(36b)

At the 7 May CWP, the CY Presidency provided a non-paper setting out a number of compromise options on potential changes to the equities consolidated tape. Member States expressed divergent views on making changes to the legislative regime regarding the equity consolidated tape. A number of MSs supported the Commission's proposed enhancements to the equity consolidated tape, and highlighted the importance of venue attribution in particular. Conversely, some MSs opposed any enhancements to the equities tape, noting that the existing iteration of the equities consolidated tape has not yet commenced operations and that any changes to the legislative regime for the equities consolidated tape should be informed by a formal review of the functioning of the regime, after a suitable time period has elapsed.

B.1 Revisions to the operation of the consolidated tape

The IE Presidency proposes some further changes with a view to achieving a compromise. In particular, the following modifications are proposed:

(i) The **depth of order book information** for equities / ETFs is reduced from five layers of best bids and offers to two layers.
(ii) **Venue attribution** for these two best price layers is included on the tape; thereby allowing users of the consolidated tape to identify the trading venues where those two best prices are offered.
(iii) A parallel feed of **quotes from Systematic Internalisers** (SIs) is included alongside the main equity consolidated tape to improve transparency of the activity of SIs. A proposal regarding deferral of the publication of the identity of SIs is further described at ***Section B.2 Post-trade transparency for SIs***.
(iv) The **calculation and the publication of the volume-weighted closing price** ('VWCP') is not performed by the consolidated tape on a daily basis, but only upon the occurrence of an outage that prevents the Most Relevant Market in Terms of Liquidity ('MRMTL')[2] from running the closing auction.

[2] Article 4 of CDR 2017/587 (RTS 1) sets out whether the MRMTL is the trading venue where

- an equity / equity-like instrument was initially admitted to trading; or
- another trading venue which has the highest turnover for that instrument.

This would ensure that market participants have a reliable alternative closing price to value their assets, where a closing auction is unavailable.

B.2 Post-trade transparency for SIs

The IE Presidency has previously proposed enhancing the post-trade transparency of trading conducted via Systematic Internalisers, when this involves small-sized retail orders. This requirement now includes some additional clarifications.	
Relevant recitals	36
Relevant articles	7(2)(a), 20(2)

At the CWP on 2 July, a majority of MSs supported requiring the publication of the identity of Systematic Internalisers in post-trade transparency reports for small-sized retail orders. However, some MSs underlined that real-time identification of SIs could expose these SIs to undue risks; including market, credit and liquidity risk.

In order to address these concerns, the IE Presidency proposes that the identity of the SI (i.e. the MIC) is disclosed only after an appropriate deferral period. The methodology for determining the length of that deferral period will be specified by ESMA in a Level 2 RTS.

B.3 Summary of requirements relating to the consolidated tape

To assist Member States in their consideration of these proposals, the IE Presidency summarises how the current pre- and post-trade transparency regimes interact with the consolidated tape, and reflects how the equity consolidated tape will function, if the Presidency proposals are adopted. It should be noted that the changes to the legislative regime will not take effect until the 5-year mandate of the current tape operator has elapsed.

Pre-trade data that will be disseminated by the equity consolidated tape	
Trading Venues	• The consolidated tape will display the two best bids and offers, together with the corresponding volumes, rather than the five price levels originally proposed by the Commission. • In line with the Commission's initial proposal, the consolidated tape will display the identity of the trading venues at which volumes are available at those prices (venue attribution).
Systematic Internalisers	• To ensure consistency with the approach taken for trading venues, the consolidated tape will also display the two best quotes published by different SIs. • For retail orders, the consolidated tape will also include where relevant (i.e. where offered by SIs) price improvements (as per requirement in Article 15(2) of MiFIR

	as amended by the Commission proposal). For other orders (i.e. institutional orders) the tape will only include initial quotes. • At present the MiFIR pre-trade transparency framework requires SIs to make quotes public. Hence all SI quotes are already subject to venue attribution. This logic will be reflected in the consolidated tape, whereby the tape will publish the two best SI quotes (the MIC of the SI is displayed, as is the case for trading venues). • SI pre-trade data will not be presented in a combined data stream alongside pre-trade data from trading venues. The consolidated tape will stream SI quotes in a separate[3], parallel feed.

Post-trade data that will be disseminated by the equity consolidated tape	
Trading Venues	• No changes are proposed to the operation of the consolidated tape vis-á-vis post-trade transparency data for trading conducted on trading venues.
Systematic Internalisers	• SIs will be required to publish the identity of the SI for small-sized transactions from retail clients. The consolidated tape will therefore also publish that SI's identity. • The requirement to publish the identity of the SI for small-size retail transactions will be subject to a post-trade transparency deferral.

Delegations are invited to examine the suggested amendments and provide their views.

C. MARKET STRUCTURE

C.1 Price formation on Frequent Batch Auctions

The IE Presidency has previously introduced a notification framework regarding the operation of Frequent Batch Auctions, to support ensuring that FBAs perform a price formation function. Clarification is now provided regarding which competent authorities should receive these notifications.	
Relevant recitals	36a
Relevant articles	2ha, 2u, 2zg

[3] Recital 36 of the Commission proposal explains that

> *"systematic internalisers should…transmit to the consolidated tape…the data that they publish …to allow the consolidated tape to disseminate, … , **separately**, the two best bid and offer quotes … published by systematic internalisers with the indication of the individual systematic internaliser where those are offered..."*

At the CWP on 2 July, MSs broadly supported the IE Presidency's proposal to establish a structured framework under which trading venues would notify ESMA of their frequent batch auction ('FBA') mechanisms and demonstrate that such FBA mechanisms provide a price-forming function.

While the majority welcomed a notification-based approach rather than a formal authorisation process, some Member States stressed the importance of ensuring that, where ESMA is not the competent authority of the trading venue where the FBA is used, National Competent Authorities should receive the same information about the intended operation of a FBA. To address this concern, the IE Presidency proposes to clarify in the relevant recital that trading venues are required to submit the same information about the FBA to both ESMA and their NCA when ESMA is not the competent authority.

Delegations are invited to examine the suggested amendments and provide their views.

D. AOB