

PRESS RELEASE

BETTER FINANCE calls on EU legislators to stop helping the expansion of large (mostly non-EU) dark traders and to protect retail investors instead

10 February 2023 | As EU policymakers continue their negotiations on the MiFIR review, BETTER FINANCE is increasingly alarmed that the regulation could severely hurt retail investors, by putting in place a market structure further benefitting dark Systematic Internalisers (SIs).

Ignoring the previous plea from BETTER FINANCE and going against the interests of retail investors, MEPs are considering further strengthening the position of dark traders (such as SIs) to execute trades off-exchange – instead of limiting their activity to large orders as we initially called for and they were meant for. This will be driven by a technical, yet critical point currently considered by MEPs, namely, to extend the ability of SIs to match at the midpoint between the best bids and offers for smaller trades than the “large-in-scale” (LIS) size. Such favourable trading terms for SIs would only undermine transparency and rig the playing field further, while distorting trading activity and leaving retail investors with an eroded price formation and offer. A homogenous so-called ‘tick size regime’ must therefore apply across all types of execution platforms except LIS ones. However, MEPs are considering amending this key principle, which was included in the proposal from the European Commission. BETTER FINANCE therefore calls on policymakers to revert to the original ‘Article 17a’ as per the EC proposal on tick size regime.¹

Guillaume Prache, Managing Director of BETTER FINANCE, stresses that *“the introduction of a real-time pre-trade data “consolidated tape”, besides it actually not being accessible for retail investors, would be of little to no help to them, instead enabling dark pools (SIs) to free ride even more on the regulated markets’ order books, a situation that would be even worse if it was to rely solely on the ‘5 best bid/offer’ available.”* In contrast, an end-of-day ‘European Best Book Order’ (provided by all trading venues and protocols) would ensure sufficient transparency, without hampering best execution or distorting the market even more.

BETTER FINANCE also further stresses the importance of prohibiting the detrimental payment for retail order flows (or “PFOF”).

BETTER FINANCE urgently calls on MEPs to²:

- prohibit systematic internalisers from dealing and executing trades that are below a high “Large-in-Scale (LIS)” factor or, at the minimum, revert to the Commission’s Article 17a MiFIR proposal,
- prescribe a Consolidated Tape with a ‘European Best Book Order’ snapshot at execution time
- impose a comprehensive volume cap including all waivers and dark forms of trading,
- not decouple SIs from reporting requirements,
- impose an adequate definition for best execution primarily as obtaining the best price, net of commissions and other costs, for retail trades,
- ensure adequate, fair, clear, not misleading, and publicly available reporting on commissions received by retail brokers from “dark” operators,
- and maintain the EC proposal to prohibit payments to retail brokers for retail order flow (“PFOF”).

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¹ Systematic internalisers’ quotes, price improvements on those quotes and execution prices shall comply with the tick sizes set in accordance with Article 49 of Directive 2014/65/EU.

² See also BETTER FINANCE position papers on [Transparency and Best Execution](#) and [Consolidated Tape](#).