



Council of the European Union
General Secretariat

Brussels, 25 June 2026

Interinstitutional files:

2025/0381 (COD)

2025/0382 (COD)

2025/0383 (COD)

WK 9299/2026 INIT

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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and Banking Union (MISP) Financial Services Attachés

Subject:	Market Integration and Supervision Package – Trading Aspects - Presidency Discussion Paper - Drafting Suggestions
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A. Trading Venues Authorisation and Operation

A.1 Deadlines applicable to the application process

During the last Council Working Party ('CWP') meeting on trading on 7 May 2026, Member States ('MS') discussed the timelines relating to the authorisation process for operators of trading venues. In particular, comments were raised that a single deadline for the entire authorisation assessment procedure may provide more flexibility to NCAs in ensuring an efficient authorisation process rather than a two-stage procedure involving a completeness check as well as the authorisation assessment process itself.

Comments were also raised by MS that procedures and timelines should be aligned for RMs, MTFs and OTFs.

Finally, some MS proposed that additional notifications should be required between ESMA and NCAs in relation to issuance(s), extension(s) and withdrawal(s) of authorisations.

In consideration of the above comments, the IE Presidency proposes a number of amendments:



- A requirement for ESMA / NCAs to provide information on completeness of applications, including any missing or inadequate information, as soon as possible to applicants in order to mitigate the risk of procedural delays.
- One single timeline for the assessment of applications, requiring ESMA / NCAs to provide a formal decision in respect of the application within seven months of receipt of the application.
- ESMA / NCAs retain the right throughout the assessment process to pose queries to applicants and/or to request additional information. ESMA / NCAs may be unable to progress their assessment of applications while waiting on such additional information to be submitted by applicant firms. To account for this, the IE Presidency proposes that the seven-month deadline may be paused for periods where ESMA / NCAs are waiting for such information (referred to as a “stop-the-clock” procedure). This puts the onus on applicant firms to provide robust information in a timely fashion.
- An alignment of timelines for the assessment of RMs / MTFs / OTFs insofar as is possible¹.
- The inclusion of additional notification requirements between ESMA and NCAs in relation to the issuance, extension and withdrawal of authorisations.

A.1 Questions to Member States

Drafting suggestions relevant to this section are included in the corresponding section A.1 of the Annex to this Paper, with the exception of the notification requirements, where wording is contained at Section B.1 of the Annex. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q1 Do Member States agree with the proposed timelines; as well as the inclusion of a “stop-the-clock” procedure?

Q2 Do Member States have any concerns regarding other aspects of the Presidency proposals relating to the authorisation assessment process?

A.2 Supervision of market operators operating a regulated market in another MS

The MISP proposal clarifies the right of market operators to operate regulated markets (or MTFs / OTFs) from a MS other than the one in which a venue is located and originally authorised. Some MS have, however, raised concerns about the potential scenario whereby a market operator does not operate any trading venue in the MS where the legal entity of the market operator is established, and, at the same time,

¹ The timeline for the assessment of MTFs / OTFs and non-venue related services for firms that are not part of a group supervised by ESMA, remains in MiFID II. Further consideration is needed on whether the timeline for the assessment of investment firm applications should also be revised in order to maintain alignment across all MiFID application types.



there is no effective oversight of the market operator directly in the Member State of its establishment. In the previous CWP, some MS argued that this could compromise effective oversight of a trading venue due to the lack of a direct supervisory connection to the MS of the market operator: in that case, the NCA of the trading venue would not be in a position to set up a supervisory relationship with the national authority of the MS where the venue operator is established as the latter would not have any supervisory competence over the venue operator.

To address these concerns, the IE Presidency proposes to introduce a requirement for new market operators that seek authorisation to operate a regulated market / trading venue, to be established either in the Member State where those operators intend to operate that regulated market / trading venue or in another Member State where those operators already operate a regulated market / trading venue that is authorised and is subject to supervision in that Member State. It is important to ensure that an operator of a regulated market / trading venue is located in a MS with an authorised and supervised regulated market / trading venue to allow the NCA of any other regulated market / trading venue operated by that entity (i.e. a regulated market / trading venue established in a MS other than the MS of the operator) to establish a supervisory relationship with the NCA in the MS of the establishment of the operator. This should be without prejudice to the ability of that operator to operate and seek authorisation for other regulated markets / trading venues in any other MSs without the need to establish a separate legal entity in those MS.

A.2 Questions to Member States

Drafting suggestions relevant to this section are included in the corresponding section A.2 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q3 Do Member States agree that a market operator seeking authorisation for a trading venue must be established either

- **in the Member State where the market operator intends to operate that trading venue, or**
- **in another Member State where the market operator already operates a trading venue that is authorised and is subject to supervision in that Member State?**

Q4 If yes, do Member States agree that, having established a legal entity with physical presence in the Member State where the regulated market / trading venue is initially authorised, that market operator may operate regulated markets / trading venues in other MS, without any physical or legal entity presence in that other MS?



A.3 Additional activities of regulated markets

MS have discussed potential clarifications to additional (or ‘ancillary’) activities market operators should be able to perform. While some MS advocated for greater flexibility to accommodate innovation in the business model of a market operator, others stressed the importance of a more precise framework to avoid legal uncertainty and to avoid conflicts of interest that may unduly prejudice the interests of the users of a regulated market.

The IE Presidency proposes a compromise solution to clarify that regulated markets may undertake additional activities on the condition that applicable sectoral legislation, such as national laws governing commodity exchanges or any EU sectoral legislation is complied with and that those additional activities do not adversely affect the operation of the regulated market (for example, because of conflict of interests).

A.3 Questions to Member States

Drafting suggestions relevant to this section are included in the corresponding section A.3 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q5 Do Member States agree that market operators may perform additional activities? If so, do Member States agree with the proposal as set out in section A.3 of the Annex to this paper?

A.4 Competent authority for DORA oversight

In previous CWPs, MS sought clarification regarding the identification of the competent authority responsible for supervising DORA-related requirements in cases where a trading venue is subject to direct supervision by ESMA. In response, the Commission emphasised that Article 46 (and in particular point (g) thereof) of DORA establishes that the allocation of supervisory responsibility aligns with the relevant sectoral legislation under which an entity is authorised. The cross-reference to Article 67 of MiFID II in Article 46(g) of DORA should be read in light of subsequent changes to MiFID II concerning the notion of ‘competent authority’ for trading venues.

Following the proposed changes to be introduced by the MISP, and the resulting transfer of trading-venue related provisions from MiFID II to MiFIR, the definition of a “competent authority” under MiFID II would no longer cover trading venues, and therefore the designation in accordance with Article 67 of MiFID II would no longer apply to trading venues. The cross-reference to Article 67 of MiFID II should therefore be understood as a reference to the new definition of a “competent authority” in Article 2(1)(18) of MiFIR. Given that MiFIR confers supervisory competences on ESMA for



significant trading venues and PEMOs, it follows that ESMA, in accordance with DORA, should also assume responsibility for overseeing DORA-related requirements for those venues.

To avoid any legal uncertainty, the IE Presidency proposes to clarify the above in a recital.

A.4 Questions to Member States

Drafting suggestions relevant to this section are included in the corresponding section A.4 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q6 Do Member States agree that the proposed recital provides sufficient clarity regarding the allocation of supervisory responsibilities for trading venues in respect of DORA?

A.5 Intra-group allocation of tasks or resources

During the CWP that took place on 7 May 2026, MS discussed the new regime proposed under Article 2f of the amended MiFIR for intra-group allocation of tasks or resources.

