

European Commission Public Consultation on the Review of the MiFID/MiFIR Regulatory Framework - ICI Global Response

Section 1. General questions on the overall functioning of the regulatory framework

Question 1. To what extent are you satisfied with your overall experience with the implementation of the MiFID II/MiFIR framework?

1 - Very unsatisfied; 2 – Unsatisfied; **3 – Neutral**; 4 – Satisfied; 5 - Very satisfied; Don't know / no opinion / not relevant

Question 1.1 Please explain your answer to question 1 and specify in which areas would you consider the opportunity (or need) for improvements (5000 character(s) maximum)?

ICI Global [1] members believe that the implementation of MiFID II/MiFIR has spurred innovation and enhanced competition across parts of the trading and market structure landscape. However, additional changes are necessary to enhance meaningfully pre-trade and post-trade transparency and ensure that fund managers can maximise execution quality for their end investors. Furthermore, enhancements to MiFID II/MiFIR's investor protection framework are necessary to improve the process for fund investment, enhance investor choice, and enable fund investors to benefit from cost efficiencies derived from the management of pooled fund assets.

We recommend the following changes to MiFID II/MiFIR:

- **Make markets more transparent, fair, and efficient by establishing a consolidated tape** – a comprehensive, thoughtfully implemented consolidated tape with fair pricing (i.e., transparent, cost-plus margin basis), high data quality, timely coverage and delivery, and appropriate governance would enhance the transparency of the markets and provide a multitude of benefits to investors, including opportunities to enhance execution outcomes;
- **Enhance trading outcomes by repealing the share trading obligation and double volume cap** – removing aspects of the market structure framework that are unnecessary for EU market transparency and competitiveness would reduce complexity, better facilitate the trading of securities on the most suitable venues, and enable fund managers to identify and access opportunities to maximise execution quality for end investors;
- **Improve investor access to suitable and appropriate investment funds by simplifying and revising product governance obligations and enhancing the inducements framework** – removing complexity and refining the scope of the product governance and target market obligations would better take account of the different ways that investors use funds (e.g., for asset allocation or as part of a portfolio). Enhancing the inducements framework, including extending the quality enhancement and client best

interest tests to all distribution fees, will enhance the effectiveness of the rules and deliver better outcomes for fund investors;

- **Deliver efficient retail investment opportunities by allowing MiFID II/MiFIR requirements to adapt to digital technology** – accommodating and encouraging the adoption of digital technology (e.g., virtual advice, online accounts/mobile apps) and making electronic delivery of information the default “durable medium” will improve the ability of investors to access fund investment opportunities;
- **Simplify the fund investment process and enhance investor understanding by rationalising disclosure requirements** – developing understandable pan-EU investor disclosure requirements that are harmonised across products (i.e., UCITS, PRIIPs and non-MiFID comparable products) and consistent across disclosures (e.g., fee information in ex-ante disclosures, KIIDs and KIDs, and ex-post disclosures) will support investors through the investment process;
- **Maximise investor choice and access to investment funds by removing impediments to effective cross-border fund distribution** – creating a database of investment products to aid investor comparison and removing barriers to cross-border fund distribution would increase investor choice and enable fund investors to benefit from greater cost efficiencies derived from the management of pooled fund assets;
- **Enhance best execution reporting for investors** – achieve greater consistency and facilitate easier comparison analysis of best execution reports through standardisation and more evenly balanced “big picture” and granular data disclosures.

Our members’ overall assessment of the effect of unbundling on the quantity, quality and pricing of research varies. Nevertheless, members believe that the proposals put forward by the European Commission to increase the production of SME research would have limited, if any, impact on the production of good quality SME research and caution against taking action that may have unintended impacts.

Our members believe the regulatory framework for spot FX is adequately calibrated. We have not identified market integrity or market conduct issues that warrant changes at EU or Member State level or justify spot FX contracts being brought within the scope of the MiFID II/MiFIR framework or MAR.

[1] ICI Global carries out the international work of the Investment Company Institute, the leading association representing regulated funds globally. ICI’s membership includes regulated funds publicly offered to investors in jurisdictions worldwide, with total assets of US\$31.8 trillion. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of regulated investment funds, their managers, and investors. ICI Global has offices in London, Hong Kong, and Washington, DC.

Question 2. Please specify to what extent you agree with the statements below regarding the overall experience with the implementation of the MiFID II/MiFIR framework?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
The EU intervention has been successful in achieving or progressing towards its MiFID II/MiFIR objectives (fair, transparent, efficient and integrated markets).			✓			
The MiFID II/MiFIR costs and benefits are balanced (in particular regarding the regulatory burden).		✓				
The different components of the framework operate well together to achieve the MiFID II/MiFIR objectives.		✓				
The MiFID II/MiFIR objectives correspond with the needs and problems in EU financial markets.			✓			
The MiFID II/MiFIR has provided EU added value.			✓			

Question 2.1 Please provide qualitative elements to explain your answers to question 2: 5000 character(s) maximum.

Our responses to other questions in this consultation set out in more detail our recommendations for the changes to MiFID II/MiFIR. We have summarised these recommendations under each element of the MiFID II/MiFIR framework below.

The EU intervention has been successful in achieving or progressing towards its MiFID II/MiFIR objectives (fair, transparent, efficient and integrated markets)

Implementation of MiFID II/MiFIR has advanced the creation of fair, transparent, efficient and integrated markets (i.e., by spurring innovation and enhancing competition among trading venues) but changes are necessary to enhance meaningfully pre-trade and post-

trade transparency (e.g., the creation of a comprehensive, thoughtfully implemented consolidated tape).

The MiFID II/MiFIR costs and benefits are balanced (in particular regarding the regulatory burden).

The costs and benefits of MiFID II/MiFIR can be better balanced by enhancing trading outcomes for regulated fund investors through repealing the share trading obligation and double volume cap, thereby enabling fund managers to identify and access opportunities to maximise execution quality. These changes will facilitate trading on venues most suited to particular instruments, improving liquidity (particularly for more illiquid instruments) and price discovery.

The different components of the framework operate well together to achieve the MiFID II/MiFIR objectives.

Further steps can be taken to ensure that different components of the MiFID II/MiFIR framework work together to achieve the stated policy objectives. As we have set out in our responses to other questions in this consultation, changes can be made to remove complexity and refine the scope of product governance and target market obligations to take account of the different ways that investors use funds. Such amendments will enhance the effectiveness of these rules and their operation with other components of the MiFID II/MiFIR framework (e.g., inducements) to broaden the range of products that are accessible by retail investors.

The MiFID II/MiFIR objectives correspond with the needs and problems in EU financial markets.

Changes should be made to the inducements framework, including simplifying and harmonising investor disclosures, achieving greater consistency and rigour in the application of the conditions for the quality enhancement test, applying the requirement to assess equivalent investment products to all distributors, and extending the quality enhancement and client best interest tests to all distribution fees. We believe these proposed changes will support fund investors in obtaining access to a broad range of suitable investment products and ensure that all types of investment products are assessed based on value rather than the nature of their distribution.

The MiFID II/MiFIR has provided EU added value.

We have recommended changes to simplify and harmonise the complex web of disclosures for investment products by harmonising the pan-EU investor disclosure requirements across products (UCITS, PRIIPs and non-MiFID comparable products) and improving the consistency of the disclosures throughout the investment process (i.e., ex-ante disclosure, pre-sale UCITS KIID and PRIIPs KID and ex-post disclosure). We have also suggested changes that would improve the retail investor experience by allowing MiFID II/MiFIR requirements to adapt to digital technology (e.g., virtual advice, online accounts/mobile apps) and making electronic delivery the default for durable medium. These changes will

help to foster innovation and improve the ease with which EU citizens can access fund investment opportunities.

Question 3. Do you see impediments to the effective implementation of MiFID II/MiFIR arising from national legislation or existing market practices?

1 - Not at all; 2 - Not really; 3 – Neutral; 4 – Partially; **5 – Totally**; Don't know / no opinion / not relevant

Question 3.1 Please explain your answer to question 3 (5000 character(s) maximum)?

As we have outlined in more detail in our other responses, certain aspects of Member State marketing and distribution regimes may unnecessarily impede the effective cross-border sale of UCITS, thereby reducing investor choice. Barriers to cross-border fund distribution e.g., differences in Member State approaches to authorisation and marketing, coupled with divergence in the application of the MiFID II/MiFIR inducements framework (see our response to Q49.1) prevent investors from fully benefitting from increased choice, cost efficiencies derived from larger pools of fund assets, and the EU single market.

Question 4. Do you believe that MiFID II/MiFIR has increased pre- and post-trade transparency for financial instruments in the EU?

1 - Not at all; **2 - Not really**; 3 – Neutral; 4 – Partially; 5 – Totally; Don't know / no opinion / not relevant

Question 4.1 Please explain your answer to question 4 (5000 character(s) maximum)?

Feedback from ICI Global members suggests that MiFID II/MiFIR has not materially increased pre- and post-trade transparency and some members report that transparency has decreased for certain asset classes. As set out in more detail in our responses to other questions, we have recommended changes that will increase transparency, including the development of a comprehensive, thoughtfully implemented consolidated tape, with lessons learned from other markets such as the United States.

We would caution against direct regulatory approaches that seek to shift primarily trading “into the light” e.g., mandating the trading of assets on a particular class of venue(s), and instead encourage consideration of other ways in which policy outcomes might be better achieved without adversely impacting market participants (e.g., transparency through a consolidated tape).

Pre-trade transparency

Feedback from our members suggests that overall pre-trade transparency has not increased for either equity or non-equity since the introduction of MiFID II/MiFIR. Some members report increases of pre-trade transparency resulting from the launch of new venues but latency concerns (i.e., time delays in accessing information on trades) – given the increase in electronic trading – and the lack of a consistent level of pre-trade transparency for orders routed to other liquidity providers, does not provide visibility across all venues.

Post-trade transparency

Feedback from our members suggests that overall post-trade transparency has remained unchanged or decreased since the introduction of MIFID II/MiFIR. Greater consistency in the standards and methodology for reporting, which the implementation of a consolidated tape has the potential to provide, would advance post-trade transparency with benefits for the execution of trades and post-trade analysis.

