



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	International Capital Market 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>

On behalf of the International Capital Market Association (ICMA), we are pleased to provide feedback regarding ESMA's consultation paper on "MiFIR report on Systematic Internalisers in non-equity instruments". ICMA's SI Pre-trade transparency Taskforce is grateful for the opportunity to respond to ESMA's consultation paper. The ICMA Taskforce member response is based on consensus view from a varied group of buy-side and sell-side investment firms and also trading venues, representing Germany, the Netherlands, France, Denmark, Sweden, Spain, Italy, UK, Australia and the United States. There is a unique value in conveying broad view from across the industry and we hope this response is informative and useful.

The Taskforce members welcome the efforts of ESMA to seek out stakeholder views regarding ESMA's SI pre-trade transparency regime and in particular, ESMA's findings and proposals. This response is solely in relation to cash bonds.

<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?

<ESMA\_QUESTION\_CP\_SINE\_1>

There is clarity in the market as to what a ‘firm quote’ is. Therefore, no need to clarify.

<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>

From a buy-side perspective – Yes, the buy-side has access to published SI quotes and can potentially trade against the SI quotes. However, buy-sides interact instead with dealer published axes and inventory rather than MiFIR based SI quotes.

<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>

From a sell-side perspective, ICMA member firm assessment is that market participants are abiding by MiFIR SI pre-trade transparency obligations.

From a buy-side perspective, they are not using MiFIR pre-trade transparency data. Instead, buy-sides are using ‘market’ pre-trade transparency for price discovery such as axes.

It is important to note the market is evolving. Since MiFID II/R came into effect, there has been an obvious trend for previously traded OTC trades to trade on trading venues such as, MTFs or OTFs. In addition, small and mid-sized trades are observed to be trading on venues, using MTF/OTF algorithmic tools. For large or illiquid trades, execution is taking place OTC.

<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>

From a buy-side perspective, they are not aware of any MiFIR based quotes being available in illiquid instruments, as such, do not have access. When trading an illiquid bond, the buy-side will search for axes and inventory and discuss bilaterally with a counterparty to trade.

<ESMA\_QUESTION\_CP\_SINE\_4>

**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>

There have been no requests to disclose quotes in illiquid bond instruments, in accordance with MiFIR.

<ESMA\_QUESTION\_CP\_SINE\_5>

**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>

ICMA members believe the SI rules under Article 18 go above and beyond those required on multilateral venues as it also imposes additional obligations on SIs such as requiring SIs to make the firm quotes ‘available to other clients’ (Article (18(5))) and ‘enter into transactions’ under the published conditions with clients to whom the quotes are made available (Article (18(6))).

In addition, ICMA member firms agree, as stated in ESMA’s consultation, that there is a lack of anonymity for individual SI quotes compared with trading venues where published quotes are at the venue level rather than the individual risk-taker level. ICMA members believe that SIs should have the possibility to anonymise their quotes should they wish to. Also worth noting that the SI pre-trade reporting could only be anonymised if the additional obligations under Article 18 (5), Article 18 (6) and Article 18 (7) are deleted.

<ESMA\_QUESTION\_CP\_SINE\_6>

**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?

<ESMA\_QUESTION\_CP\_SINE\_7>

It should be noted that in bond markets, SIs do not function simply as an alternative to trading venues. Bond markets are by nature a less liquid market with naturally less market participants. SI’s therefore offer a valued tailored service based on their clients’ requirements, as well as acting as a source of simple liquidity, and are willing to take risk onto their own books in the knowledge that they will be able to manage that risk effectively. Accordingly, buy side firms may choose to request quotes bilaterally from an SI rather than access that SI’s liquidity through a trading venue for several reasons:

- When trading in significant sizes, where revealing their intentions to multiple liquidity providers may prove market impactful and compromise their trading strategy
- In conjunction with direct conversations with that SI when discussing complex trading structures
- Where liquidity is not offered on a trading venue (where there are no readily available buyers and sellers in the market), an SI will often be willing to trade on risk, and hedge that exposure through non-identical liquidity, potentially obtained through a mixture of trading venues and other counterparties. As the buy side firm’s objective is to source the original liquidity, seeking alternative liquidity in the same manner as the

SI has hedged would not be suitable, even assuming the buy side firm had the expertise to achieve this.

<ESMA\_QUESTION\_CP\_SINE\_7>

**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>

ICMA member firms agree with ESMA's proposal to simplify the requirements in relation to SI quotes in liquid non-equity instruments and to delete Articles 18 (6) and 18 (7). ESMA may wish to consider deleting Article 18 (5) in addition, as suggested in answer 6.

<ESMA\_QUESTION\_CP\_SINE\_8>

**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)?

<ESMA\_QUESTION\_CP\_SINE\_9>

ICMA member firms find the requirements in relation to SI quotes in illiquid bond instruments complex and difficult to apply in practice. It is not very clear what this article is trying to achieve. On that basis, ICMA members would prefer this requirement to be deleted from MiFIR altogether. With regards to the options presented by ESMA, ICMA members would opt for option 1 on the basis that they would not want to see the current regime replaced by a new regime which might end up being more complex. Therefore, ICMA members would choose option 1 in paragraph 52 and believe that the current waiver is appropriate.

Members also observe that member firms are referencing and using ESMA liquidity calibration results in all transparency management.

<ESMA\_QUESTION\_CP\_SINE\_9>

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

<ESMA\_QUESTION\_CP\_SINE\_10>

ICMA members support informing clients and market participants as to where published SI quotes can be found.

However, ICMA members observe that not all of Article 13, suggestions for publishing quotes are applicable to bond instruments. Details for Article 13, in particular Article 13 (6), relate to equities and are not easily transferable to bonds. In fact, several of those provisions would be structurally difficult for bonds, if not impossible (**examples of this are Articles 9 and 11 of CDR 2017/587**).

For example, Article 13 could be interpreted to require SI firms to monitor bond SI quotes for published errors in a corresponding systematic (e.g. constant stream of ticking quotes similar to equities) way, in order to ensure the feed is correct. ICMA notes it is important to be sensitive to the characteristics of bond instruments as the means to achieve this requirement do not exist in bond markets.

<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>

ESMA has found that SI firms are meeting their pre-trade requirements: “the [ESMA] data does not suggest any intention to circumvent the pre-trade transparency obligation via the SSTI threshold (i.e. by quoting ‘just beyond’ the threshold)”. ICMA member firms are in agreement.

<ESMA\_QUESTION\_CP\_SINE\_11>

**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>

ICMA is responding solely to cash bond related questions for this ESMA CP response.

<ESMA\_QUESTION\_CP\_SINE\_12>

**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>

ICMA member firms are in agreement with ESMA that no change to the legal framework appears necessary.

<ESMA\_QUESTION\_CP\_SINE\_13>

**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?

<ESMA\_QUESTION\_CP\_SINE\_14>

Unlike equities, central limit order books (CLOBS) are not widely used in bond markets. There is no natural liquidity and the ‘coincidence of want’ is not there.

With this in mind, the best approach for ESMA may be to reach out and discuss with market participants on an interview basis about MiFIR pre-trade quotes and prevailing market conditions. ICMA members consider the best way forward may be a ‘qualitative’ approach instead of a ‘quantitative’ approach in order to achieve desired results.

<ESMA\_QUESTION\_CP\_SINE\_14>