Most MS supported the proposal regarding intra-group arrangements. Several MS, however, insisted on the need for NCAs to continue to be informed of such intra-group arrangements. For this purpose, several MS supported the introduction of a notification, however some MS cautioned that such a notification requirement should not become a de facto authorisation procedure. One MS suggested that ex-ante notifications with extended deadlines would manifest as an implicit authorisation procedure that could be more burdensome than the procedures relating to traditional outsourcing, as regulated under the current framework.

In order to bridge positions of MS, the IE Presidency proposes to amend Article 2f to require entities that make use of intra-group allocation of tasks and resources to notify their competent authority *after* such reallocation has occurred. This is to reconcile the need for NCAs to keep record of all arrangements put in place by trading venues under their supervision, with the need to avoid lengthy and cumbersome procedures for entities. This amendment builds upon the suggestion for an amendment put forward in the Presidency note for the 7 May 2026 CWP. It is also proposed to clarify that the requirement to notify applies only to critical operations and functions, as is currently the case under DORA and MiFID II.

A.5 Questions to Member States



Drafting suggestions relevant to this section are included in the corresponding section A.5 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q7 Do Member States agree that the proposal balances the need for NCAs to have adequate information regarding intra-group allocation of tasks and resources with the need for firms to maintain competitiveness by leveraging intra-group efficiencies?

Q8 If yes, do Member States agree with the timeline and content of the proposed notifications?

B. Authorisation Procedures

B.1 NSA input re authorisation / withdrawal procedures re PEMOs and trading venues under ESMA supervision

In the Presidency note supporting the 8 May 2026 CWP, in response to comments from several MS on the need to seek further contributions from national authorities in the process of authorising PEMOs (and of extending PEMO authorisations), the Presidency suggested that NSAs should be notified of extensions to PEMO authorisations, and that these NSAs be allowed to provide factual information to inform ESMA's assessments and authorisation decisions, including information relating to previous applications or the fitness and probity of board members. Relevant national authorities should be able to share similar information in the context of the authorisation of trading venues under ESMA supervision.

B.1 Questions to Member States

Drafting suggestions relevant to this section are included in the corresponding section B.1 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q9 Do Member States agree with the proposal to facilitate the provision of information from NSAs / NCAs to ESMA?

C. Market Structure

The Presidency acknowledges that agreement has not yet been achieved on the consolidated tape. The eventual design of the consolidated tape, in addition to the elements relating to market structure presented below jointly aim at increasing



transparency, price formation and, more generally, integrating the trading landscape in the Union.

C.1 Level playing field concerns regarding the application of the tick size regime to Trading Venues and Systematic Internalisers

Trading venues under MiFID include regulated markets (operated by a market operator), Multi-lateral Trading Facilities and Organised Trading Facilities (MTFs and OTFs can be operated by both market operators and investment firms). A systematic internaliser is not a trading venue but offers an alternative forum for executing trades. Accordingly, the term trading venues includes RMs, MTFs and OTFs, while the more expansive term “execution venue” refers collectively to RMs, MTFs, OTFs or SIs.

A systematic internaliser is an investment firm² that executes client orders against its balance sheet using its own proprietary capital. SIs are required to be ‘on risk’ for such trades, and accordingly an SI is counterparty to the trades executed through the SI. This business model differs from that of trading venue operators who (save for certain limited exceptions) do not trade directly with the third parties who engage in multilateral trading activity through the platform operated by the trading venue operator. A trading venue operator is therefore not exposed to the financial risk (market, credit, liquidity) associated with trades executed through the trading venue, while a systematic internaliser is exposed to the financial risk of trades executed through the SI.

The concept of a level playing field across execution venues must be cognisant of the different business models underpinning the operation of trading venues and systematic internalisers and should not therefore unduly favour or hinder trading venues or SIs, for example by creating loopholes that unintentionally permit certain forms of trading on one type of trading platform whilst restricting other types of trading platform from that same activity without appropriate justification.

Regulation (EU) 2024/791 (the ‘MiFIR Review’) amended MiFIR to allow SIs to match client orders of any size at the mid-point price within the prevailing best bid-and-offer, even where that mid-point price does not correspond with the applicable tick size regime. Some MS contend that this amendment has unintentionally created an uneven competitive landscape between SIs and trading venues, as trading venues do not have the same ability to offer such half-tick execution prices, and that this divergence of treatment unjustifiably distorts the level playing field in favour of SIs. Furthermore, this change has introduced legal uncertainty, as evidenced by ESMA’s recent decision to repeal a Q&A that had previously prohibited off-tick mid-point execution in periodic auctions (including frequent batch auctions).

² Credit institutions can also operate as systematic internalisers.



To address these concerns - while preserving the integrity of the tick size regime as a tool for orderly trading – the IE Presidency proposes to clarify that, when deploying a periodic auction trading system, trading venues should apply the tick size regime only to order prices (but not to executed transaction prices), to facilitate the execution of orders off-tick within periodic auctions.

C.1 Questions to Member States

Drafting suggestions relevant to this section are included in the corresponding section C.1 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q10 Do Member States agree that the current tick size regime applies to orders (and quotes) and executed transactions?

Q11 Do Member States agree with the proposed clarification and refinement of the tick-size regime?

C.2 Price formation on Frequent Batch Auctions

Frequent Batch Auctions ('FBAs') are a relatively recent market innovation that is increasing in prominence, in particular since the implementation of changes to the pre- and post-trade transparency regime of MiFIR (and refinements thereto introduced by the MiFIR Review). FBAs are an alternative to traditional continuous auction trading systems, and entail the gathering of orders prior to the launch of short-duration auction phases; during which pre-trade transparency information is disseminated.

Recent data published by stakeholders and ESMA highlight an increase in market participants' use of FBAs. This development aligns with a broader industry trend - periodic auctions (including closing auctions and FBAs) are progressively capturing market share from continuous order book trading in the execution of equity transactions.

Given the design and operational features of FBAs as currently operated by trading venues across the EU, some MS have questioned whether FBA mechanisms effectively fulfil a price-forming function. To address these concerns, the IE Presidency proposes to introduce a structured framework, under which trading venues would be required to explain the price-forming nature of their FBAs.

Under this framework, any trading venue currently operating - or intending to operate - an FBA must submit a notification to ESMA, explaining why its FBA is price forming. Such an ex-ante notification will allow ESMA to consider the information received and, where appropriate, request adaptations from the trading venue operator to ensure the price-forming nature of the FBA. ESMA's central role in this assessment process is



critical to ensure a level playing field by applying uniform supervisory standards across all Member States.

To minimise the administrative burden on trading venues, the proposed mechanism adopts a notification-based approach rather than imposing a formal authorisation requirement. This design reduces compliance costs, while still enabling ESMA to scrutinise an FBA and, where necessary, require modifications.

In addition, ESMA would be tasked with developing draft regulatory technical standards to further clarify the process and the key parameters used to assess whether an FBA is sufficiently price-forming.

Finally, the ESMA assessment process would apply equally to all trading venues operating FBAs, regardless of whether they are already active in the market or planning to introduce such mechanisms.

C.2 Questions to Member States

Drafting suggestions relevant to this section are included in the corresponding section C.2 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q12 Do Member States agree with the proposed notification regime in respect of Frequent Batch Auctions?

Q13 Do Member States agree with a Level 2 mandate for ESMA to clarify the process and the key parameters used to assess whether an FBA is sufficiently price-forming?