Question 5. Do you believe that MiFID II/MiFIR has levelled the playing field between different categories of execution venues such as, in particular, trading venues and investment firms operating as systematic internalisers?

1 - Not at all; 2 - Not really; 3 – Neutral; **4 – Partially**; 5 – Totally; Don't know / no opinion / not relevant

Question 5.1 Please explain your answer to question 5 (5000 character(s) maximum)?

Execution venues provide slightly different functions (e.g., exchanges facilitate trading by bringing together buyers and sellers, whereas Systematic Internalisers (SIs) facilitate risk transfer). We believe that a range of venues can coexist in an efficient and well-functioning market to provide different sources of liquidity. Fund managers benefit from the ability to determine the most appropriate trading venue through which to maximise execution quality and outcomes for investors.

As we have outlined in our responses to other questions in this consultation, we do not believe that changes are needed to the regulatory framework applicable to SIs or other trading venues. Any reforms would need to consider a holistic view of the EU's market structure, be informed by data, for instance obtained through a consolidated tape, and take account of the implications for all different market participants (e.g., market users trading large in scale "block" orders).

Question 6. Have you identified barriers that would prevent investors from accessing the widest possible range of financial instruments meeting their investment needs?

1 - Not at all; 2 - Not really; 3 – Neutral; 4 – Partially; **5 – Totally**; Don't know / no opinion / not relevant

Question 6.1 If you have identified such barriers, please explain what they would be (5000 character(s) maximum)?

The following types of barriers prevent retail investors from accessing the widest possible range of funds that may meet their investment needs (see our subsequent response for recommendations to address these barriers):

- **Barriers arising from Member State requirements** – divergence in: (i) UCITS marketing rules (e.g., for marketing communications such as fund factsheets and financial promotions); (ii) home State authorisation requirements (e.g., for minor changes and clones of existing funds); and (iii) host State cross-border notification processes (e.g., electronic transmission and filing of updates and amendments to registration

documents) add complexity and cost and present barriers to the cross-border distribution of investment funds therefore reducing investor choice;

- **Barriers arising from MiFID/MiFIR implementation** – divergence in the implementation of the framework for permitted inducements and the quality enhancement test, coupled with differences in application to the distribution of in-house, closely linked and third-party products may prevent investors from accessing a wide range of funds suitable and appropriate funds;
- **Barriers arising from MiFID/MiFIR requirements** – divergence and complexity in the web of disclosures for investment products (ex-ante and ex-post MiFID disclosures, UCITS KIID, PRIIPs KID) combined with complex product governance rules that do not take account of the different ways in which investors use funds, may reduce investor choice.

Question 6.1 Please explain your answer to question 6 (5000 character(s) maximum):

We recommend the following changes (discussed in more detail in our other responses to this consultation) to remove barriers that we believe prevent investors from accessing the widest possible range of financial instruments meeting their investment needs.

Barriers arising from Member State requirements

- **Develop a harmonised marketing regime for the cross-border sale of UCITS** to complete the single market in publicly available regulated funds. Divergent host Member State approaches to the definition of marketing communications (e.g., financial promotions, advertisements, investor letters) and differing “pre-approval” of such communications, creates uncertainty and burdens to the efficient provision of information to investors and distributors, including through the use of technology. Different Member State approaches add to the complexity of complying with the regulations on cross-border distribution. A harmonised definition of “marketing communications” and a single set of requirements for the content of these communications, including where delivered through digital means, would offer more consistent information and reduce costs that would benefit all EU investors.
- **Converge and simplify the authorisation and notification process** to minimise delays and costs e.g., shorten and limit review times, and expedited procedures for minor changes or UCITS that are “clones” of existing authorised UCITS. Each home Member State regulator has its own unique procedures for a UCITS fund’s authorisation. Host Member State regulators may also impose other investment terms upon receipt of a cross-border marketing notification (e.g., defining a particular fund type as automatically complex). Differences in the investment terms and restrictions applied to UCITS funds by home and host Member State regulators create complexity, confusion and barriers for funds and investors. Harmonising the UCITS authorisation process and promoting supervisory convergence among Member States offers the potential to: (i) identify and adopt good or best practice and experience; (ii) ensure consistency; (iii)

reduce complexity; and (iv) improve efficiency to strengthen the single market for UCITS funds.

- **Develop a rationalised and harmonised approach to Member State disclosures that are provided in addition to obligatory investor disclosures (e.g., UCITS KIID and PRIIPs KID).** Complementing efforts to simplify and harmonise the complex web of disclosures for investment products (see MiFID II/MiFIR barriers section below), the Commission should develop a harmonised approach to the provision and content of supplementary information that host Member State regulators often require as an accompaniment to existing obligatory investor disclosures (e.g., KIID), to improve the consistency of information provided to fund investors. Furthermore, a harmonised approach would reduce the time and complexity of marketing cross-border funds, particularly those distributing into multiple host Member States. Requiring multiple versions of fund documents to meet varying rules across the EU is very costly and creates unneeded complexity.
- **Harmonise the electronic transmission and filing of updates or amendments to registration documents** by building on ESMA's work that is underway to develop a database of funds, to enable the single market passport to be obtained through a single home Member State filing, akin to the MiFID services passport and approach for EuVECA and EuSEF. Host Member State regulators often impose additional procedures for cross-border marketing notification and filings (e.g., the payment of a notification fee, the requirement to upload the KIID onto a regulator's proprietary system, etc.) These procedures add layers of complexity and can cause delays to the cross-border marketing of a UCITS fund. Harmonising the electronic transmission and filing of notifications, including for updates to documentation, will greatly reduce complexity and improve efficiency for cross-border UCITS funds.
- **Converge Know Your Customer (KYC) requirements**, including supporting the use of electronic identity verification, and facilitating cross-border data sharing between distributors and funds. These changes would reduce costs and operational complexities and better accommodate cross-border distribution, while ensuring a strong anti-money laundering (AML) framework;

Barriers arising from MiFID/MiFIR implementation

- **Harmonise the interpretation of inducements and the conditions for the quality enhancement test**, including reviewing the consistency and rigour with which the quality enhancement conditions are applied (Article 11(2) of the MiFID II Delegated Directive);
- **Apply the assessment of equivalent investment products (Article 54(9), MiFID II Delegated Regulation) to all distributors and extend the quality enhancement and client best interest tests (Article 24(9), MiFID II) to all distribution fees**, including those relating to the distribution of products of in-house products or closely linked third-party products (i.e., requiring distributors to demonstrate that distribution

related fees or commissions, such as those bundled into product fees, meet the quality enhancement and client best interest tests).

Barriers arising from MiFID/MiFIR requirements

- **Simplify and harmonise the complex web of disclosures for investment products** – requiring disclosure of understandable pan-EU investor information that is harmonised across products (UCITS, PRIIPs and non-MiFID comparable products) and consistent through the investment process (i.e., fee disclosures in ex-ante, pre-sale KIID and KIDs and ex-post disclosures) will support investors through the investment process;
- **Improve investor access to suitable and appropriate investment funds by simplifying and revising the product governance obligations** – removing complexity and refining the scope of product governance and target market obligations to take account of the different ways that investors use funds (e.g., for asset allocation or as part of a portfolio) will enhance the effectiveness of the rules and deliver better outcomes for fund investors;
- **Delivering efficient retail investment opportunities by allowing MiFID II/R requirements to adapt to digital technology** – accommodating and encouraging the adoption of digital technology (e.g., virtual advice, online accounts/mobile apps) and making electronic delivery the default for durable medium to foster innovation and improve the ease with which EU citizens can access fund investment opportunities.

Section 2. Specific questions on the existing regulatory framework

PART ONE: PRIORITY AREAS FOR REVIEW

Section I. The Establishment of an EU Consolidated Tape

1. *Current state of play*

1.1. Reasons why a consolidated tape has not emerged

Question 7. What are in your view the reasons why an EU consolidated tape has not yet emerged?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
Lack of financial incentives for running a CT				✓		
Overly strict regulatory requirements for providing a CT				✓		

Competition by non-regulated entities such as data vendors			✓			
Lack of sufficient data quality, in particular for OTC transactions and transactions on systemic internalisers			✓			
Other						✓

Question 7.1 Please explain your answers to question 7 (5000 character(s) maximum):

Lack of financial incentives for running a CT and Overly strict regulatory requirements for providing a CT

The absence of an EU consolidated tape is a function of business model considerations for potential consolidated tape provider(s) – commercial viability of the envisaged revenue model coupled with regulatory obligations (e.g., current MiFID II aspirations for the timely incorporation of broad market and trading venue coverage). We have set out recommendations in our responses to other questions in the consultation that will address these factors.

Competition by non-regulated entities such as data vendors

We do not believe that competition by non-regulated entities such as data vendors is a material factor explaining the current lack of a consolidated tape but believe that a comprehensive, thoughtfully implemented consolidated tape will provide competition to other data vendors (both regulated and non-regulated entities) for the benefit of market participants, including regulated funds.

Lack of sufficient data quality, in particular for OTC transactions and transactions on systemic internalisers

We do not believe that data quality deficiency is a material factor in explaining the current lack of a consolidated tape but believe that industry efforts to advance standardisation should continue. For instance, the development of typologies and consistent technical specifications for the consolidated tape and entities that supply data to the consolidated tape will improve the completeness and accuracy of data. Mandating standardised, complete and error free data is precondition for the success of a consolidated tape . Regulated funds and other investors will be unlikely to consume consolidated tape data unless the data is provided in an accurate and timely manner and in a useable format.

We support broad, and ideally wide-spread, adoption of industry agreed standards that can continue to be refined and developed over time as changes in market structure warrant this. We would support ESMA consulting on such standards if industry efforts fail to produce them in a reasonable amount of time.

Question 8. Should an EU consolidated tape be mandated under a new dedicated legal framework, what parts of the current consolidated tape framework (Article 65 of MiFID II and the relevant technical standards (Regulation (EU) 2017/571)) would you consider appropriate to incorporate in the future consolidated tape framework (5000 character(s) maximum)?

A comprehensive, thoughtfully implemented consolidated tape with fair pricing and transparent governance would advance regulatory efforts to make markets more transparent, fair and efficient and improve markets for investors. Access to accurate, timely and reasonably priced market data would support regulated funds' delivery of best execution for their investors.

