

**Mairead McGuinness**  
Commissioner  
European Commission

**Gunnar Beck**  
Member of European  
Parliament

**José Gusmão**  
Member of European  
Parliament

**Danuta Maria Hübner**  
Member of European  
Parliament

**Nicola Beer**  
Member of European  
Parliament

**Eero Heinäluoma**  
Member of European  
Parliament

**Anna Jegnell**  
Director General  
Ministry of Finance, Sweden

**Karima Delli**  
Member of European  
Parliament

**Johan Van Overtveldt**  
Member of European  
Parliament

27 June 2023

**Subject: MiFIR triologue negotiations**

Dear Commissioner McGuinness, MEP Hübner, and Ms Jegnell,  
Dear Members of the European Parliament,

We are contacting you regarding the ongoing MiFIR triologue negotiations. We would like to reiterate the reservations expressed by BETTER FINANCE concerning the ongoing technical and complex discussions that are dominated by specific industry interests, namely large buy-side and sell-side financial intermediaries, well identified by Pr. John Kay as “other people’s money”. These discussions have become overly technical and undemocratic for a Level I EU process, excluding input from buy-side stakeholders, particularly EU citizens as end investors.

It is indeed crucial to ensure that retail investors can benefit from a transparent and regulated European securities trading environment with a level playing field. Unfortunately, the current texts remain biased against the interests of retail investors in terms of market structure, which is a critical component of the CMU Action Plan.

The objective of the MiFIR review was to enhance transparency and promote fair competition among execution platforms by establishing an EU-wide Consolidated Tape for shares, bonds, and ETFs, based on real-time data. Additionally, it aimed to strengthen market structure requirements and implement measures to prevent conflicts of interest.

BETTER FINANCE has identified three key concerns for retail investors in the MiFID/MiFIR review:

1. Regarding Market Structure, BETTER FINANCE strongly urges a clear limitation of Systematic Internalisers (SIs) in the enforceable Level 1 legislation. End investors are better served in the “lit” markets, where these trades can participate in price improvement and not be hidden away from price formation mechanisms. Allowing this to go to SIs contradicts the fundamental principles of MiFID I and II, which aimed to restrict dark venues to large professional trades.
2. While the initial MiFIR proposal from the European Commission prohibited Payment for Order Flow (PFOF), the recent compromise proposal now worryingly stipulates that individual Member States are allowed to opt out for quite some time (grandfathering). Claims that PFOF

benefits retail investors contradict the requirements of best execution. The idea that PFOF does not widen spreads for end investors is questionable, as market makers and dark venues would never pay significant amounts to retail brokers to receive the retail order flows otherwise. The burden of proof lies with those asserting the benefits for retail investors from payments made by market makers and investment banks to retail brokers. Furthermore, proposing only additional disclosures is another attempt to shift responsibility from providers to non-professional investors.

3. Finally, we fail to comprehend how a real-time pre-trade Consolidated Tape (CT) of equity order books would benefit retail investors, as they are the most likely to suffer from "latency arbitrage." This refers to the time it takes for information to reach them compared to their trading counterparties. Latency issues with real-time data would favour technologically advanced dark venues and market makers in accessing the best bids/offers information, at the expense of end investors and transparent markets. This would further encourage more dark trading and the privatisation of retail flow execution, diverting from lit and multilateral venues.

A well-designed Consolidated Tape (CT) that truly benefits retail investors would enable real-time monitoring of all transactions across active EU venues, including dark pools and Systematic Internalisers. It should incorporate data points to assess the quality of execution received at the time of transactions, as opposed to a real-time pre-trade CT. BETTER FINANCE supports the solution outlined in the Council text, as it aligns with this approach.

Despite the technical nature of this dossier, we hope that our concerns have been conveyed clearly. BETTER FINANCE remains dedicated to presenting constructive proposals within the framework of the MiFIR review, with the objective of strengthening the regulatory framework that underpins European securities markets for the benefit of the real economy and of people.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'G Prache', with a long horizontal line extending to the right.

Guillaume Prache  
Managing Director, BETTER FINANCE

**Copy to: DG FISMA director general John Berrigan, DG FISMA director Ugo Bassi, ESMA Chair Verena Ross**