C.3 Price improvement on retail orders executed on a Systematic Internaliser

Some MS proposed to strengthen price discovery for retail orders in shares subject to the share trading obligation ('the STO') by limiting SIs' ability to execute those orders to situations where execution by an SI brings tangible added value to retail investors. To achieve this objective, the IE Presidency proposes allowing SIs to execute a small-size retail order in shares subject to the STO only where the execution price is at least half a tick better than the European best bid and offer ('EBBO') for that share at the time of the reception of that order. The EBBO is derived from the trading information transmitted by the equity consolidated tape or, for shares not covered by the consolidated tape, by the Most Relevant Market in Terms of Liquidity ('MRMTL') for that share.

This rule complements the Commission's proposal to strengthen price formation for retail orders by requiring SIs, following the execution of a retail order that has been



price-improved, to immediately update their quoted price to reflect that price improvement.

Combined, these measures would strengthen the legislative framework for SI trading with retail clients, specifically by improving price discovery and quality of execution (as far as price is concerned) for retail orders.

C.3 Questions to Member States

Drafting suggestions relevant to this section are included in the corresponding section C.3 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q14 Do Member States agree with the proposal regarding price improvement on small size retail orders executed on a systematic internaliser?

C.4 Post-trade Transparency for retail orders executed on a Systematic Internaliser

Under the current MiFIR post-trade transparency regime, SIs are not required to be individually identified as the execution venue of a transaction. Commission Delegated Regulation (EU) 2017/587 ('RTS 1') - which governs pre- and post-trade transparency for equity instruments - mandates only the publication of a generic 'SINT' code to indicate that a transaction was executed via an SI, without specifying which particular SI executed the transaction. In contrast, transactions executed on a trading venue must include the venue's Market Identifier Code (MIC) in post-trade reports, ensuring full identification of that venue.

Some MS argued that post-trade transparency for SIs should be enhanced to improve market visibility. However, any such measures must balance this objective with the differences in business model between SIs and trading venues. Unlike trading venues, which function as multilateral platforms where multiple third-party buying and selling interests interact, SIs act as the direct counterparty to their clients, using their own capital to execute trades on a bilateral basis. Given this distinction, mandating the disclosure of an SI's identity in post-trade reports could inadvertently expose the SI to undue financial risks. To address this concern, while still promoting transparency, the IE Presidency proposes that post-trade reports should include the identity of the SI only in cases where an equity SI executes a small-size retail order. This targeted approach ensures greater transparency for retail transactions without imposing disproportionate risks on SIs.

C.4 Questions to Member States



Drafting suggestions relevant to this section are included in the corresponding section C.4 of the Annex to this paper. Member States are invited to provide input on this topic, specifically in relation to the following discussion questions:

Q15 Do Member States agree with the proposal to increase post-trade transparency for retail orders executed on an SI?

D. AOB

D.1 Any Other Business



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A. Trading Venues Authorisation and Operation

A.1 Deadlines applicable to the application process

Commission proposal	Proposed changes
Article 2b (for regulated markets) [...] 2. The competent authority shall assess whether the application for authorisation is complete within 20 working days of receipt of the application. Where the application is not complete, the competent authority shall inform in writing the applicant of the additional information to be provided and set a deadline by which the market operator is to provide additional information. After assessing the application as complete, the competent authority shall notify the market operator accordingly. 3. The competent authority shall, within six months of receipt of a complete application, assess the compliance with this Chapter of the market operator and of the systems of the regulated market that the market operator intends to operate. It shall adopt a reasoned	Article 2b (for regulated markets) [...] 2. The competent authority shall, <u>assess whether the application for authorisation is complete within 20 working days of receipt of the application.</u> <u>Where the application is not complete, the competent authority shall inform in writing the applicant of the additional information to be provided and set a deadline by which the market operator is to provide additional information.</u> <u>After assessing the application as complete, the competent authority shall notify the market operator accordingly.</u> <u>3. The competent authority shall, within six months of receipt of a complete application, assess the compliance with this Chapter of the</u>



decision granting or refusing authorisation and shall notify the applicant market operator accordingly within five working days of adoption. It shall also notify the national surveillance authority.

~~market operator and of the systems of the regulated market that the market operator intends to operate. It shall adopt a reasoned decision granting or refusing authorisation and shall notify the applicant market operator accordingly within five working days of adoption. It shall also notify the national surveillance authority. seven months of receipt of the application, adopt a reasoned decision granting or refusing authorisation and notify the applicant market operator and the national surveillance authority within 5 days of that decision. Where the application is not complete, the competent authority shall inform the applicant as soon as possible of the additional information to be provided, in writing, and shall specify the additional information needed. For the period between the date of request for additional information by the competent authority and the receipt of such additional information from the applicant, the assessment period of seven months shall be interrupted. The competent authority may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.~~

Article 2q(1)

1. Where ESMA is the competent authority pursuant to Article 38fa for an investment firm or a market operator operating a significant trading venue, and where an applicant investment firm belongs to the same group as that investment firm or that market operator

Article 2q(1)

1. Where ESMA is the competent authority pursuant to Article 38fa for an investment firm or a market operator operating a significant trading venue, and where an applicant investment firm belongs to the same group as that investment firm or that market operator



operating a significant trading venue, ESMA shall be empowered to authorise that applicant investment firm where it intends to exclusively perform the operation of an MTF or an OTF, or both. [...]	operating a significant trading venue, ESMA shall be empowered to authorise that applicant investment firm where it intends to exclusively perform the operation of an MTF or an OTF, or both. <u>ESMA shall, within seven months of receipt of the application, adopt a reasoned decision granting or refusing authorisation and notify the applicant investment firm and the national surveillance authority within 5 days of that decision. Where the application is not complete, ESMA shall inform the applicant as soon as possible of the additional information to be provided.</u>
Article 2q(3) 3. ESMA may withdraw the authorisation issued to an investment firm in accordance with paragraph 1 where the conditions for withdrawal set out in Article 8 of Directive 2014/65/EU are met.	Article 2q(3) 3. ESMA may withdraw the authorisation issued to an investment firm in accordance with paragraph 1 where the conditions for withdrawal set out in Article 8 of Directive 2014/65/EU are met. <u>Where ESMA withdraws the authorisation, it shall notify the national surveillance authority within 5 days of that decision.</u>
Article 2q(5) [...] 5. [...] ESMA shall assess whether the application for authorisation to operate an MTF or OTF is complete within 10 working days of receipt of the application. Where the application is not complete, ESMA shall set a deadline by which the investment firm is to provide additional information. After assessing the application as complete, ESMA shall notify the investment firm accordingly.	Article 2q(5) [...] 5. [...] <u>ESMA shall assess whether the application for authorisation to operate an MTF or OTF is complete within 10 working days of receipt of the application.</u> <u>Where the application is not complete, ESMA shall set a deadline by which the investment firm is to provide additional information.</u> <u>After assessing the application as complete, ESMA shall notify the investment firm accordingly.</u>



ESMA shall, within 60 working days of receipt of the complete application, issue an opinion on the authorisation to operate an MTF or OTF and transmit that opinion without undue delay to the competent authority of the home Member State.

[...]

ESMA shall, within ~~60 working days~~ six months of receipt of the ~~complete~~ application, issue an opinion on the authorisation to operate an MTF or OTF and transmit that opinion without undue delay to the competent authority of the home Member State. The competent authority of the home Member State shall within seven months of receipt of the application, adopt a reasoned decision granting or refusing authorisation and notify the applicant investment firm and ESMA within five days of that decision.