The lack of a consolidated tape in Europe makes it needlessly complicated and expensive for funds to obtain accurate last sale information and other data, such as best bid and offer, necessary to engage in transaction cost analysis. It is similarly difficult to obtain a complete and accurate picture of available liquidity in European markets. The European Commission has found that market data prices in Europe are high compared to the United States, and our members report that they are still rising. Under the current US market data infrastructure, it's widely acknowledged that the rising cost of market data is attributable to (i) monopoly of the exchanges in pricing the data in the consolidated public feed; and (ii) reliance on proprietary data products that are available at higher costs. To address these issues, we recommend the following considerations for the establishment of a consolidated tape (set out in more detail in our response to other questions in the consultation paper):

- **Reasonable cost** – adopting a cost-plus margin basis for consolidated tape providers that enables users to access data at a reasonable cost but which provides sufficient margins to ensure the long-term, stable commercial viability of the consolidated tape provider.
- **Transparent pricing** – requiring that data costs and the terms and conditions of access and use are transparent to support fair, reasonable and non-discriminatory pricing and enable investors to compare costs for data services.
- **High data quality** – advancing standardisation to improve the completeness and accuracy of data.
- **Appropriate governance** – adopting a governance model that does not give rise to conflicts of interest (or mitigates, manages, and discloses those that do occur), delivers effective revenue transparency, provides robust information security, and establishes appropriate regulatory oversight and supervision, to ensure integrity and engender trust in the consolidated tape provider by data users, particularly where a consolidated tape is operated on an exclusive basis.
- **Timely coverage and delivery** – although we acknowledge longer-term aspirations for a consolidated tape with broad market coverage, a staggered approach should be

adopted that maximises the immediacy of benefits from a consolidated tape for investors. Steps that are practically achievable in the short-term should be taken first. For instance, post-trade data should be incorporated first to support the assessment of execution quality for asset classes where there is already a higher-level of standardisation (e.g., equities and ETFs) and over time incorporate other asset classes and data to support pre-execution (e.g., to make order routing determinations).

1.2. Availability and price of market data

Question 9. Do you agree with the above targeted amendments recommended by ESMA to address market data concerns (5000 character(s) maximum)?

The proposals by ESMA, including requiring trading venues, APAs, SIs and CTPs to share information on the actual costs and margins of producing and disseminating market data will support ongoing work to address market data concerns and aid the development of a consolidated tape.

1.3. Use cases for a consolidated tape

Question 10. What do you consider to be the use cases for an EU consolidated tape?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
Transaction cost analysis (TCA)					✓	
Ensuring best execution				✓		
Documenting best execution				✓		
Better control of order & execution management				✓		
Regulatory reporting requirements			✓			
Market Surveillance					✓	
Liquidity risk management					✓	
Making market data accessible at a reasonable cost					✓	
Identify available liquidity					✓	
Portfolio valuation				✓		
Other						✓

Question 10.1 Please explain your answers to question 10 and also indicate to what extent the use cases would benefit from a CT (5000 character(s) maximum):

A well-constructed consolidated tape could reduce the complexity and expense for funds to obtain more comprehensive and accurate data for a multitude of use cases including:

- **Transaction cost analysis** – using accurate last sale information and other data, such as best bid and offer;
- **Order routing** – providing a more complete and accurate picture of available liquidity in European markets;
- **Best execution** – using data from a real-time consolidated tape alongside other tools and analysis.

2. General features of the consolidated tape

Question 11. Which of the following features, as described above, do you consider important for the creation of an EU consolidated tape?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
High level of data quality					✓	
Mandatory contributions					✓	
Mandatory consumption	✓					
Full coverage				✓		
Very high coverage (not lower than 90% of the market)				✓		
Real-time (minimum standards on latency)			✓			
The existence of an order protection rule			✓			
Single provider per asset class			✓			
Strong governance framework					✓	
Other						✓

Please specify what other feature(s) you consider important for the creation of an EU consolidated tape (5000 character(s) maximum)?

As we have set out in more detail in our response to other questions in this consultation, a thoughtfully implemented and well-constructed consolidated tape should enable users to

access data at a reasonable cost, have transparent data costs and the terms and conditions of access, a robust information security plan and use effective technology.

Question 11.1 Please explain your answers to question 11 and provide if possible detailed suggestions on how the above success factors should be implemented (e.g., how data quality should be improved; what should be the optimal latency and coverage; what should the governance framework include; the optimal number of providers) 5000 character(s) maximum:

High level of data quality

High quality data is imperative to the success of the consolidated tape and industry efforts to advance standardisation should continue, for instance through the development of typologies and consistent technical specifications for the consolidated tape and entities that supply data to the consolidated tape, to improve the completeness and accuracy of data. Mandating standardised, complete and error free data is a precondition for the success of a consolidated tape. Regulated funds and other investors will be unlikely to consume consolidated tape data unless the data is provided in an accurate and timely manner and in a useable format. We support broad, and ideally wide-spread, adoption of industry agreed standards and see merits in an approach that supports this adoption while ensuring that standards can continue to be refined and developed over time as changes in market structure warrant this. We would support ESMA consulting on such standards if industry efforts fail to produce them in a reasonable amount of time.

Mandatory contributions

We believe that mandatory contributions are a core component of a well-constructed consolidated tape.

Mandatory consumption

We do not believe that it is necessary to mandate consumption. A well-constructed consolidated tape that is operated on a cost-plus margin basis with mandatory contribution of trading venues and APAs will be attractive to funds and other market participants as a tool to determine execution quality.

Full coverage/Very high coverage

Broad coverage would make a consolidated tape more useful for market participants. We believe that a staggered approach should be adopted to maximise the immediacy of benefits from a consolidated tape for investors by taking steps that are practically achievable in the short-term and are seen to provide value – for instance, initially focusing on incorporating post-trade data to support the assessment of execution quality for asset classes where there is already a higher-level of standardisation (e.g., equities and ETFs) and over time incorporating other asset classes and data to support pre-execution (e.g., to make order routing determinations).

Real-time

A real-time consolidated tape has the potential to support regulated funds' delivery of best execution for their investors. We, however, have two concerns:

First, we have recommended that a consolidated tape provider should operate on a cost-plus margin financing basis, which enables users to access data at a reasonable cost but provides sufficient margins to ensure the consolidated tape provider's long-term commercial viability. A real-time solution would be more expensive than a near-to real time solution, delayed or tape of record approach and therefore may raise commercial viability challenges for a consolidated tape provider if market participants do not view any higher user costs as being commensurate to the benefits and consequently do not use the consolidated tape.

Second, we have concerns about the potential latency of a real-time solution given the number and geographical spread of EU trading venues and the differences in technology adopted by these trading venues. A consolidated tape will never be as fast as proprietary feeds from trading venues because consolidated tape data will need to travel to a centralised location and be processed by the consolidated tape provider before it can be disseminated on the consolidated tape. Consequently, we expect that the consolidated tape would be most useful, at least initially, as a post trade tool to assess execution quality. Over time, it might be possible to develop a consolidated tape that could be used pre-execution (e.g., to obtain a full picture of available liquidity and to make order routing determination), but we do not believe this should be a primary goal in the initial phase.

Order Protection Rule

We believe that a comprehensive, thoughtfully implemented consolidated tape that provides market participants and trading venues with fair and efficient access to data may ultimately negate the need for an order protection rule of the sort that exists in the US. It may be necessary to consider such measures during the development of a consolidated tape, including at stages where the consolidated tape only has partial coverage or has only been partially implemented.

Single provider per asset class

We do not believe it is necessary or even desirable to mandate that there be a single consolidated tape provider per asset class or across all asset classes nor that a consolidated tape be operated on an exclusive basis (i.e., without competition from external data vendors). It might be more efficient for multiple consolidated tapes to provide data on an asset class by asset class basis, for example one consolidated tape could provide consolidated data for equity and equity-like instruments (such as ETFs) and a different consolidated tape could provide consolidated data for fixed income instruments. A single consolidated tape provider may benefit from economies of scale and other operational efficiencies which would contribute to its long-term commercial viability, but conversely exclusive basis of operation may give rise to monopoly related concerns that, if not properly managed, may undermine a consolidated tape, including potentially driving up data costs for users, among other issues (see our governance recommendations below).

Strong governance framework

Our experience of the revenue allocation system in the United States underscores the need for an appropriate governance and transparency framework to be in place to address the concerns that arise from consolidated tapes operating on an exclusive basis. We recommend the following:

- The governance framework of the consolidated tape provider pays particular regard to managing and mitigating conflicts of interest by requiring that a range of market participants, including regulated funds, are represented as voting members on the relevant governing body of the consolidated tape provider; and
- Revenue generated by the consolidated tape is transparent, including at a minimum the sources and level of revenue, the allocation of revenue (including amounts invested in technology) and the amount and recipient of any revenue that is distributed.

Consistent with these recommendations, it would be undesirable, for example, if a European consolidated tape followed the US equity market model of allowing self-regulatory organisations (and exchanges in particular) to make all decisions about the consolidated tape. This practice has led to a situation where exchanges have the incentive and ability to prevent public, consolidated data feeds from competing with higher-priced private data feeds. In addition, the exchanges' dominance has resulted in a lack of transparency into the economics of developing and maintaining consolidated data feeds, which harms investors and other data consumers.

To further mitigate potential competition-related concerns that may arise from the operation of a consolidated tape on an exclusive basis, we also recommend that consolidated tape provider's tender for a specified period of time, perhaps 3-5 years, at the end of which a retendering process would be undertaken. A period at the top end of this range (e.g., 5 years) could be accepted as an initial first tender period, on the basis that more substantive investment may be required in the initial phase of a consolidated tape provider's operation. Adopting this approach has the potential to instil market discipline, for instance incentivising consolidated tape providers to maintain investment in technology and deliver acceptable standards of service.

Question 12. If you support mandatory consumption of the tape, how would you recommend structuring such mandatory consumption?

Please explain your answer and provide if possible detailed suggestions on which users should be mandated to consume the tape and how this should be organised 5000 character(s) maximum:

We do not believe that it is necessary to mandate consumption. A well-constructed consolidated tape that is operated on a cost-plus margin basis with mandatory contribution of trading venues and APA will be attractive to funds and other market participants as a tool to determine execution quality.

