



European Securities and  
Markets Authority

# Response Form to the Consultation Paper

**MiFIR report on Systematic Internalisers in non-equity instruments**



## Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex III. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **18 March 2020**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your input - Consultations'.

### Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_SINE\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_SINE\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_SINE\_ABCD\_RESPONSEFORM.

5. Upload the form containing your responses, in Word format, to ESMA's website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading "Your input – Open Consultations" → "Consultation on MiFIR report on Systematic Internalisers in non-equity instruments").

### **Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

### **Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](#).

### **Who should read this paper**

This paper is of interest mainly to systematic internalisers active in non-equity instruments as well as clients of such systematic internalisers, and any associations representing their interest.

## General information about respondent

Name of the company / organisation	FIA European Principal Traders Association
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

## Introduction

*Please make your introductory comments below, if any*

<ESMA\_COMMENT\_CP\_SINE\_1>

The FIA European Principal Traders Association (FIA EPTA) represents 28 independent European Principal Trading Firms (PTFs) that deal on own account, using their own money for their own risk, to provide liquidity and immediate risk-transfer in exchange-traded and centrally-cleared markets for a wide range of instruments, including shares, options, futures and ETFs. As market makers and liquidity providers, our members contribute to efficient, resilient, and high-quality secondary markets that serve the investment and risk management needs of end-investors and corporates throughout the EU.

We welcome the opportunity to respond to this ESMA consultation on the MiFIR pre-trade transparency regime for systematic internalisers (SI) active in non-equity instruments.

FIA EPTA members would welcome the opportunity to provide further background information to ESMA on these and the other issues raised in our response.

<ESMA\_COMMENT\_CP\_SINE\_1>

## Questions

**Q1** : Do you consider that there is a need to clarify what a “firm quote” is? If so, in your view, what are the characteristics to be met by such quote?

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<ESMA\_QUESTION\_CP\_SINE\_1>

**Q2** : (For SI clients) As a SI client, do you have easy access to the quotes published, i.e. can you potentially trade against those quotes when you are not the requestor? Do you happen to trade against SIs quotes when you are not the initial requestor? How often? If it varies across asset classes, please explain.

<ESMA\_QUESTION\_CP\_SINE\_2>

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<ESMA\_QUESTION\_CP\_SINE\_2>

**Q3** : What is your overall assessment of the pre-trade transparency provided by SIs in liquid non-equity instruments? Do you have any suggestion to amend the existing pre-trade transparency obligations? If so, please explain which ones and why.

<ESMA\_QUESTION\_CP\_SINE\_3>

FIA EPTA members note that for OTC derivatives, SI pre-trade transparency is limited to instruments that are considered “traded on a trading venue” (ToTV), as SIs have generally opted-in only for ToTV instruments. The overly granular approach to assessing ToTV means that, for certain asset classes, there is very little trading activity technically considered SI trading activity (and FIA EPTA members suspect this is why virtually all volumes have been reported as ToTV (see paragraph 118)). For example, the data analysis found that for interest rate derivatives, only ~5% of off-venue trading activity is being considered ToTV.<sup>1</sup> As a result, significant changes must be made to the concept of ToTV before SI pre-trade transparency can be considered meaningful. In assessing the overall SI transparency regime, it would be helpful for ESMA to attempt to determine total ToTV trading volumes vs. total off-venue trading volumes per asset class.

Separately, FIA EPTA members note that ESMA does not appear to specifically evaluate the level of pre-trade transparency being provided by SIs for package transactions, which has been the subject of additional Q&A. In particular, in Section 4, Question 4(c) of ESMA’s Q&A on MiFID II and MiFIR transparency topics, ESMA has stated that: “Where an investment firm is prompted for a quote for a package order for which it is a systematic internaliser only for some components, the investment firm can decide either to provide a firm quote for the whole package or only for the components for which it is a systematic internaliser.” FIA EPTA members understand that some SIs are interpreting the phrase “can decide either to” as entirely voluntary, meaning that the SI could also decide not to provide any quote at all for a package order for which it is a systematic internaliser only for some components. To the extent this was not the intent of the Q&A, FIA EPTA members suggest revising “can decide either to” to “must

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<sup>1</sup> <https://www.clarusft.com/what-we-need-to-do-to-fix-mifid-ii-data/>

either". This will ensure investment firms are providing pre-trade transparency for instruments where it is an SI, even where those instruments are executed as part of a package.

<ESMA\_QUESTION\_CP\_SINE\_3>

**Q4** : (For SI clients) do you have access to quotes in illiquid instruments? If so, how often do you request access to those quotes? What is your assessment of the pre-trade transparency provided by SIs in illiquid instruments?

<ESMA\_QUESTION\_CP\_SINE\_4>

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**Q5** : (For SIs) Do you disclose quotes in illiquid instruments to clients upon request or do you operate under a pre-trade transparency waiver? In the former case, how often are you requested to disclose quotes (rarely, often, very often)? Does it vary across instruments / asset classes?

<ESMA\_QUESTION\_CP\_SINE\_5>

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**Q6** : Do you consider that there is an unlevel playing field between SIs and multilateral trading venues active in non-equity instruments, in particular with respect to pre-trade transparency? If so, please explain why and suggest potential remedies.

<ESMA\_QUESTION\_CP\_SINE\_6>

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**Q7** : (for SIs who are also providing liquidity on trading venues): What are the key factors that determine whether quote requesters (your clients) want to receive the quote through the facilities of a trading venue or through your own bilateral trading facilities?

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**Q8** : What is your view on the proposal to simplify the requirements in relation to SI quotes in liquid non-equity instruments under Article 16(6) and 18(7)?

<ESMA\_QUESTION\_CP\_SINE\_8>

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**Q9** : Do you consider that the requirements in relation to SI quotes in illiquid non-equity instruments (Article 18(2)) are appropriate? What is your preference between the options presented in paragraph 52 (please justify)?

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**Q10** : What is your view on the recommendation to specify the arrangements for publishing quotes?

<ESMA\_QUESTION\_CP\_SINE\_10>  
FIA EPTA members support further regulatory guidance on the arrangements for publishing quotes. In addition, FIA EPTA members agree with ESMA's proposal to do this by extending Article 13 of Commission Delegated Regulation (EU) No 2017/567 to cover SIs in non-equity instruments.  
<ESMA\_QUESTION\_CP\_SINE\_10>

**Q11** : Do you have any comment on the analysis of Bond data and the relation with the SSTI thresholds as presented above?

<ESMA\_QUESTION\_CP\_SINE\_11>  
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**Q12** : Do you have any comment on the analysis of derivatives data and the relation with the SSTI threshold as presented above?

<ESMA\_QUESTION\_CP\_SINE\_12>  
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**Q13** : What is your view on the influence of the SSTI thresholds on the pre-trade transparency framework for SI active in non-equity instruments? Are there any changes to the legal framework that you would consider necessary in this respect?

<ESMA\_QUESTION\_CP\_SINE\_13>  
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**Q14** : What is your view on the best way for ESMA to fulfil the mandate related to whether quoted and traded prices reflect prevailing market conditions and in particular: (1) the source of data for the SI quotes/trades (RTS 27, APA); (2) the source of market data prices; and (3) the methodology to compare the two and formulate an assessment?

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