Where the application is not complete with respect to the applicant's request to operate an MTF or OTF, ESMA shall inform the applicant, in writing, as soon as possible of and shall specify the additional information to be provided. Where the application is not complete with respect to the applicant's request to provide other investment services or activities, the competent authority of the home Member State shall inform the applicant, in writing, and shall specify the additional information needed.

For the period between the date of request for additional information by ESMA or the competent authority of the home MS and the receipt of such additional information from the applicant, the assessment period of seven months shall be interrupted. ESMA or the competent authority of the home MS may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is



	<u>essential for the continuance of the assessment of the application.</u> [...]
Article 2q(6) 6. The competent authority of the home Member State may withdraw the authorisation referred to in the previous paragraph, where ESMA notifies it that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the operation of an MTF or an OTF. Where the competent authority withdraws the authorisation, it shall inform the investment firm accordingly.	Article 2q(6) 6. The competent authority of the home Member State may withdraw the authorisation referred to in the previous paragraph, where ESMA notifies it that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the operation of an MTF or an OTF. Where the competent authority of the home Member State withdraws the authorisation, it shall inform the investment firm <u>and ESMA accordingly within five days of that decision.</u>
Article 2r(2) [...] The competent authority referred to in subparagraph 1 shall assess whether the application for authorisation is complete within 10 working days of receipt of the application. Where the application is not complete, the competent authority shall set a deadline by which the investment firm is to provide additional information. After assessing the application as complete, the competent authority shall notify the investment firm accordingly. The competent authority shall, within 60 working days of receipt of the complete application, issue an opinion on the extension of the authorisation and transmit that opinion without undue delay to ESMA.	Article 2r(2) [...] The competent authority referred to in subparagraph 1 shall <u>assess whether the application for authorisation is complete within 10 working days of receipt of the application.</u> <u>Where the application is not complete, the competent authority shall set a deadline by which the investment firm is to provide additional information.</u> <u>After assessing the application as complete, the competent authority shall notify the investment firm accordingly.</u> <u>The competent authority shall,</u> within <u>60 70</u> working days of receipt of the <u>complete</u> application, issue an opinion on the extension of the authorisation and transmit that opinion without undue delay to ESMA. <u>Where the application is not complete, it shall inform the applicant as soon as possible, in writing, of the additional information to be provided.</u> <u>For the period between the date of request for additional information by the competent authority and the receipt of such additional information</u>



ESMA shall adopt a reasoned decision granting or refusing the authorisation on the basis of the opinion transmitted by the competent authority and shall notify the investment firm accordingly within five working days of adoption. ESMA shall refuse the extension of the authorisation where the competent authority gives a negative opinion.	<u>from the applicant, the assessment period of 70 working days shall be interrupted. The competent authority may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.</u> ESMA shall adopt a reasoned decision granting or refusing the authorisation on the basis of the opinion transmitted by the competent authority <u>referred to in subparagraph 1</u> and shall notify the investment firm <u>and that competent authority accordingly</u> within five working days of <u>that decision adoption</u>. ESMA shall refuse the extension of the authorisation where the competent authority gives a negative opinion.
Article 2r(3) 3. Without prejudice to Article 2q(3), ESMA shall withdraw the authorisation referred to in Article 2q in relation to services or activities referred to in paragraph 1, where the competent authority of the home Member State of the investment firm provides a reasoned opinion concluding that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the investment services or activities referred to in paragraph 1. Where ESMA withdraws the authorisation, it shall inform the investment firm accordingly.	Article 2r(3) 3. Without prejudice to Article 2q(3), ESMA shall withdraw the authorisation referred to in Article 2q in relation to services or activities referred to in paragraph 1, where the competent authority of the home Member State of the investment firm provides a reasoned opinion concluding that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the investment services or activities referred to in paragraph 1. Where ESMA withdraws the authorisation, it shall inform the investment firm <u>and the competent authority of the home Member State accordingly within five days of that decision</u>.
Article 2s(1) [...]	Article 2s(1) [...]



ESMA shall assess whether the application for authorisation is complete within 10 working days of receipt of the application.

Where the application is not complete, ESMA shall set a deadline by which the investment firm is to provide additional information.

After assessing the application as complete, ESMA shall notify the investment firm accordingly.

ESMA shall, within 60 working days of receipt of the complete application, issue an opinion on the extension of the authorisation and transmit that opinion without undue delay to the competent authority of the home Member State.

The competent authority of the home Member State shall adopt a reasoned decision granting or refusing the authorisation on the basis of the opinion transmitted by ESMA and shall notify the investment firm accordingly within five working days of adoption. The competent authority shall refuse the extension of the authorisation where ESMA gives a negative opinion.

~~ESMA shall assess whether the application for authorisation is complete within 10 working days of receipt of the application.~~

~~Where the application is not complete, ESMA shall set a deadline by which the investment firm is to provide additional information.~~

~~After assessing the application as complete, ESMA shall notify the investment firm accordingly.~~

ESMA shall, within ~~60~~ **70** working days of receipt of the ~~complete~~ application, issue an opinion on the extension of the authorisation and transmit that opinion without undue delay to the competent authority of the home Member State.

Where the application is not complete, ESMA shall inform the applicant, in writing, as soon as possible of the additional information to be provided.

For the period between the date of request for additional information by ESMA and the receipt of such additional information from the applicant, the assessment period of 70 working days shall be interrupted. ESMA may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.

The competent authority of the home Member State shall adopt a reasoned decision granting or refusing the authorisation on the basis of the opinion transmitted by ESMA and shall notify the investment firm **and ESMA accordingly** within five working days of **that decision**



	<u>adoption</u> . The competent authority shall refuse the extension of the authorisation where ESMA gives a negative opinion.
Article 2s(2) 2. Without prejudice to Article 8 of Directive 2014/65/EU, the competent authority of the home Member State shall withdraw the authorisation in relation to the operation of an MTF or an OTF, where ESMA provides a reasoned opinion concluding that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the operation of an MTF or an OTF. Where the competent authority withdraws the authorisation, it shall inform the investment firm accordingly.	Article 2s(2) 2. Without prejudice to Article 8 of Directive 2014/65/EU, the competent authority of the home Member State shall withdraw the authorisation in relation to the operation of an MTF or an OTF, where ESMA provides a reasoned opinion concluding that any of the conditions set out in Article 8 of Directive 2014/65/EU is met in relation to the operation of an MTF or an OTF. Where the competent authority withdraws the authorisation, it shall inform the investment firm <u>and ESMA accordingly within five days of that decision.</u>
Article 2zb [...] 2. ESMA shall assess whether the application for authorisation is complete within 20 working days of receipt of the application. 3. Where the application is not complete, ESMA shall set a deadline by which the applicant PEMO is to provide additional information. After assessing the application as complete, ESMA shall notify the PEMO accordingly. It shall also notify the relevant national surveillance authorities. 4. ESMA shall, within six months of receipt of a complete application, assess the compliance of the PEMO and of the trading venues that the PEMO intends to operate with this Title. It shall adopt a reasoned decision granting or refusing authorisation and shall notify the applicant PEMO accordingly within five working days of adoption. It shall also	Article 2zb [...] ~~2. ESMA shall assess whether the application for authorisation is complete within 20 working days of receipt of the application.~~ ~~3. Where the application is not complete, ESMA shall set a deadline by which the applicant PEMO is to provide additional information.~~ ~~After assessing the application as complete, ESMA shall notify the PEMO accordingly. It shall also notify the relevant national surveillance authorities.~~ 4. ESMA shall, within <u>six seven</u> months of receipt of ~~a complete~~ <u>the</u> application, ~~assess the compliance of the PEMO and of the trading venues that the PEMO intends to operate with this Title.~~ <u>It shall</u> adopt a reasoned decision granting or refusing authorisation and <u>shall</u> notify the applicant PEMO <u>accordingly within five working days</u>