Question 13. In your view, what link should there be between the CT and best execution obligations?

Please explain your answer and provide if possible detailed suggestions (e.g., simplifying the best execution reporting through the use of an EBBO reference price benchmark) 5000 character(s) maximum:

A consolidated tape has the potential to support regulated funds' delivery of best execution for their investors, but funds will use consolidated tape data alongside other tools and analysis to determine execution quality. There should not be a link between the consolidated tape and best execution obligations (i.e., we do not support mandatory consumption) as there are a number of other factors to consider for best execution, including transaction costs.

Question 14. Do you agree with the following features in relation to the provision, governance and funding of the consolidated tape?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
The CT should be funded on the basis of user fees					✓	
Fees should be differentiated according to type of use			✓			
Revenue should be redistributed among contributing venues			✓			
In redistributing revenue, price-forming trades should be compensated at a higher rate than other trades.			✓			
The position of CTP should be put up for tender every 5-7 years		✓				
Other						✓

Question 14.1 Please explain your answers to question 14 and provide if possible detailed suggestions on how the above features should be implemented (e.g., according to which methodology the CT revenues should be redistributed; how price forming trades should be rewarded, alternative funding models) 5000 character(s) maximum:

As discussed in more detail in our answer to Question 11.1, a consolidated tape should be funded on a cost-plus margin basis and the governance framework should manage/mitigate conflicts of interest, including through revenue transparency.

3. The scope of the consolidated tape

3.1. Pre- and post-trade transparency and asset class coverage

Question 15. For which asset classes do you consider that an EU consolidated tape should be created?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
Shares pre-trade				✓		
Shares post-trade					✓	
ETFs pre-trade				✓		
ETFs post-trade					✓	
Corporate bonds pre-trade			✓			
Corporate bonds post-trade				✓		
Government bonds pre-trade				✓		
Government bonds post-trade				✓		
Interest rate swaps pre-trade				✓		
Interest rate swaps post-trade				✓		
Credit default swaps pre-trade				✓		
Credit default swaps post-trade				✓		
Other						✓

Question 15.1 Please explain your answers to question 15:

As we have set out in more detail in our other responses, a comprehensive, thoughtfully implemented consolidated tape with broad coverage, fair pricing and transparent governance would advance regulatory efforts to make markets more transparent, fair and efficient and improve markets for investors. We believe that a staggered approach should be adopted to maximise the immediacy of benefits from a consolidated tape for investors by taking steps that are practically achievable in the short-term and are seen to provide value – for instance, initially focusing on incorporating post-trade data to support the assessment of execution quality for asset classes where there is already a higher-level of standardisation (e.g., shares and ETFs) and over time incorporating other asset classes and data to support pre-execution (e.g., to make order routing determinations).

3.2. The Official List of financial instruments in scope of the CT

Question 17. What shares should in your view be included in the Official List of shares defining the scope of the EU consolidated tape?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
Shares admitted to trading on a RM					✓	
Shares admitted to trading on an MTF with a prospectus approved in an EU Member State					✓	
Other						✓

Question 17.1 Please explain your answers to question 17 (5000 character(s) maximum):

A well-constructed consolidated tape with the broadest geographical coverage has the potential to maximise benefits to markets and investors. A consolidated tape that only incorporates shares admitted to trading on an RM and MTF would still provide benefits to investors, but incorporating other shares, including non-EU traded shares (e.g., on a share trading obligation recognised third country venue), would provide additional benefits.

4. Other MiFID II/MiFIR provisions with a link to the consolidated tape

4.1. Equity trading and price formation

Question 21. What is your appraisal of the impact of the share trading obligation on the transparency of share trading and the competitiveness of EU exchanges and market participants?

Please explain your answer (5000 character(s) maximum):

We have not identified any positive impact from the share trading obligation on transparency or the competitiveness of the EU market. In instances where better trading outcomes could be achieved on a venue not recognised under the share trading obligation, requiring a fund manager to execute in the EU may disadvantage EU fund investors. As we have set out in our other responses, the share trading obligation should be repealed to enable fund managers to identify and access opportunities to maximise execution quality and deliver improved outcomes for end investors.

Question 22. Do you believe there is sufficient clarity on the scope of the trades included or exempted from the STO, in particular having regards to shares not (or not only) admitted to an EU regulated market or EU MTF?

1 – Not at all; 2 – Not really; 3 – Neutral; 4 – Partially; 5 - Totally; Don't know / no opinion / not relevant

Question 22.1 Please explain your answer to question 22 (5000 character(s) maximum):

The implementation of the share trading obligation has presented significant challenges for fund managers in reconciling the requirements against best execution obligations, including for third country venues that have not been subject to an equivalence determination (positive or negative). As we have set out in our other responses, we believe the share trading obligation is unnecessary for EU market transparency and competitiveness and should be repealed to enable fund managers to identify and access opportunities to maximise execution quality and deliver improved outcomes for end investors.

Question 23. What is your evaluation of the general policy options listed below as regards the future of the STO?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
Maintain the STO (status quo)	✓					
Maintain the STO with adjustments (please specify)		✓				
Repeal the STO altogether					✓	

Question 23.1 Please explain your answers to question 23 (5000 character(s) maximum):

As we have set out in our other responses, the share trading obligation is unnecessary for EU market transparency and competitiveness and should be repealed to enable fund managers to identify and access opportunities to maximise execution quality and deliver improved outcomes for end investors (e.g., in cases where better trading outcomes could be achieved on a venue not recognised under the share trading obligation, requiring execution in the EU may disadvantage EU fund investors).

Question 24. Do you consider that the status of systematic internalisers, which are eligible venues for compliance with the STO, should be revisited and how?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
SIs should keep the same current status under the STO					✓	

SI should no longer be eligible execution venues under the STO	✓					
Other						✓

Question 24.1 Please explain your answers to question 24 (5000 character(s) maximum):

We do not believe that the status of systematic internalisers as eligible trading venues to meet the share trading obligation should be changed. Systematic internalisers are an additional source of liquidity for regulated funds, through which fund managers seek to maximise execution quality and outcomes for investors.

Question 25. Do you consider that other aspects of the regulatory framework applying to systematic internalisers should be revisited and how?

Please explain your answer (5000 character(s) maximum):

We do not believe that changes are needed to the regulatory framework applicable to systematic internalisers. Anecdotal feedback from ICI Global members suggest that systematic internalisers represent a relatively small but important additional source of liquidity for fund managers and indeed provide slightly different functions (e.g., exchanges facilitate trading by bringing together buyers and sellers whereas systematic internalisers facilitate risk transfer). We consider that trading venues and systematic internalisers can coexist in an efficient and well-functioning market.

Any changes that are contemplated to the regulation of systematic internalisers should be informed by data, for instance obtained through a consolidated tape, and a thorough understanding should be developed of the implications of reforms for market participants (e.g., market users trading large in scale block orders) rather than just an assessment of the trading volumes on different venues.

Question 26. What would you consider to be appropriate steps to ensure a level-playing field between trading venues and systematic internalisers?

Please explain your answer (5000 character(s) maximum):

As we have outlined in other responses, we do not believe that changes are needed to the regulatory framework applicable to systematic internalisers.

Question 27. In your view, what would merit attention to further promote the price discovery process in equity trading?

Please explain your answer (5000 character(s) maximum):

As we have outlined in other responses, various steps can be taken to further promote the price discovery process in equity trading, including the establishment of a comprehensive, thoughtfully implemented consolidated tape. Moreover, other steps such as the repeal of

the double volume cap would facilitate trading on venues most suited to particular instruments and thereby also aid price discovery.

4.2. Aligning the scope of the STO and of the transparency regime with the scope of the consolidated tape

Question 28. Do you believe that the scope of the STO should be aligned with the scope of the consolidated tape?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; **4 – Rather agree**; 5 – Fully agree; Don't know / no opinion / not relevant

Question 28.1 Please explain your answer to question 28 (5000 character(s) maximum):

As we have outlined in other responses, the share trading obligation should be repealed. If it is retained, then to provide investors with information that is as complete as possible and maximise potential benefits it is desirable for the coverage of the consolidated tape to be broad and therefore be aligned to the share trading obligation. A consolidated tape incorporating partial data would still provide value to investors, for instance initially as a post trade tool to assess execution quality and over time for pre-execution (e.g., to obtain a full picture of available liquidity and to make order routing determination). A consolidated tape that incorporates non-EU data (i.e., from a share trading obligation recognised third country venue) would provide additional benefits.

Question 29. Do you consider, for asset classes where a consolidated tape would be mandated, that the scope of financial instruments subject to pre and post-trade requirements should be aligned with the list of instruments in scope of the consolidated tape?

1 – Disagree; 2 – Rather not agree; **3 – Neutral**; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 29.1 Please explain your answer to question 29 (5000 character(s) maximum):

We do not in principle object to the alignment of financial instruments within the scope of pre and post-trade reporting obligations and a consolidated tape but would urge caution to ensure the necessary protections for market participants are maintained and consequences for the liquidity of more illiquid instruments are fully considered. For instance, it is likely to be necessary to retain the existing framework of waivers to avoid adverse implications for market participants with large in scale orders (i.e., to prevent front-running in the case of a real-time or near real-time consolidated tape). Furthermore, requiring pre-trade transparency for instruments that are less liquid may reduce their liquidity further.

4.3. Post-trade transparency regime for non-equities

Question 30. Which of the following measures could in your view be appropriate to ensure the availability of data of sufficient value and quality to create a consolidated tape for bonds and derivatives?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
Abolition of post-trade transparency deferrals			✓			
Shortening of the 2-day deferral period for the price information			✓			
Shortening of the 4-week deferral period for the volume information			✓			
Harmonisation of national deferral regimes			✓			
Keeping the current regime			✓			
Other						✓

Question 30.1 Please explain your answer to question 30 (5000 character(s) maximum):

We are supportive of the creation of a consolidated tape for bonds and derivatives, subject to the necessary protections for market participants (e.g., waivers) being retained (particularly in the case of a real time tape) and adequate consideration of the implications of extending pre-trade transparency to less liquidity instruments. As we have outlined in responses to other questions, the establishment of a consolidated tape with broad asset class coverage has the potential to provide significant benefits to market participants and enhancements to transparency if it is implemented in a thoughtful way. Although we have recommended that a sequenced approach to the development of a consolidated tape might be adopted (whereby post-trade equity and equity-like data are incorporated first), in principle we do not object to a bond and/or derivative tape being developed simultaneously or operational considerations (e.g., IT) being taken into account during the development of an equity tape, as long as these considerations do not materially delay the launch of the consolidated tape or the commercial viability of the consolidated tape provider. We believe that aspects of the US TRACE approach can be adopted to avoid adverse implications for certain market participants, such as funds, whom may be executing block trades. A fixed income consolidated tape could initially incorporate highly liquidity instruments such as sovereign debt and liquid corporate bonds where data are more freely available, and then expand into other less liquid instruments, subject to consideration of the implications for liquidity.

