

**EU Consultation
on amending Delegated Regulation (EU)
2017/565 as regards the specification of the
definition of systematic internalisers for the
purposes of that Directive**

AMAFI contribution

Association française des marchés financiers (AMAFI) is the trade organisation working at national, European and international levels to represent financial market participants in France. It acts on behalf of credit institutions, investment firms and trading and post-trade infrastructures, regardless of where they operate or where their clients or counterparties are located. AMAFI's members operate for their own account or for clients in different segments, particularly organised and over-the-counter markets for equities, fixed-income products and derivatives, including commodities. Nearly one-third of members are subsidiaries or branches of non-French institutions.

On 19th June 2017, the European Commission (EC) issued a draft Commission Delegated Regulation amending Delegated Regulation (EU) 2017/565 as regards the specification of the definition of systematic internalisers for the purposes of that Directive

AMAFI welcomes the opportunity to comment on EC proposal and would like to make the following comments and amendments.

AMAFI fully agrees with the EC objective to provide clarification on the notion of “trading on own account when executing client orders” in the context of the systematic internaliser regime. AMAFI shares EC analysis that the linking of several investment firms operating under the systematic internaliser regime with other liquidity providers, under a matching arrangement, or in such a way that this linking has the same results as a matching arrangement, may end up with a circumvention of MiFID 2.

Nevertheless AMAFI considers that it should be possible to organise riskless back-to-back transactions between systemic internalisers within a same group, provided that the group does not put in place riskless back-to-back transactions arrangements with undertakings that are not members of the same group as the investment firm.

Indeed for operational, commercial or risk management policies, an investment firm may choose to put in place, for the same asset class, two (or more) systematic internalisers arrangement(s) in two (or more) legal entities possibly in different jurisdictions.

Therefore we suggest to add the following recital and to draft article 16 a as follow.

AMAFI proposed amendments

Recital 3

Such clarification must not have the effect of interfering with the operational organisation of investment firms. Therefore it should be possible to organise riskless back to back transactions arrangements between systemic internalisers within a same group (as defined in article 4(1)(34) of Directive 2014/65/EU).

Article 16 A

An investment firm shall not be considered to be dealing on own account for the purposes of Article 4(1)(20) of Directive 2014/65/EU where that investment firm participates in matching arrangements with the objective or consequence of carrying out de facto riskless back-to-back transactions in a financial instrument outside a trading venue. **This excludes riskless back-to-back arrangements between systematic internalisers belonging to a same group.**

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