notify the relevant national surveillance authorities. [...]	~~of adoption. It shall also notify and~~ the relevant national surveillance authorities <u>within five days of that decision. Where the application is not complete, ESMA shall inform the applicant as soon as possible, in writing, of the additional information to be provided.</u> <u>For the period between the date of request for additional information by ESMA and the receipt of such additional information from the applicant, the assessment period of seven months shall be interrupted. ESMA may request further additional information or clarifications throughout the assessment process. These additional requests shall only result in an interruption of the assessment period where such additional information or clarification is essential for the continuance of the assessment of the application.</u> [...]
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A.2 Supervision of market operators operating a regulated market in another MS

Commission proposal	Proposed changes
Recital (32) Directive 2014/65/EU currently requires that each regulated market in the Union is subject to an individual authorisation. It follows that market operators that intend to operate regulated markets in different Member States can only do so by seeking authorisation, for each individual regulated market that they intend to operate, from the competent authority of the home Member State, which is also responsible for the ongoing supervision of that market. That led to the situation where several Member States had introduced national laws to	Recital (32) Directive 2014/65/EU currently requires that each regulated market in the Union is subject to an individual authorisation. It follows that market operators that intend to operate regulated markets in different Member States can only do so by seeking authorisation, for each individual regulated market that they intend to operate, from the competent authority of the home Member State, which is also responsible for the ongoing supervision of that market. ~~That~~ This has led to the situation where several Member States ~~had~~ have introduced



require, as a condition for the authorisation of a regulated market, that the market operator is a legal entity established in the Member State where a regulated market seeks authorisation. Due to that, groups operating regulated markets in several Member States cannot streamline their organisational structure and supervisory relationships, as they are obliged to maintain several supervised entities in different Member States. That significantly increases the costs and complexity of operating regulated markets across different Member States. To remove barriers and reduce operational costs for cross-border groups, it is necessary to remove the possibility for Member States to require the set-up of a separate legal entity in their territories as a condition for the authorisation of a regulated market. In addition, to further facilitate the cross-border operation of regulated markets, a new framework is introduced to allow legal persons that wish to operate more than one trading venue in more than one Member State to do so based on a single authorisation as a pan-European market operator ('PEMO') granted by ESMA. That new framework should not replace the existing authorisation and operation regime for regulated markets. Instead, it should apply on a voluntary basis to those entities that wish to operate under a single authorisation.	national laws to require, as a condition for the authorisation of a regulated market, that the market operator is a legal entity established in the Member State where a regulated market seeks authorisation. Due to ~~that~~ <u>this</u>, groups operating regulated markets in several Member States cannot streamline their organisational structure and supervisory relationships, as they are obliged to maintain several supervised entities in different Member States. ~~That~~ <u>This</u> significantly increases the costs and complexity of operating regulated markets across different Member States. To remove barriers and reduce operational costs for cross-border groups, <u>while ensuring effective supervision</u>, it is necessary to remove the possibility for Member States to require the set-up of a separate legal entity in their territories as a condition for the authorisation of a regulated market <u>with respect to market operators that are established in another Member State where they are already authorised to operate a trading venue and subject to supervision</u>. In addition, to further facilitate the cross-border operation of regulated markets, a new framework is introduced to allow legal persons that wish to operate more than one trading venue in more than one Member State to do so based on a single authorisation as a pan-European market operator ('PEMO') granted by ESMA. <u>That This</u> new framework should not replace the existing authorisation and operation regime for regulated markets. Instead, it should apply on a voluntary basis to those entities that wish to operate under a single authorisation.
Article 2a(2) 2. A regulated market shall be authorised by the competent authority where:	Article 2a(2) 2. A regulated market shall be authorised by the competent authority where:



(a) both the market operator and the regulated market that the market operator intends to operate comply with the requirements laid down in this Chapter; (b) the market operator is a legal person established in the Union.	(a) both the market operator and the regulated market that the market operator intends to operate comply with the requirements laid down in this Chapter; (b) the market operator is a legal person established <u><i>in the Union, in the Member State where it intends to operate that regulated market, or in a Member State where it already operates a trading venue and is subject to supervision.</i></u>
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A.3 Additional activities of regulated markets

Commission proposal	Proposed changes
	<u><i>Recital 29(a)</i></u> <u><i>Market operators may wish to expand their activities beyond the operation of a regulated market, including by performing other regulated activities. The performance of additional activities should be permitted, provided that the relevant sectoral legislation is complied with and that it does not adversely affect the operation of the regulated market. This may be the case, in particular, where the performance of such activities gives rise to conflicts of interest that cannot be properly managed. Additional activities of market operators include the development and commercialisation of software, hardware and network solutions for the transmission of orders or other trading data, activities related to the promotion of the regulated market, the management and maintenance of informational flows related to the placement and visualisation of orders, and, in compliance with applicable sectoral legislation, the operation of a commodities exchange.</i></u>



Article 2a(3) The market operator shall perform tasks relating to the organisation and operation of the regulated market under the supervision of the competent authority of the Member State where the regulated market is situated or operated, or ESMA in the cases referred to in Article 38fa, and, where expressly provided for by this Regulation, of the national surveillance authority. The market operator may perform ancillary activities that are linked to the operation of a regulated market.	Article 2a(3) The market operator shall perform tasks relating to the organisation and operation of the regulated market under the supervision of the competent authority of the Member State where the regulated market is situated or operated, or ESMA in the cases referred to in Article 38fa, and, where expressly provided for by this Regulation, of the national surveillance authority. The market operator may perform ~~ancillary~~ additional activities ~~that are linked to the operation of a regulated market.~~ <u>in compliance with applicable sectoral legislation, provided that performance of those activities does not create conflicts of interest that adversely affect the operation of the regulated market and the ability of the market operator to comply with the provisions set out in this Regulation.</u>

Commission proposal	Proposed changes
Article 2zg 1.ESMA shall develop draft regulatory technical standards to: (a)further specify the ancillary activities referred to in Article 2a(3); [...]	Article 2zg 1.ESMA shall develop draft regulatory technical standards to: ~~(a) further specify the ancillary activities referred to in Article 2a(3);~~ [...]