Section II. Investor Protection

Question 31. Please specify to what extent you agree with the statements below regarding the experience with the implementation of the investor protection rules.

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
The EU intervention has been successful in achieving or progressing towards more investor protection		✓				
The MiFID II/MiFIR costs and benefits are balanced (in particular regarding the regulatory burden)	✓					
The different components of the framework operate well together to achieve more investor protection		✓				
More investor protection corresponds with the needs and problems in EU financial markets		✓				
The investor protection rules in MiFID II/MiFIR have provided EU added value		✓				

Question 31.1 Please provide both quantitative and qualitative elements to explain your answer and provide to the extent possible an estimation of the benefits and costs. Where possible, please provide figures broken down by categories such as IT, organisational arrangements, HR etc.

Qualitative elements for question 31.1 (5000 character(s) maximum):

As we have set out in our responses to other questions, changes can be made to various aspects of the MiFID II/MiFIR investor protection regime to enhance the access and choice that investors have to a broad range of suitable products.

1. Easier access to simple and transparent products

Question 32. Which MiFID II/MiFIR requirements should be amended in order to ensure that simple investment products are more easily accessible to retail clients?

	Yes	No	N/A
Product and governance requirements	✓		

Costs and charges requirements	✓		
Conduct requirements	✓		
Other	✓		

Question 32.1 Please explain your answer to question 32 (5000 character(s) maximum):

As we have set out in our responses to other questions, we recommend the following changes to the MiFID II/MiFIR requirements, all of which will contribute to retail investors being able to access simple investment products more easily.

Product and governance requirements

Improve investor access to suitable and appropriate investment funds by simplifying and revising product governance obligations – removing complexity and refining the scope of product governance and target market obligations to take account of the different ways that investors use funds (e.g., for asset allocation or as part of a portfolio), will enhance the effectiveness of the rules and deliver better outcomes for fund investors.

Costs and charges requirements

Simplifying the fund investment process and enhancing investor understanding by rationalising disclosure requirements – advancing understandable pan-EU investor disclosure requirements that are harmonised across products (UCITS, PRIIPs and non-MiFID comparable products) and consistent across disclosures (i.e., ex-ante disclosures, pre-sale KIID and KIDs, and ex-post disclosures).

Concluding the reforms to the PRIIPs KID – resolve the known issues with the disclosure and determination of transaction costs and performance scenarios before the application of the PRIIPs KID to UCITS.

Conduct requirements

- **Simplify and harmonise the complex web of disclosures for investment products across MiFID disclosures, the UCITS KIID and the PRIIPs KID**, to allow investors to compare inducements more easily (e.g., commission payments to distributors currently shown as service costs in MiFID II disclosures) against overall product costs (e.g., in UCITS KIID and PRIIPs KID disclosures);
- **Harmonise the interpretation of inducements and the conditions for the quality enhancement test**, given divergence in Member State approaches. Consistency and rigour in the application of the quality enhancement conditions should be aligned across the Member States (Article 11(2) of the MiFID II Delegated Directive);
- **Apply the assessment of equivalent investment products (Article 54(9), MiFID II Delegated Regulation) to all distributors and extend the quality enhancement and client best interest tests (Article 24(9), MiFID II) to all distribution fees**, including those related to the distribution of in-house products or closely linked third-party products (i.e., requiring distributors to demonstrate that distribution fees or

commissions, such as those bundled into product fees, meet the quality enhancement and client best interest tests).

Other

- **Delivering efficient retail investment opportunities by allowing MiFID II/R requirements to adapt to digital technology** – accommodating and encouraging the adoption of digital technology (e.g., virtual advice, online accounts/mobile apps) and making electronic delivery the default for durable medium to foster innovation and improve the ease with which EU citizens can access fund investment opportunities.
- **Maximising investor choice and access to investment funds by removing impediments to effective cross-border fund distribution** – complementing efforts to remove UCITS/AIFM Directive barriers to cross-border fund distribution, by simplifying, harmonising and better calibrating the MiFID II/MiFIR framework for permitted inducement to improve the investment process, increasing choice and enabling fund investors to benefit from cost efficiencies derived from the management of pooled fund assets.

Question 35. Would you generally support a phase-out of paper based information?

1 – Do not support; 2 – Rather not support; 3 – Neutral; 4 – Rather support; **5 – Support completely**; Don't know / no opinion / not relevant

Question 35.1 Please explain your answer to question 35 (5000 character(s) maximum):

We support completely a phase-out of paper-based information and instead making digital the default “durable medium” for information delivery – taking advantage of innovation in digital access and delivery of information can benefit investors by reducing financial and environmental costs and other risks and help investors obtain more tailored information in a timely, accessible manner. Increased digital use and evolution in the delivery of fund information suggests that a growing majority of investors want, and will utilise, technology to access and receive fund and investment account information electronically. Investor research and surveys show that electronic delivery of information can improve investor understanding and enable investors to take follow-up actions more easily (e.g., by clicking-through online or on mobile apps).

A phase-out of paper-based information should be accompanied by changes to the regulatory framework to facilitate innovative means of communicating with investors and disclosing information. Several aspects of the existing regulatory framework continue to envisage the use of paper or physical documents for investor disclosures (e.g., the UCITS KIID and PRIIPs KID must be produced on A4-size “paper”). Although these disclosures can be provided in a durable medium other than paper (e.g., online), the requirement to produce them in a document format (e.g., PDF) is not conducive to all forms of digital device (e.g., mobile phones) and may disincentivise investors from consuming the information if they are inconvenient or challenging to access or read (e.g., if an investor must “zoom in” to read a PDF on a mobile phone screen). Furthermore, enabling investor

disclosures to be made in a more dynamic digital form (e.g., as webpages or screens of a mobile app) presents opportunities to introduce interactivity (e.g., enabling investors to use a sliding scale to see the costs and charges and performance scenarios over adjustable investment amounts and holding periods). Furthermore, the use of other features such as pop-ups and hyperlinks provides investors with the opportunity to access a greater volume of information in a more tailored manner (i.e., selecting the information that is relevant to them), which may, in turn, engender greater engagement and enhance investor understanding.

Question 36. How could a phase-out of paper-based information be implemented?

	Yes	No	N/A
General phase-out within the next 5 years		✓	
General phase out within the next 10 years		✓	
For retail clients, an explicit opt-out of the client shall be required.		✓	
For retail clients, a general phase out shall apply only if the retail client did not expressly require paper based information		✓	
Other	✓		

Please specify in which other way could a phase-out of paper-based information be implemented (5000 character(s) maximum)?

The implementation of a phase-out of paper-based information should provide flexibility to ensure that fund managers can take account of different investor needs (e.g., investors who cannot access digital information) and be sufficiently dynamic to accommodate innovation in technology and the evolving management of cybersecurity risks. Regulatory approaches should therefore:

- build on existing well established practices and concepts (e.g., durable medium, distance marketing rules) to facilitate the default digital delivery of information, while providing the ability to use paper-based means on an exceptional basis for investors unable to use or access digital information;
- enable fund managers to take account of the means through which an investor can access information. For instance, this may involve consideration of the distribution channel (i.e., whether the investor subscribed to a fund direct or through an intermediary) and the means through which an investor transacted (e.g., through a paper based subscription form or through digital means); and
- enable investors and fund managers to mitigate consumer protection risks associated with the traditional delivery of information in paper form (e.g., the interception of postal documents by criminals to commit fraud) and varying and evolving cybersecurity threats when using digital technology.

Question 37. Would you support the development of an EU-wide database (e.g., administered by ESMA) allowing for the comparison between different types of investment products accessible across the EU?

1 – Do not support; 2 – Rather not support; 3 – Neutral; 4 – Rather support; 5 – **Support completely**; Don't know / no opinion / not relevant

Question 37.1 Please explain your answer to question 37 (5000 character(s) maximum):

We support the development of an EU-wide database of investment products and believe this should be complemented by efforts to develop harmonised requirements for marketing materials – building on the framework of current mandatory investor disclosures (i.e., UCITS KIID and PRIIPs KID) – to enhance the cross-border distribution of investment funds. A well-constructed EU-wide database of investment products has the potential to:

- provide fund investors with comprehensive and easily accessible information and tools with which to make informed investment decisions, including comparing investment products;
- develop a central information “hub” to reduce the administrative costs and complexity for funds when filing mandatory investor disclosures, including for cross-border marketing notifications.

An EU wide database could build on the development by ESMA of a cross-border marketing database of funds under the recent cross-border fund distribution package.

There are two core aspects involved in the establishment of an EU-wide database of investment products: (i) content; and (ii) operation and functionality.

Content

Investors need a range of information to analyse meaningfully and compare investment products. For instance, they need information on the characteristics of an investment fund (e.g., its risk and return profile) to determine how this may fit with their investment objectives/goals and risk tolerance, including alongside other investments they hold in their portfolio. Information may also be needed to assess an investment fund's value, including its performance, the service they can expect to receive, and costs and charges associated with the product. Several aspects of the information disclosures that may be included in a database and used by investors to analyse and compare products are subject to ongoing review (e.g., PRIIPs KID). Furthermore, we believe that the content of existing disclosures, such as the PRIIPs KID, should be changed to ensure information is meaningful for investors (e.g., to the presentation of performance and the calculation of transaction costs). Given the current state of flux of these disclosures, we do not believe that the content of an EU wide database could be effectively populated until the reforms are complete.

