

Commission Proposal

Article 25

Obligation for investment firms to make public firm bid and offers

1. Member States shall require any investment firm authorised to deal on own account to make public a firm bid and offer price for transactions of a size customarily undertaken by a retail investor in respect of shares in which it is dealing, and where those shares are admitted to trading on a regulated market and for which there is a liquid market.

Member States shall require that the investment firms referred to in the first subparagraph trade with other investment firms and eligible counterparties at the advertised prices, except where justified by legitimate commercial considerations related to the final settlement of the transaction.

2. Member States shall provide that the obligation set out in paragraph 1 is waived in respect of investment firms which do not represent an important provider of liquidity for the share(s) in question on a regular or continuous basis.

3. Member States shall ensure that the bid and offer prices required under paragraph 1 are made public in a manner which is easily accessible to other market participants, free of charge, on a regular and continuous basis during normal trading hours. The competent authority shall verify that published quotes reflect prevailing market conditions for that share, and that the investment firm regularly updates the bid and offer prices that it makes public pursuant to paragraph 1.

Council First Reading

"Systematic internaliser" means an investment firm which, on an organised, regular, and systematic basis, deals on own account by executing client orders outside a regulated market or an MTF;

Article 27

Obligation for investment firms to make public firm quotes

1. Member States shall require systematic internalisers to publish a firm quote in those shares admitted to trading on a regulated market and for which they want to trade.

The quote shall include a firm bid and/or offer price or prices as well as the size or sizes attached to those price or prices. It shall also reflect the prevailing market conditions for that share.

The obligation referred to in the first subparagraph shall not apply to transactions of a size which is large in scale compared to the normal market size.

In case of shares for which there is not a liquid market, systematic internalisers shall disclose quotes to their clients on request.

2. Systematic internalisers shall make public their quotes on a regular and continuous basis during normal trading hours. They shall be entitled to update their quotes. They shall also be allowed, under exceptional market conditions, to withdraw their quotes.

The quote shall be made public in a manner which is easily accessible to other market participants on a reasonable commercial basis.

Systematic internalisers shall execute the orders they receive from their retail clients at the quoted prices.

Systematic internalisers shall execute the orders they receive from their professional clients at the quoted price. However, they may execute those orders at a better price in justified cases provided that this price falls within a public range close to market conditions and provided that the orders are of a size bigger than the size customarily undertaken by a retail investor.

Furthermore, systematic internalisers may execute orders they receive from their professional clients at prices different than their quoted ones without having to comply with the conditions established in the fourth subparagraph, in respect of transactions where execution in several securities is part of one transaction or in respect of orders that are subject to conditions other than price.

3. Systematic internalisers shall be allowed to decide, on the basis of their commercial policy and in a non discriminatory way, the investors to whom they give access to their quotes. Investment firms may refuse to enter into or discontinue business relationships with investors on the basis of commercial considerations such as the investor credit status, the counterparty risk and the final settlement of the transaction.
4. In order to limit the risk of being exposed to multiple transactions from the same client systematic internalisers shall be allowed to limit in a non-discriminatory way the number of transactions from that same client which they undertake to enter at the published conditions.

Parliament First Reading

(24) "*Systematic internalisation*" means the execution, on a systematic, regular and continuous basis, of:

- (1) orders up to a standard market size undertaken by any type of clients or counterparties,
- (2) in shares admitted to or included in trading on a regulated market,
- (3) on own account or by means of matching with other client orders,
- (4) within a system, a component of which is primarily aimed at facilitating the activities set out in points (1) to (3),
- (5) outside the rules or systems of a regulated market or MTF.

Where executions in several securities are part of one transaction (such as portfolio transaction), the size of the total transaction shall determine whether the transaction was of a standard market size;

Article 25

Obligation for investment firms to make public firm bid and offers

1. Member States shall **require investment firms which practise systematic internalisation in shares** to make public a firm bid and offer **quotes** for transactions of a **standard market size in those shares, where** those shares are admitted to trading on a regulated market and for which there is a liquid market.

Member States shall require that the investment firms referred to in the first subparagraph trade with **their systematic internalisation clients at a price equal to or better than that quoted**, except where justified by legitimate commercial considerations.

2. Member States shall provide that the obligation set out in paragraph 1 is waived in respect of investment firms **whose systematic internalisation does** not represent an important **provision** of liquidity for the share(s) in question on a regular or continuous basis.

3. Member States shall ensure that the bid and offer prices required under paragraph 1 are made public in a manner which is easily accessible to other market participants ***on reasonable commercial terms***, on a regular and continuous basis during normal trading hours.