A.4 Competent authority for DORA oversight

Commission proposal	Proposed changes
Recital (42) Considering the geographical proximity of national supervisors with the local	Recital (42) Considering the geographical proximity of national supervisors with the local



ecosystems, it is necessary, for significant trading venues and PEMOs, that the responsibility for the surveillance of markets and oversight of issuers, remains with authorities that are competent at national level. Therefore, while ESMA should be in charge of enforcing the rules laid down in Regulation (EU) No 600/2014 vis-à-vis significant trading venues and PEMOs and, where relevant, the rules laid down in Directive 2014/65/EU, including with respect to the assessment of effective systems and controls aiming to prevent and detect market abuse or the assessment of parameters for halting trading, national surveillance authorities should retain some powers to enable those authorities to perform market surveillance tasks or carry out duties necessary for the preservation of market integrity. Those powers should include the receipt of transaction data, the possibility to request order book data, or the adoption of urgent measures to impose temporary trading halts in emergency situations or suspend financial instruments from trading. When exercising their powers, national surveillance authorities should cooperate closely with ESMA.

ecosystems, it is necessary, for significant trading venues and PEMOs, that the responsibility for the surveillance of markets and oversight of issuers, remains with authorities that are competent at national level. Therefore, while ESMA should be in charge of enforcing the rules laid down in Regulation (EU) No 600/2014 vis-à-vis significant trading venues and PEMOs and, where relevant, the rules laid down in Directive 2014/65/EU, including with respect to the assessment of effective systems and controls aiming to prevent and detect market abuse or the assessment of parameters for halting trading, national surveillance authorities should retain some powers to enable those authorities to perform market surveillance tasks or carry out duties necessary for the preservation of market integrity. Those powers should include the receipt of transaction data, the possibility to request order book data, or the adoption of urgent measures to impose temporary trading halts in emergency situations or suspend financial instruments from trading. When exercising their powers, national surveillance authorities should cooperate closely with ESMA. **Article 46, point (g), of Regulation (EU) 2022/2554 specifies that the allocation of supervisory competences under that Regulation should be done in accordance with the respective sectoral acts. For trading venues, this Regulation adapts the definition of competent authorities in Article 2(1), point (18), of Regulation (EU) No 600/2014. It follows that, where Regulation (EU) No 600/2014 confers supervisory competences upon ESMA and designates it as the competent authority for a trading venue, ESMA should be deemed the competent authority for ensuring**



	<u>compliance with the requirements set out in Regulation (EU) 2022/2554.</u>
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A.5 Intra-group allocation of tasks or resources

Commission proposal	Proposed changes
Article 2f	Article 2f
Organisational requirements	Organisational requirements
[...]	[...]
New paragraph	<u>1b. Where a market operator relies on another entity in accordance with the conditions set out in paragraph 1a, and in relation to critical operational functions, that market operator shall notify the competent authority of the regulated market in respect of which the entity performs tasks or dedicates resources no later than 30 days after those arrangements take effect.</u>

B. Authorisation Procedures

B.1 NSA input re authorisation / withdrawal procedures re PEMOs and trading venues under ESMA supervision

Commission proposal	Proposed changes
Recital (33)	Recital (33)
The authorisation of a PEMO should list all the trading venues that the PEMO is authorised to operate. A PEMO that intends to operate additional trading venues should seek an extension of its original authorisation. To ensure that the supervisory arrangements of a PEMO are effectively simplified, the PEMO should not be required to seek individual authorisation for the trading venues that it operates in the Member States where those trading venues are situated or	The authorisation of a PEMO should list all the trading venues that the PEMO is authorised to operate. A PEMO that intends to operate additional trading venues should seek an extension of its original authorisation. To ensure that the supervisory arrangements of a PEMO are effectively simplified, the PEMO should not be required to seek individual authorisation for the trading venues that it operates in the Member States where those trading venues are situated or



operated. Similarly, when a PEMO becomes the operator of an existing trading venue, the authorisation granted to that specific regulated market, or, in the case of MTFs or OTFs, to the market operator or investment firm for the purpose of operating that trading venue, should be deemed revoked upon the entry into effect of the authorisation to the PEMO or of the extended authorisation containing the amended list of the trading venues that that PEMO operates.

operated. Similarly, when a PEMO becomes the operator of an existing trading venue, the authorisation granted to that specific regulated market, or, in the case of MTFs or OTFs, to the market operator or investment firm for the purpose of operating that trading venue, should be deemed revoked upon the entry into effect of the authorisation to the PEMO or of the extended authorisation containing the amended list of the trading venues that that PEMO operates. To enable national surveillance authorities to perform effectively perform their tasks under Regulation (EU) 600/2014, it is appropriate to require ESMA to notify relevant national surveillance authorities of any new PEMO authorisation requests, as well as of any requests to extend such authorisations. To that end, ESMA should make available to the relevant national surveillance authorities, the supporting documents provided by applicants as part of PEMO authorisation or extension requests. Relevant national surveillance authorities may provide ESMA with factual observations which could inform ESMA's assessment as regards the applicant's ability to comply with requirements under Title Ia of Regulation (EU) No 600/2014. In particular, national surveillance authorities should be able to share any information that is deemed relevant to inform ESMA's assessment, including information relating to previous authorisation applications or the fitness and probity of board members. Where ESMA intends to withdraw a PEMO's licence, or to remove one or more trading venues from the list of trading venues that a PEMO is authorised to operate, the relevant national surveillance



	<u>authorities may provide ESMA with factual observations to inform ESMA's final withdrawal decision. For the same reasons, the relevant national surveillance authority should be able to share any information that is deemed relevant to inform ESMA's authorisation or withdrawal decisions concerning a trading venue for which ESMA is the competent authority.</u>
Article 2b [...] 3. The competent authority shall, within six months of receipt of a complete application, assess the compliance with this Chapter of the market operator and of the systems of the regulated market that the market operator intends to operate. It shall adopt a reasoned decision granting or refusing authorisation and shall notify the applicant market operator accordingly within five working days of adoption. It shall also notify the national surveillance authority. [...]	Article 2b [...] 3. The competent authority shall, within six months of receipt of a complete application, assess the compliance with this Chapter of the market operator and of the systems of the regulated market that the market operator intends to operate. The competent authority shall adopt a reasoned decision granting or refusing authorisation and shall notify the applicant market operator accordingly within five working days of adoption. <u>Where ESMA is the competent authority, it shall also notify the national surveillance authority.</u> <u>Where ESMA is the competent authority, ESMA shall, without undue delay following the receipt of a complete application, notify the relevant national surveillance authority, and make available to that authority, all supporting documents submitted by the applicant. The relevant national surveillance authority may, within three months following the notification, provide ESMA with factual observations that may inform ESMA in its assessment.</u> [...]



Article 2c 1. The competent authority may withdraw the authorisation issued to a regulated market, where it: (a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has not operated for the preceding six months; (a) has obtained the authorisation by making false statements or by any other irregular means; (b) no longer meets the conditions under which authorisation was granted; (c) has seriously and systematically infringed this Regulation. [...]	Article 2c 1. The competent authority may withdraw the authorisation issued to a regulated market, where it: (a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has not operated for the preceding six months; (a) has obtained the authorisation by making false statements or by any other irregular means; (b) no longer meets the conditions under which authorisation was granted; (c) has seriously and systematically infringed this Regulation. <u>Where ESMA is the competent authority and intends to withdraw the authorisation of a regulated market, ESMA shall, without undue delay, notify the relevant national surveillance authority of such intention. The relevant national surveillance authority may, within one month following the notification, provide ESMA with factual observations that could inform ESMA's final decision.</u> [...]
Article 2q(1) 1. Where ESMA is the competent authority pursuant to Article 38fa for an investment firm or a market operator operating a significant trading venue, and where an applicant investment firm belongs to the same group as that investment firm or that market operator operating a significant trading venue, ESMA shall be empowered to authorise that applicant investment firm where it intends to exclusively perform the operation of an MTF or an OTF, or both.	Article 2q(1) 1. Where ESMA is the competent authority pursuant to Article 38fa for an investment firm or a market operator operating a significant trading venue, and where an applicant investment firm belongs to the same group as that investment firm or that market operator operating a significant trading venue, ESMA shall be empowered to authorise that applicant investment firm where it intends to exclusively perform the operation of an MTF or an OTF, or both.