Operation and functionality

We recommend the following guiding principles for the operation of an EU-wide database of investment products:

- **Access** – free of charge and broadly accessible – across multiple platforms (online, mobile, etc.) – to a wide range of users (e.g., including hearing and visually impaired users, etc.);
- **Scope/Coverage** – unbiased inclusion of the broadest range of retail investment products available in the EU (domestic, cross-border);
- **Functionality** – broad functionality permitting data interrogation (e.g., the ability to select product features for comparison) and interactivity (e.g., the ability to select recommended holding periods to display performance scenario outcomes, etc.)
- **Data** – accurate and timely data storage and access with broad interoperability (e.g., building on existing ESMA machine-to-machine registers) and multiple user interface options;
- **Technology and security** – use of state-of-the-art reliable technology platforms to provide optimal uptime and strong cybersecurity protections.

Question 38. In your view, which products should be prioritised to be included in an EU-wide database?

	1 (irrelevant)	2 (rather not relevant)	3 (neutral)	4 (rather relevant)	5 (fully relevant)	N/A
All transferable securities			✓			
All products that have a PRIIPs KID/UCITS KIID			✓			
Only PRIIPs			✓			
Other			✓			

Please specify what other products should be prioritised (5000 character(s) maximum):

We recommend that the database contains information on the broadest range of retail investment products available in the EU, including funds (i.e., UCITS and retail AIF) and other investment based products (e.g., PRIIPs). See also answer to Question 37.1.

Question 38.1 Please explain your answer to question 38 (5000 character(s) maximum):

The development of a well-constructed EU-wide database can provide considerable benefits to fund investors and fund managers. However, several aspects of the information disclosures that may be included in a database and used by investors to analyse and compare products are subject to ongoing review (e.g., PRIIPs KID) and should be changed. Given this state of flux, we do not believe that the content of an EU wide database can be

effectively populated with information that is meaningful for investors until the reforms are complete. See also answer to Question 37.1.

Question 39. Do you agree that ESMA would be well placed to develop such a tool?

1 – Disagree; 2 – Rather not agree; **3 – Neutral**; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 39.1 Please explain your answer to question 39 (5000 character(s) maximum):

We have recommended several guiding principles for the operation of an EU-wide database of investment products, including access, scope/coverage, functionality, data, and technology and security (see answer to Question 37.1). We have also recommended that the database contain information on the broadest range of retail investment products available in the EU, including funds (i.e., UCITS and retail AIF) and other investment-based products (e.g., PRIIPs). See also answer to Question 38.

We believe that the organisation that develops and maintains the database should be able to meet these principles and incorporate the broadest range of retail products. We note that aspects of the regulatory architecture for certain investment products are within the competency of different European Supervisory Authorities or shared between ESAs (e.g., EIOPA and ESMA in the case of the PRIIPs KID). We also note the importance of such an EU-wide investment product database to be operated using state-of-the-art technology, including to provide cybersecurity.

An organisation able to meet the principles we have outlined and incorporate the breadth of products we have recommended would appear well placed to build and develop the database.

Section 4. Product Oversight, Governance and Inducements

Question 46. Do you consider that the product governance requirements prevent retail clients from accessing products that would in principle be appropriate or suitable for them?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; **4 – Rather agree**; 5 – Fully agree; Don't know / no opinion / not relevant

Question 46.1 Please explain your answer to question 46 (5000 character(s) maximum):

The MiFID II/MiFIR product governance requirements should be simplified and revised to enhance their effectiveness and deliver better outcomes for fund investors, including enabling investors to access a broader range of products that are appropriate or suitable for them. The product governance requirements that focus exclusively on the characteristics and nature of a product, including when defining a specific target market, fail to take into consideration the different ways in which an investor may use a particular fund.

Investors seek differing outcomes from individual fund investments and may invest either in a single fund that provides asset allocation or in a portfolio of funds, including index tracking funds and actively managed funds, to achieve these outcomes (they may also use and access other financial products.) Fund investors therefore assess the usefulness of a particular fund in contributing to their overall portfolio and do not consider each fund in isolation. Requiring fund managers to identify the potential target market for a fund based on a potential investor’s type, knowledge and experience, ability to bear loss, risk tolerance, and needs and objectives (per current ESMA guidelines), does not take account of the different ways an investor may use a fund and may result in an investor being denied access to a product that would otherwise be appropriate or suitable for them. For instance, a fund that in isolation has a risk and return profile that may not be aligned with a particular investor’s risk tolerance (e.g., due to volatility), may be appropriate and suitable when combined with another fund(s) as part of a portfolio (e.g., if overall volatility is reduced because of inverse correlation or the benefits of diversification).

Question 47. Should the product governance rules under MiFID II/MiFIR be simplified?

	Yes	No	N/A
It should only apply to products to which retail clients can have access (i.e., not for non-equities securities that are only eligible for qualified investors or that have a minimum denomination of EUR 100.000).	✓		
It should apply only to complex products.	✓		
Other changes should be envisaged – please specify below.	✓		
Simplification means that MiFID II/MiFIR product governance rules should be extended to other products.	✓		
Overall the measures are appropriately calibrated, the main problems lie in the actual implementation.		✓	
The regime is adequately calibrated and overall, correctly applied.		✓	

Question 47.1 Please explain your answer to question 47 (5000 character(s) maximum):

We believe the MiFID II/MiFIR product governance rules should be modified by making the following changes:

- **Limit the scope of target market assessment requirements to complex retail funds sold on an execution-only basis** – fund managers should be able to designate retail products as complex and specify a defined target market (e.g., where they have more complex features) but target market requirements should not apply to advised subscriptions. Financial advisers are in an appropriate position to assess the characteristics and nature of a product against client needs. Target market requirements also should not apply to professional investors who are defined as having the competency to assess the features and characteristics of funds without relying on target market assessments.
- **Clarify the obligations on fund managers to define the characteristics of products and on distributors to ensure appropriate products are recommended to investors** – funds

are often distributed by third parties (e.g., intermediaries, platforms, etc.) rather than by fund managers directly. Distributors are in the best position to recommend appropriate products are distributed to investors (including determining suitability by relying on information on the characteristics of funds provided by fund managers).

- **Extend the product governance requirements (as revised per our recommendations above) to non-MiFID comparable investment products** – retail investors have access to comparable investment products (e.g., non-MiFID PRIIPs) that are not subject to the same product governance obligations as MiFID distributed products (e.g., UCITS) thereby providing inconsistent protections for investors.

Question 48. In your view, should an investment firm continue to be allowed to sell a product to a negative target market if the client insists?

	Yes
✓	Yes, but in that case the firm should provide a written explanation that the client was duly informed but wished to acquire the product nevertheless.
	No
	Don't know / no opinion / not relevant

Question 48.1 Please explain your answer to question 48 (5000 character(s) maximum):

Investors deemed to be in the negative target market should be able to invest in a fund if they request to do so. Investors seek differing outcomes from individual fund investments and they should not be prevented from accessing a fund that may contribute positively to their overall portfolio (e.g., through diversification, hedging/offsetting to reduce volatility, downside risk, etc.).

Question 49. Do you believe that the current rules on inducements are adequately calibrated to ensure that investment firms act in the best interest of their clients?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 49.1 Please explain your answer to question 49 (5000 character(s) maximum):

We recommend the following changes to the MiFID II inducement regime:

- **Simplify and harmonise the complex web of disclosures for investment products across MiFID disclosures, the UCITS KIID and the PRIIPs KID**, to allow investors to compare inducements more easily (e.g., commission payments to distributors currently shown as service costs in MiFID II disclosures) against overall product costs (e.g., in UCITS KIID and PRIIPs KID disclosures);
- **Harmonise the interpretation of inducements and the conditions for the quality enhancement test**, given divergence in Member State approaches. Consistency and rigour in the application of the quality enhancement conditions should be aligned across the Member States (Article 11(2) of the MiFID II Delegated Directive);

- **Apply the assessment of equivalent investment products (Article 54(9), MiFID II Delegated Regulation) to all distributors and extend the quality enhancement and client best interest tests (Article 24(9), MiFID II) to all distribution fees**, including those related to the distribution of in-house products or closely linked third-party products (i.e., requiring distributors to demonstrate that distribution fees or commissions, such as those bundled into product fees, meet the quality enhancement and client best interest tests).

We believe that the recommendations above, if implemented correctly, have the potential to ensure that:

- investors have access to a broad range of the suitable investment products;
- all types of investment products are assessed on the basis of value rather than the nature of their distribution.

Question 50. Would you see merits in establishing an outright ban on inducements to improve access to independent investment advice?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 50.1 Please explain your answer to question 50 (5000 character(s) maximum):

An outright inducement ban is unlikely to improve fund investor access to independent investment advice. Other steps should be taken, including enhancing existing suitability obligations on distributors, mitigating conflicts of interest and enhancing transparency of inducements, to address potential concerns about inducements. These changes will mitigate potential conflicts of interest while ensuring fund investors have access to investment advice, including independent advice where appropriate, and to a broad range of suitable investment products.

Fund investors should have access to appropriate financial advice to support investment decision making and maximise their chance of achieving their investment objectives. An investor's need for advice – and the type of advice that is most suitable – depends on factors such as their investment goals, financial knowledge and experience, and the size of their investment portfolio. Experience from other jurisdictions suggests that an outright pan-EU inducement ban is unlikely to improve investor access to independent advice for fund investors in all Member States. Distribution systems for investment products, including the predominance of certain distribution channels (e.g., banks, financial advisers, insurers, etc.) and the prevalence of independent and non-independent advice models, vary considerably across Member States. The implementation of a blanket pan-EU inducement ban may create an advice gap in Member States (as has been seen in other jurisdictions that have implemented similar bans, albeit further examination is necessary). Investors (in many cases with smaller investment portfolio) whom would benefit from independent financial advice, will either be unable to access advice (because it is no longer economic for advisers to service the market) or be unable or unwilling to pay for it.

We believe that a spectrum of distribution models and intermediary services, ranging from portfolio to transaction-level advice through to execution-only, is necessary to meet the range of investor needs and to reflect the material differences in Member States' markets. The use of technology, including robo- or hybrid investment advice offering, may create changes to the advice and distribution landscape, and the regulatory framework should allow for these markets to continue to evolve without introducing an outright ban.