The competent ***authorities*** shall:

- (a) verify whether investment firms fulfil the criteria laid down in Article 3(1)(24);***
- (b) monitor whether investment firms regularly update the bid and offer prices published in accordance with paragraph 1 and maintain prices which are generally representative of overall market conditions.***

Final Text

'Systematic internaliser' means an investment firm which, on an organised, frequent and systematic basis, deals on own account by executing client orders outside a regulated market or an MTF;

Article 27

Obligation for investment firms to make public firm quotes

1. Member States shall require systematic internalisers in shares to publish a firm quote in those shares admitted to trading on a regulated market for which they are systematic internalisers and for which there is a liquid market. In the case of shares for which there is not a liquid market, systematic internalisers shall disclose quotes to their clients on request.

The provisions of this Article shall be applicable to systematic internalisers when dealing for sizes up to standard market size.

Systematic internalisers that only deal in sizes above standard market size shall not be subject to the provisions of this Article.

Systematic internalisers may decide the size or sizes at which they will quote. For a particular share each quote shall include a firm bid and/or offer price or prices for a size or sizes which could be up to standard market size for the class of shares to which the share belongs. The price or prices shall also reflect the prevailing market conditions for that share.

Shares shall be grouped in classes on the basis of the arithmetic average value of the orders executed in the market for that share. The standard market size for each class of shares shall be a size representative of the arithmetic average value of the orders executed in the market for the shares included in each class of shares.

The market for each share shall be comprised of all orders executed in the European Union in respect of that share excluding those large in scale compared to normal market size for that share.

2. The competent authority of the most relevant market in terms of liquidity as defined in Article 25 for each share shall determine at least annually, on the basis of the arithmetic average value of the orders executed in the market in respect of that share, the class of shares to which it belongs. This information shall be made public to all market participants.

3. Systematic internalisers shall make public their quotes on a regular and continuous basis during normal trading hours. They shall be entitled to update their quotes at any time. They shall also be allowed, under exceptional market conditions, to withdraw their quotes.

The quote shall be made public in a manner which is easily accessible to other market participants on a reasonable commercial basis.

Systematic internalisers shall, while complying with the provisions set down in Article 21, execute the orders they receive from their retail clients in relation to the shares for which they are systematic internalisers at the quoted prices at the time of reception of the order.

Systematic internalisers shall execute the orders they receive from their professional clients in relation to the shares for which they are systematic internalisers at the quoted price at the time of reception of the order. However, they may execute those orders at a better price in justified cases provided that this price falls within a public range close to market conditions and provided that the orders are of a size bigger than the size customarily undertaken by a retail investor.

Furthermore, systematic internalisers may execute orders they receive from their professional clients at prices different than their quoted ones without having to comply with the conditions established in the fourth subparagraph, in respect of transactions where execution in several securities is part of one transaction or in respect of orders that are subject to conditions other than the current market price.

Where a systematic internaliser who quotes only one quote or whose highest quote is lower than the standard market size receives an order from a client of a size bigger than its quotation size, but lower than the standard market size, it may decide to execute that part of the order which exceeds its quotation size, provided that it is executed at the quoted price, except where otherwise permitted under the conditions of the previous two subparagraphs.

Where the systematic internaliser is quoting in different sizes and receives an order between those sizes, which it chooses to execute, it shall execute the order at one of the quoted prices in compliance with the provisions of Article 22, except where otherwise permitted under the conditions of the previous two subparagraphs.

4. The competent authorities shall check:

(a) that investment firms regularly update bid and/or offer prices published in accordance with paragraph 1 and maintain prices which reflect the prevailing market conditions;

(b) that investment firms comply with the conditions for price improvement laid down in the fourth subparagraph of paragraph 3.

5. Systematic internalisers shall be allowed to decide, on the basis of their commercial policy and in an objective non discriminatory way, the investors to whom they give access to their quotes. To that end there shall be clear standards for governing access to their quotes. Systematic internalisers may refuse to enter into or discontinue business relationships with investors on the basis of commercial considerations such as the investor credit status, the counterparty risk and the final settlement of the transaction.

6. In order to limit the risk of being exposed to multiple transactions from the same client systematic internalisers shall be allowed to limit in a non-discriminatory way the number of transactions from the same client which they undertake to enter at the published conditions. They shall also be allowed, in a non-discriminatory way and in accordance with the provisions of Article 22, to limit the total number of transactions from different clients at the same time provided that this is allowable only where the number and/or volume of orders sought by clients considerably exceeds the norm.