	<u>ESMA shall, within seven months of receipt of the application, adopt a reasoned decision granting or refusing authorisation and notify the applicant investment firm and the national surveillance authority within 5 days of that decision. Where the application is not complete, ESMA shall inform the applicant as soon as possible of the additional information to be provided.</u> <u>ESMA shall, without undue delay following the receipt of an application notify the relevant national surveillance authority, and make available to that authority all supporting documents submitted by the applicant. The relevant national surveillance authority may, within three months following the notification, provide ESMA with factual observations that may inform ESMA in its assessment.</u>
Article 2q(3) 3. ESMA may withdraw the authorisation issued to an investment firm in accordance with paragraph 1 where the conditions for withdrawal set out in Article 8 of Directive 2014/65/EU are met.	Article 2q(3) 3. ESMA may withdraw the authorisation issued to an investment firm in accordance with paragraph 1 where the conditions for withdrawal set out in Article 8 of Directive 2014/65/EU are met. <u>Where ESMA intends to withdraw the authorisation pursuant to subparagraph 1, it shall, without undue delay, notify the relevant national surveillance authority of such intention. The relevant national surveillance authority may, within one month following the notification, provide ESMA with factual observations that could inform ESMA's final decision.</u>



	<u>Where ESMA withdraws the authorisation, it shall notify the national surveillance authority within 5 days of that decision.</u>
Article 2za [...] 3. The authorisation referred to in paragraph 2 shall specify the trading venues which the PEMO is authorised to operate and the Member States where those are situated or operated. Where an authorised PEMO seeks to extend its business to operate additional trading venues, it shall submit a request to ESMA for extension of that authorization. [...]	Article 2za [...] 3. The authorisation referred to in paragraph 2 shall specify the trading venues which the PEMO is authorised to operate and the Member States where those are situated or operated. Where an authorised PEMO seeks to extend its business to operate additional trading venues, it shall submit a request to ESMA for extension of that authorization. <u>Where ESMA receives such a request, it shall also notify all relevant national surveillance authorities within five days of that decision the receipt of that request.</u> [...]
Article 2zb New para	Article 2zb [...] <u>4a. Following the notification referred to in [CITATION TO BE UPDATED PENDING INCLUSION OF THE NOTIFICATION REQUIREMENT], or following the notification referred to in Article 2za(3), ESMA shall, without undue delay, make available to the relevant national surveillance authorities, all supporting documents submitted by the applicant PEMO, or by the PEMO requesting an extension of its authorisation. The relevant national surveillance authorities may, within three months following the notification, provide ESMA with factual observations regarding the request.</u>



Article 2zc(1) 1. ESMA may withdraw the authorisation of a PEMO in the cases referred to in Article 2c(1). [...]	Article 2zc(1) 1. ESMA may withdraw the authorisation of a PEMO in the cases referred to in Article 2c(1). <u><i>Where ESMA intends to withdraw the authorisation of a PEMO or to remove one or more trading venues from the list of trading venues that a PEMO is authorised to operate, ESMA shall, without undue delay, notify the relevant national surveillance authorities of such intention. Those national surveillance authorities may, within one month following the notification, provide ESMA with factual observations that could inform ESMA's final decision.</i></u> [...]
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C. Market Structure

C.1 Level playing field concerns regarding the application of the tick size regime to Trading Venues and Systematic Internalisers

Commission proposal	Proposed changes
	<u><i>Recital (36b)</i></u> <u><i>To ensure a level playing field between systematic internalisers and trading venues and enhance execution opportunities for market participants, while safeguarding the orderly functioning of Union markets, when applying a periodic auction trading system, trading venues should apply the tick size regime only to orders.</i></u>
Article 2h(1) Tick sizes	Article 2h(1) Tick sizes



1. The market operator of a regulated market shall ensure that the regulated market adopts tick-size regimes in shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and in any other financial instrument for which regulatory technical standards are developed in accordance with Article 2zg(3), point (k). The application of tick sizes shall not prevent regulated markets from matching orders large in scale at mid-point within the current bid and offer prices.	1. The market operator of a regulated market shall ensure that the regulated market adopts tick size regimes in shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and in any other financial instrument for which regulatory technical standards are developed in accordance with Article 2zg(3), point (k). <u>The tick size regime shall apply to orders, quotes and executed transaction prices.</u> The application of tick sizes shall not prevent regulated markets from matching large-in-scale orders at mid-point within the current bid and offer prices. <u>By way of derogation from subparagraph 1, when applying a periodic auction trading system, the market operator of a regulated market shall apply the tick size regime only to orders.</u>
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C.2 Price formation on Frequent Batch Auctions

Commission proposal	Proposed changes
N/A	<u>Recital (36c)</u> <u>The use of frequent batch auction trading systems in Union equity markets has increased in recent years, with growing volumes of transactions executed through such mechanisms. While those systems may provide benefits to market participants, including by improving execution certainty and reducing price slippage risks for large orders, their design and operation should not undermine the price-forming nature of the auction nor facilitate the circumvention of the single volume cap mechanism. To ensure a level playing field and promote consistent supervisory outcomes</u>



	<u>across the Union, ESMA should be entrusted with the assessment of the parameters of frequent batch auction trading systems to ensure sufficient price formation. To allow ESMA to carry out its assessment in a timely and effective manner, while minimising the administrative burden, trading venues should notify ESMA in advance of the operation of a frequent batch auction trading system or, where trading venues already operate a frequent batch auction, within 30 days following the date of application of this Regulation, providing a detailed justification as to why that system is deemed sufficiently price forming. To ensure legal certainty and avoid undue delays, trading venues that intend to operate a frequent batch auction, should be permitted to commence operations if ESMA does not raise objections within 30 days of receiving the notification.</u>
N/A	<u>Article 2ha</u> <u>Specific conditions for the operation of a frequent batch auction trading system</u> <u>1. The market operator of a regulated market that operates a frequent batch auction trading system shall ensure that such trading system is sufficiently price forming.</u> <u>2. The market operator of a regulated market that intends to operate a frequent batch auction trading system shall notify ESMA thereof at least 30 days before the commencement of the operation of the frequent batch auction trading system. That notification shall be accompanied by an explanation of</u>