We believe that the recommendations provided in response to Question 49.1, have the potential to:

- support fund investors in obtaining access to the necessary information and diverse types of advice they need to make informed investment decisions; and
- address potential concerns of inducements through mitigation of conflicts of interest and enhanced disclosures.

Section 5. Distance Communication

Question 53. To reduce execution delays, should it be stipulated that in case of distant communication (phone in particular) the cost information can also be provided after the transaction is executed?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 53.1 Please explain your answer to question 53 (5000 character(s) maximum):

We fully agree that flexibility should be afforded to enable cost information to be provided after the execution of a transaction, consistent with the existing ability for the PRIIPs KID to be provided after the conclusion of a transaction (i.e., if it is not possible to provide the KID in advance and with the retail investor's consent.)

As we have set out in other responses to this consultation, we believe that the regulatory framework should enable fund investors to take advantage of innovative ways in which they can access funds and receive information. For instance, as the landscape for fund distribution continues to evolve, particularly the channels through which investors access funds (e.g., online) and the medium and devices they use (e.g., PCs, mobile phones, tablets, etc.), investors should be able to access and receive fund and investment account information electronically. Enabling investors to access disclosures, such as cost information in digital form also provides opportunities for interactivity (e.g., the use of sliding scales to see costs information over different time horizons) and access a greater volume of information in a more tailored manner (i.e., selecting the information that is relevant to them), for instance additional cost information at the point of investment and after a transaction is executed.

Section 6. Reporting on Best Execution

Question 55. Do you believe that the best execution reports are of sufficiently good

quality to provide investors with useful information on the quality of execution of their transactions?

1 – Disagree; 2 – Rather not agree; **3 – Neutral**; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 55.1 Please explain your answer to question 55 (5000 character(s) maximum):

Anecdotal feedback from ICI Global members suggests that they have received limited feedback or queries from investors on the RTS 27 and RTS 28 reports. The implementation of MiFID II requirements imposed considerable setup costs and ICI Global members report that the ongoing production of the RTS 27 and RTS 28 reports is time consuming and labour intensive. Moreover, it is challenging to provide an informative picture of execution in a single report because ultimately best execution will depend trade-by-trade and client-by-client. Furthermore, as the data and format used for presentation varies, this makes comparison analysis more complex. ICI Global members report almost no feedback from retail investors on the reports and that professional investors monitoring execution rely on significantly more data than would be reasonable to include in public reports alongside other data such as existing cost and charges reporting.

Question 56. What could be done to improve the quality of the best execution reports issued by investment firms?

	1 (irrelevant)	2 (rather not relevant)	3 (neutral)	4 (rather relevant)	5 (fully relevant)	N/A
Comprehensiveness				✓		
Format of the data				✓		
Quality of the data					✓	
Other						✓

Please specify what else could be done to improve the quality of the best execution reports issued by investment firms (5000 character(s) maximum):

The development of a consolidated tape will standardise many elements of market data reporting (e.g., through development of typologies and consistent technical specifications) – which will feed in alongside other sources to reformed RTS 27/28 reports – providing greater consistency and easier comparison analysis of best execution reports. Other improvements could be made to the balance of “big picture” summary statistics in reports against more granular data – a feature of current reports – which may overwhelm investors. Standardised graphical elements (graphs and charts) may support investors in drawing conclusions from the data and standardisation of elements (e.g., spreadsheet fields) may improve consistency.

Question 56.1 Please explain your answer to question 56 (5000 character(s) maximum):

ICI Global members report that the quality of the input data and the format of the output data in the reports are the two main obstacles to investors being able to analyse and draw conclusions from the data. RTS 27/28 reports are extremely detailed making them difficult to generate. Simplifying the reports and more carefully balancing big picture and granular elements would make them more useable.

Question 57. Do you believe there is the right balance in terms of costs between generating these best execution reports and the benefits for investors?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 57.1 Please explain your answer to question 57 (5000 character(s) maximum):

ICI Global members report that the cost of producing RTS 27/28 reports generally outweighs the benefits to investors, particularly given the challenges in presenting consistent and useable outputs in the reports. Simplification of the reports would reduce their production cost and coupled with the development of other measures such as a consolidated tape, would improve the consistency of information for investors.

III. Research Unbundling Rules and SME Research Coverage

Question 58: What is your overall assessment of the effect of unbundling on the quantity, quality, and pricing of research?

Our members' overall assessment of the effect of unbundling on the quantity, quality and pricing of research varies significantly depending on their particular business model and size.

The experience of some member firms is that, although the sheer volume of research is less, the quality of research has not declined, and there are no concerns regarding access to high quality research on SMEs. Additionally, such firms feel that, following an initial period of adjustment, the pricing of research seems to have stabilised and a sensible market has developed.

The experience of other firms, however, has been different. These firms are having more difficulty obtaining SME research and they believe that the quality of the research is lower (not only for SME, but for all equities). The pricing of research has steadily been reduced; however, in their view, pricing still remains relatively opaque and non-standardised, and would benefit from more transparency.

We also note that SME research began to decline well before the adoption of MiFID II, following the 2008/2009 financial crisis, so any perceived decline in SME research is not solely attributable to the adoption of MiFID II.

Question 59: How would you value the proposals listed below in order to increase the production of SME research?

	1 (irrelevant)	2 (rather not relevant)	3 (neutral)	4 (rather relevant)	5 (fully relevant)	N/A
Introduce a specific definition of research in MiFID II Level 1	✓					
Authorise bundling for SME research exclusively		✓				
Exclude independent research providers' research from Article 13 of delegated Directive 2017/593	✓					
Prevent under-pricing in research		✓				
Amend rules on free trial periods		✓				
Other						✓

Question 59.1: Explain your answer to question 59.

There is not universal perspective among our member firms regarding the quantity, quality and pricing of SME research. We provide, however, our members' views on the options presented to assist the Commission in determining how best to move forward on this issue.

Our members believe that introducing a specific definition of research in MiFID II Level 1 would not impact the production of SME research.

Our members believe that applying different rules for SME research to allow bundling would not positively impact the production of research because (i) at this stage, there is zero appetite for clients to pay for research on a bundled basis and (ii) this option presents serious practical and operational difficulties.

Our members believe that excluding independent research providers' research from Article 13 of Delegated Directive 2017/593, although operationally feasible, would not impact SME production and consumption because the asset managers that purchase such research assess (and would continue to assess) the quality and pricing of such research in the same manner as they would for all other research.

Our members generally believe that regulators should not regulate pricing and that a regulator's involvement in pricing in the capital market could have seriously negative unintended and/or unforeseen consequences.

Question 60: Do you consider that a program set up by a market operator to finance SME research would improve research coverage?

1 – Disagree; 2 – Rather not agree; **3 – Neutral**; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 60.1: Explain response to question 60.

Our members have numerous questions and concerns about how such a program would operate with respect to funding, company coverage, research access, quality control, and inherent conflicts. As a general matter, they believe that there are significant practical and operational challenges presented with respect to such a program. In addition, although such a program could increase the volume of research covering SMEs, this does not guarantee the usefulness or objectivity of the research produced.

Question 62: Do you agree that the use of artificial intelligence could help to foster the production of SME research?

1 – Disagree; 2 – Rather not agree; **3 – Neutral**; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 62.1: If you agree, which recommendations would you make on the form that such use of artificial intelligence could take and do you see risks associated with the development of AI-generated research?

Artificial intelligence (AI) currently plays a role in some segments of the research market, primarily to produce generic reporting items. Our members believe that further development of AI research capabilities could contribute to the production of all research, not just SME research. We believe, however, that AI-generated research would likely continue to be limited to generic reporting items and that the value of such research to a stock picker would be minimal. We note that a large broker dealer would already be developing a competitive AI-generated research product if such research would be of value.

Question 63? Do you agree that the creation of a public EU-wide SME research database would facilitate access to research material on SMEs?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; **4 – Rather agree**; 5 – Fully agree; Don't know / no opinion / not relevant

Question 63.1: Explain the answer to question 63.

Our members believe that a public-EU wide database may increase the volume of and facilitate access to SME research. It is unclear, though, how such a database would operate and be funded, and how research quality would be ensured. In addition, certain members note that, even if research were available on a public data-base, they would still acquire research from a key research provider that they trust. This option, therefore, may be of more value for smaller asset managers.

Question 64: Do you agree that ESMA would be well placed to develop such a database?

1 – Disagree; 2 – Rather not agree; **3 – Neutral**; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 65: In your opinion, does issuer-sponsored research qualify as an acceptable minor non-monetary benefit as defined by Article 12 of Delegated Directive (EU) 2017/593?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; **5 – Fully agree**; Don't know / no opinion / not relevant

Question 66: In your opinion, does issuer-sponsored research qualify as investment research as defined in Article 36 of Delegated Regulation (EU) 2017/565?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; **4 – Rather agree**; 5 – Fully agree; Don't know / no opinion / not relevant

Question 66.1: Explain the answer to question 66.

The content of “issuer-sponsored research” can differ depending on the provider. It is therefore not possible to provide a blanket opinion regarding whether it qualifies as “research” as defined in Article 36 of Delegated Regulation (EU) 2017/565.

Question 67: Do you consider that rules applicable to issuer-sponsored research should be amended?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; **4 – Rather agree**; 5 – Fully agree; Don't know / no opinion / not relevant

Question 67.1:

Our members believe that clarification regarding the treatment of, and rules regarding issuer-sponsored research would be beneficial. For example, if the Commission wishes to include issuer-sponsored research explicitly within the definition of “investment research” as defined in Article 36(1) of Delegated Regulation (EU) 2017/565, then further clarification is needed within that definition. Additionally, our members would welcome amendments that would relax the conditions applicable to issuer-sponsored research in a manner that would facilitate the provision of targeted research to interested investors. Further, members believe that additional guidance on the disclosure of any potential conflicts of interest with respect to the production of the research would be useful.

Question 68: Which of the policy options below would be most effective and have the most impact on fostering SME research? Rating as: 1 – least effective; 2 – rather not effective; 3 – neutral; 4 – rather effective; and 5 – most effective.