	<u>why that frequent batch auction trading system is deemed sufficiently price forming.</u> <u>After receiving a notification pursuant to the first subparagraph, ESMA shall assess whether the functioning of the frequent batch auction trading system ensures that the auction is sufficiently price forming.</u> <u>Where ESMA deems that the auction is not sufficiently price forming, it shall notify the concerned market operator as soon as possible, and in any case within 30 days following the notification referred to in the first subparagraph. ESMA shall indicate in the notification the reasons why it deems that the auction is not sufficiently price forming.</u> <u>Where a market operator receives a notification from ESMA pursuant to the third subparagraph, it may start the operation of the frequent batch auction trading system only following confirmation by ESMA that such trading system is sufficiently price forming or, where ESMA does not object within 30 days following the re-submission by the market operator of the amended functioning of the frequent batch auction trading system pursuant to subparagraph 1.</u> <u>3. Paragraph 2 shall also apply to market operators of regulated markets that on [PO: please introduce date of application of this provision] already operate a frequent batch auction trading system. They shall notify ESMA pursuant to paragraph 2, first subparagraph, within [PO: please introduce date of application of this provision + 30 days].</u> <u>4. The market operator of a regulated market that operates a frequent batch auction trading system shall</u>
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	<u>notify ESMA of any changes to the parameters of the frequent batch auction trading system 30 days before those changes take effect. Where ESMA deems that those changes materially negatively affect the price forming nature of the frequent batch auction, it shall notify the concerned market operator as soon as possible within 30 days from the date of notification. In those cases, the market operator may change the functioning of the frequent batch auction only following confirmation by ESMA that those changes do not materially negatively affect the price forming nature of the frequent batch auction.</u>
Article 2u Compliance with the rules of the MTF or the OTF and with other legal obligations [...] 3. Investment firms and market operators operating an MTF or an OTF shall comply with [...] Article 2h, [...]	Article 2u Compliance with the rules of the MTF or the OTF and with other legal obligations [...] 3. Investment firms and market operators operating an MTF or an OTF shall comply with [...] Article 2h, <u>Article 2ha</u>, [...]
Article 2zg Regulatory technical standards and delegation 1. ESMA shall develop draft regulatory technical standards to: [...]	Article 2zg Regulatory technical standards and delegation 1. ESMA shall develop draft regulatory technical standards to: [...] <u>(da) specify the characteristics of frequent batch auction trading systems referred to in Article 2ha;</u> <u>(db) specify the parameters to determine whether a frequent batch auction trading system is sufficiently price forming pursuant to Article 2ha;</u>



	<u>(dc) specify the information to be notified pursuant to Article 2ha(2) and (3)</u> [...]
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C.3 Price improvement on retail orders executed on a Systematic Internaliser

Commission's proposal	Proposed changes
Recital (36) Article 14 of Regulation (EU) No 600/2014 requires systematic internalisers that deal in sizes of up to and including two times the standard market size to make public firm quotes on a regular and continuous basis during normal trading hours in respect of those shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, for which they are systematic internalisers and for which there is a liquid market. Article 15 of Regulation (EU) No 600/2014 requires systematic internalisers to execute orders they receive from their clients in respect of those instruments at the quoted prices at the time of reception of the order. That Article also allows systematic internalisers to execute clients' orders at a better price provided that the price falls within a public range close to market conditions. To strengthen price formation for retail orders, it is necessary to ensure that, where a systematic internaliser executes a retail client's order, specifically flagged as such, at a price that is better than the quoted price, that systematic internaliser immediately, and in any event before execution, updates the quoted price to reflect that price improvement. In addition, systematic internalisers should be obliged to transmit to the consolidated tape for	Recital (36) Article 14 of Regulation (EU) No 600/2014 requires systematic internalisers that deal in sizes of up to and including two times the standard market size to make public firm quotes on a regular and continuous basis during normal trading hours in respect of those shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, for which they are systematic internalisers and for which there is a liquid market. Article 15 of Regulation (EU) No 600/2014 requires systematic internalisers to execute orders they receive from their clients in respect of those instruments at the quoted prices at the time of reception of the order. That Article also allows systematic internalisers to execute clients' orders at a better price provided that the price falls within a public range close to market conditions. <u>Certain systematic internalisers have a significant proportion of their trading activity focused on small-size orders, including those originating from retail clients. To enhance price discovery and quality of execution for retail orders in shares subject to the share trading obligation, while preserving the role of systematic internalisers for larger-size orders, systematic internalisers should be permitted to</u>



shares and ETFs the data that they publish pursuant to Article 14 of Regulation (EU) No 600/2014 to allow the consolidated tape to disseminate, for a given share or ETF, in addition to the best bids and offers for continuous order books, separately, the five best bid and offer quotes across the Union published by systematic internalisers with the indication of the individual systematic internaliser where those are offered. Those five best bid and offer quotes should correspond to the five best bid and offer quotes across all quotes for a given share or ETF published in the Union by different systematic internalisers.	<u>execute retail orders in those shares only where they are able to offer a meaningful price improvement compared to the European best bid and offer, as displayed by the consolidated tape for shares and ETFs or, where a share is not included in that consolidated tape, as displayed by the most relevant market in terms of liquidity, at the time the order is received by the systematic internaliser.</u> (36a) To strengthen price formation for retail orders, it is necessary to ensure that, where a systematic internaliser executes a retail client's order, specifically flagged as such, at a price that is better than the quoted price, that systematic internaliser immediately, and in any event before execution, updates the quoted price to reflect that price improvement. In addition, systematic internalisers should be obliged to transmit to the consolidated tape for shares and ETFs the data that they publish pursuant to Article 14 of Regulation (EU) No 600/2014 to allow the consolidated tape to disseminate, for a given share or ETF, in addition to the best bids and offers for continuous order books, separately, the five best bid and offer quotes across the Union published by systematic internalisers with the indication of the individual systematic internaliser where those are offered. Those five best bid and offer quotes should correspond to the five best bid and offer quotes across all quotes for a given share or ETF published in the Union by different systematic internalisers.
Article 15(2) 2. Systematic internalisers shall, while complying with Article 27 of Directive 2014/65/EU, execute the orders they	Article 15(2) 2. Systematic internalisers shall, while complying with Article 27 of Directive 2014/65/EU, execute the orders they



receive from their clients in relation to the shares, depositary receipts, ETFs, certificates and other similar financial instruments for which they are systematic internalisers at the quoted prices at the time of reception of the order.

However, in justified cases, they may execute those orders at a better price provided that:

- (a) the price falls within a public range close to market conditions; and
- (b) in case of retail orders, they immediately, and in any event before execution, update their public quotes to reflect the price improvement.

For the purpose of the second subparagraph, a retail order is an order originating from a retail client as defined in Article 4(1), point (11) of Directive 2014/65/EU and that has a size of up to and including the threshold referred to in Article 14(2).';

receive from their clients in relation to the shares, depositary receipts, ETFs, certificates and other similar financial instruments for which they are systematic internalisers at the quoted prices at the time of reception of the order. **In case of retail orders in shares that are subject to the trading obligation pursuant to Article 23(1), systematic internalisers may execute an order they receive provided that the execution price is better by at least half a tick than the European best bid or offer for that share as displayed by the consolidated tape for shares and ETFs, where available, or the best bid or offer for that share as displayed by the most relevant market in terms of liquidity at the time of reception of the order.**

~~However,~~ In justified cases, **systematic internalisers** may execute **the orders they receive from their clients** at a better price **than the price determined in accordance with the first subparagraph** provided that:

- (a) the price falls within a public range close to market conditions; and
- (b) in case of retail orders, they immediately, and in any event before execution, update their public quotes to reflect the price improvement.

For the purpose of the second **and third** subparagraphs, a retail order is an order originating from a retail client as defined in Article 4(1), point (11) of Directive 2014/65/EU and that has a size of up to and including the threshold referred to in Article 14(2).';

C.4 Post-trade Transparency for retail orders executed on a Systematic Internaliser

Commission's proposal	Proposed changes
Article 7(2), point (a)	Article 7(2), point (a)



2. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under Article 64 of Directive 2014/65/EU:

(a) the details of transactions that investment firms, including systematic internalisers and market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 6(1), including identifiers for the different types of transactions published under Article 6(1) and Article 20, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors.

[...]

2. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under Article 64 of Directive 2014/65/EU:

(a) the details of transactions that investment firms, including systematic internalisers and market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 6(1), including identifiers for the different types of transactions published under Article 6(1) and Article 20, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors.

Where the transaction is executed on a systematic internaliser, the identifier of the systematic internaliser shall be made public in the case of execution of a retail order referred to in Article 15(2), subparagraph 3;

[...]