	1 (less effective)	2 (rather not effective)	3 (neutral)	4 (rather effective)	5 (most effective)	N/A

Introduce a specific definition of research in MiFID II Level 1		✓				
Authorise bundling for SME research exclusively		✓				
Amend Article 13 to exclude independent research providers' research from Article 13 of Delegated Directive 2017/593		✓				
Prevent under-pricing in research		✓				
Amend rules on free trial periods		✓				
Create a program to finance SME research set up by market operators			✓			
Fund SME research partially with public money			✓			
Promote research on SME produced by artificial intelligence			✓			
Create an EU-wide database on SME research			✓			
Amend rules on issuer sponsored research				✓		
Other						✓

Question 68.1: Explain the answer to question 68.

As stated above, asset managers do not have a uniform view of whether there is a need to increase the production of SME research.

PART TWO: AREAS IDENTIFIED AS NON-PRIORITY FOR THE REVIEW

Section VII. Double Volume Cap

Question 82. Please specify to what extent you agree with the statements below regarding the experience with the implementation of the Double Volume Cap?

	1 (disagree)	2 (rather not agree)	3 (neutral)	4 (rather agree)	5 (fully agree)	N/A
The EU intervention been successful in achieving or progressing towards the objective of more transparency in share trading.	✓					
The MiFID II/MiFIR costs and benefits are balanced (in particular regarding the regulatory burden).	✓					
The different components of the framework operate well together to achieve more transparency in share trading.	✓					
More transparency in share trading correspond with the needs and problems in EU financial markets.		✓				
The DVC has provided EU added value	✓					

Question 82.1 Please provide both quantitative and qualitative elements to explain your answer and provide to the extent possible an estimation of the benefits and costs. Where possible, please provide figures broken down by categories such as IT, organisational arrangements, HR etc.

Qualitative elements for question 82.1 (5000 character(s) maximum):

The double volume cap should be removed as it has increased complexity in European market structure and limited the ability of fund managers to identify and access opportunities to maximise execution outcomes for end investors. Fund managers face a more complex order routing landscape without commensurate execution benefits as double volume cap “restricted” trades have not migrated to “lit” venues and instead remained in the dark.

A more effective mechanism to improve transparency would be the establishment of a comprehensive, thoughtfully implemented consolidated tape with lessons learnt from other markets such as the United States. Such an approach facilitates trading on venues most suited to particular instruments, supports liquidity provision and price discovery, and

limits the risk of reducing the liquidity of more illiquid instruments. Furthermore, it has the potential to enhance overall transparency and opportunities for fund managers to maximise execution outcomes. Reference price and negotiated trade waivers should be retained after the double volume cap has been removed.

Section IX. Digitalisation and new technologies

Question 86. Where do you see the main developments in your sector: use of new technologies to provide or deliver services, emergence of new business models, more decentralised value chain services delivery involving more cooperation between traditional regulated entities and new entrants or other?

Please explain your answer (5000 character(s) maximum):

Technology is revolutionising various aspects of the fund value chain, including: (i) the way in which funds, asset managers and investors engage; and (ii) the way in which operations are conducted. Examples of the innovations are listed below:

Automation of investment subscription and advice

Growth in the use of online and mobile technology to access funds and investment solutions and to obtain investment advice (e.g., robo-advice) is changing the relationship between investors and funds. This may include the way in which funds are distributed and the way in which investments are made. These developments may also facilitate improved access to, and delivery of, information to investors, thereby reducing costs and helping investors obtain more tailored information in a timely, accessible manner. Investor research and surveys show that electronic delivery can improve investor understanding and enable investors to take follow-up actions more easily (e.g., by clicking-through online). Increased internet usage and evolution in the delivery of fund information suggests investors want, and will utilise, technology to access and receive fund and investment account information electronically.

Distributed Ledger Technology (DLT)

Developments in DLT and virtual currencies have the potential to drive changes to various operations aspects of the value chain for funds and asset managers. These changes may include: (i) fund administration processes for subscriptions, redemption and transfer agency; and (ii) the trading, settlement and safekeeping of securities. The impact of DLT developments for funds and asset managers is likely to be closely linked to the development and take-up of DLT across other parts of the financial sector, including the banking and market infrastructure sectors.

Robotics and Artificial Intelligence

The use of robotic process automation (RPA) and artificial intelligence is driving changes to various aspects of fund operations including fund administration processes such as identity checking for AML.

Electronic identity verification

FinTech solutions for electronic identity verification as a means to undertake Know Your Customer (KYC) checks offer several potential benefits and reduce cost. These benefits include: (i) reducing the risk of money laundering and fraud; and (ii) enhancing the efficiency of subscription and redemption for fund investors. Electronic identity verification

also more generally supports growth in the use of online and mobile technology by fund investors.

Question 87. Do you think there are particular elements in the existing framework which are not in accordance with the principle of technology neutrality and which should be addressed?

Please explain your answer (5000 character(s) maximum):

Regulatory approaches should accommodate and encourage the adoption of digital technology and the electronic delivery of information – to foster innovation and offer advantages to retail fund investors, such as easier access to information and more efficient means of advice and investment (e.g., automated advice, online accounts, electronic KYC/AML checks, etc.).

As we have outlined in our response to other questions, current requirements that are predicated on physical media such as the use of “documents” for investor disclosures (e.g., the UCITS KIID and PRIIPs KID must be produced on A4-size “paper”) should be modernised. Enabling disclosures to be provided in a more “consumable” electronic form (e.g., on a webpage or a mobile phone screen) presents opportunities to introduce interactivity (e.g., enabling investors to use a sliding scale to see the costs and charges and performance scenarios over adjustable investment amounts and holding periods). Furthermore, the use of other features such as pop-ups and hyperlinks provides investors with the opportunity to access a greater volume of information in a more tailored manner (i.e., selecting the information that is relevant to them) which may in turn engender greater engagement and enhance investor understanding.

Question 89. Do you consider that digitalisation and new technologies will significantly impact the role of EU trading venues in the future (5/10 years’ time)?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; 5 – Fully agree; Don’t know / no opinion / not relevant

Question 89.1 Please explain your answer to question 89 (5000 character(s) maximum):

ICI Global members have reported an increase in the prevalence of electronic trading and the emergence of additional electronic liquidity providers in the market. We expect the impact of new technologies to continue to change the trading and market structure landscape.

Question 90. Do you believe that certain product governance and distribution provisions of the MiFID II/MiFIR framework should be adapted to better suit digital and online offers of investment services and products?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; 5 – Fully agree; Don’t know / no opinion / not relevant

Question 90.1 Please explain your answer to question 90 (5000 character(s) maximum):

As we have set out in our responses to other questions in this consultation, we believe that allowing MiFID II/MiFIR requirements to adapt to digital technology will foster innovation and improve access for EU citizens to fund investment opportunities. Our recommendations include:

- making electronic delivery the default “durable medium” for investor disclosures and communications (see our responses to Q35 and Q36) and better accommodating the use of digital technology by investors (e.g., virtual advice, online accounts, mobile apps); and
- simplifying and focusing product governance obligations to better reflect the intermediated nature of distribution chains and the different ways in which an investor may use a particular fund – for asset allocation, as part of a portfolio, alongside other financial products, etc. (see our responses to Q46-Q50).

Our recommended changes to the MiFID II/MiFIR product governance obligations seek to clarify the obligation for fund managers to define the characteristics of products and the obligation for distributors to ensure appropriate products are recommended to investors. The fragmentation of the distribution chain – various intermediate entities between the fund manager and the entity that has the ultimate relationship with the end client (e.g., a financial adviser) - presents difficulties for fund managers to obtain information on how sales align to the target market. These changes we recommend are intended to address the challenges raised by the multiple layers in the distribution chain of funds using online or other digital means platform (e.g., fund supermarkets or mobile apps).

Question 91. Do you believe that certain provisions on investment services (such as investment advice) should be adapted to better suit delivering of services through robo-advice or other digital technologies?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; 5 – Fully agree; Don’t know / no opinion / not relevant

Question 91.1 Please explain your answer to question 91 (5000 character(s) maximum):

As we have set out in our responses to other questions in this consultation, there are opportunities for MiFID II/MiFIR requirements to be adapted to digital technology (e.g., virtual advice, online accounts, mobile apps) including making electronic delivery the default “durable medium” for investor disclosures and communications (see our responses to Q35 and Q36). The existing MiFID II/MiFIR requirements concerning investment advice are centred around delivery on a face-to-face environment and there are opportunities to refine and tailor “personal recommendation” provisions (Article 4(1)(4), MiFID II) to suit virtual advice offerings (e.g., robo-, hybrid advice) and investor tools (e.g., decision trees).

Section X. Foreign Exchange (FX)

Question 92. Do you believe that the current regulatory framework is adequately calibrated to prevent misbehaviours in the area of spot foreign exchange (FX) transactions?

1 – Disagree; 2 – Rather not agree; 3 – Neutral; 4 – Rather agree; 5 – Fully agree; Don't know / no opinion / not relevant

Question 92.1 Please explain your answer to question 92 (5000 character(s) maximum):

The regulatory framework is adequately calibrated and we have not identified market integrity or market conduct issues that warrant changes at EU or Member State level. We do not believe that spot FX contracts should be brought within the scope of the MiFID II/MiFIR framework or MAR.

We note the development and implementation of the FX Global Code of Conduct which sets out global principles of good practice for the FX market and a common set of guidelines to further promote market integrity and effective functioning. The Code is subject to periodic review and is intended to evolve over time to reflect changes to market dynamics. ESMA has noted that the code has already achieved progress in promoting higher standards in the wholesale FX market and has recommended waiting for the code to be more deeply embedded into the market before reviewing the need for regulatory action.

ESMA has also identified practical difficulties in expanding the scope of MiFID II and MAR to include spot FX contracts. In particular, ESMA notes that the spot FX market does not have the features (partly due to its OTC nature) that would be necessary to successfully incorporate it into the current MiFID II framework nor the characteristics which would enable it to fit within and meet MAR's framework and requirements.

Question 93. Which supervisory powers do you think national competent authorities should be granted in the area of spot FX trading to address improper business and trading conduct on that market?

Please explain your answer (5000 character(s) maximum):

We have not identified market integrity or market conduct issues that we believe warrant changes to the supervisory powers of NCAs over spot FX trading. We understand that NCAs are effectively using their existing powers to oversee and challenge compliance with the FX Global Code of Conduct and we do not believe additional supervisory tools are necessary at this stage.