Association of Members of the Athens Exchange

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REPLY TO CESR'S CALL FOR EVIDENCE

ATHENS, 9 JANUARY 2009

SUBJECT: IMPACT OF MIFID ON SECONDARY MARKETS FUNCTIONING

This reply is issued on behalf of the Association of Athens Exchange Members (SMEXA). Following CESR's request for the views of all interested parties regarding the impact of MiFID on secondary markets functioning, SMEXA would like to respond, by virtue of this letter.

Answers to the specific Questions

1. What do you think are the key benefits for yourself or the market more generally that have arisen as a result of MiFID provisions relating to equity secondary markets?

On a theoretical basis, the key benefits that have arisen as a result of MIFID are a. the "single European passport" for investment firms,
b. the expansion of the investment services as well as the financial instruments offered by investment firms, and
c. the high level of transparency, which contributes to higher investor protection.
Due to the late implementation of MiFID in Greece (i.e. there was no period of adjustment, as the Directive provided for), we haven't really seen any benefits at a practical level. With regard to private investors, the stock market in Greece hasn't really undergone any changes.

2. Do you consider that there are any remaining barriers to a pan-European level playing field across trading venues? If so, please explain.
One of the main remaining barriers to a pan-European level playing field across trading venues is the limited access to clearing and settlement systems not only for transactions on the equity markets but also on all financial markets. For example, if a Greek investment firm wants to become active on another European market, it is most

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likely that it won't have direct access to the clearing and settlement systems of that other market and it will be obliged to use local intermediaries or most likely one of the international banks.
Investment firms will also face difficulties in directly accessing execution venues or other trading platforms (such as MTFs, ATSs, crossing systems, etc), as various barriers of entry are imposed by their operators. For example, it is practically prohibitive for a Greek investment firm (although it is licensed to trade on bonds) to gain access to the Greek bond trading-platform, due to various technicalities and barriers, imposed by the Bank of Greece, operator of this market.
In order to deliver MiFID' s objectives, it is imperative to eliminate entry-barriers, so that investment firms have direct access to clearing and settlement systems as well as other trading platforms without the need of intermediaries.

3. *Do you think that MiFID has supported innovation in the equity secondary markets? Please elaborate.*

N/A.

4. *Have you faced significant costs or any other disadvantages as a result of MiFID relating to equity secondary markets? If so, please elaborate. Have these been outweighed by benefits or do you expect that to be the case in the long run? If so, please elaborate.*

Due to MiFID, red-tape (paper work) and operational (compliance and various audits) costs have increased dramatically. For example the cost of external auditors of an investment firm has been tripled due to the implementation of MiFID.
As a result, the critical mass of an investment firm in order to remain viable, increases, which in the medium run, will force the smaller firms out of the market.
On the other hand, the frightening size of paper load that small retail investors have to study and sign before placing any order really deters them from investing directly in the stock market (as they tend to consider, due to this paper load, investing in the stock market riskier than a lottery ticket).

5. *Have you seen/experienced any unexpected consequences in terms of level playing field arising from the implementation of MIFID provisions relating to equity secondary markets? If so, please elaborate.*

The increase in costs worsens the position of small and medium sized investment firms, especially those with pre-MiFid cross-border activities. Although, MiFID in its objectives, fostered a level playing field in terms of competition and abolition of entry-barriers, a year after its implementation across Europe, it has become more than

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obvious that it favours only the larger institutions, leading SMEs to further shrinkage.

Moreover, **total lack of transparency** with regards to **pre-trading and post -trading** appears to be the normal way of business for out-of-exchange venues and internalisers. As a result, the Hellenic market participants and investors have no information concerning price-volume-time on local stocks that trade in alternative (to the ASE) venues or are subject to internalization.

6. What impact do you consider that increased competition between equity trading venues is having on overall (i.e. implicit and explicit) trading costs? Please elaborate.

In general, cross-border transaction costs have been reduced, one-way though, i.e. smaller markets tend to reduce costs in order to attract transactions, while sizeable markets tend to retain the costs at high levels, the access to which remains prohibitive in terms of cost for investors and investment firms from smaller markets.
For example, Hellenic Exchanges has reduced drastically the costs of block-trading, in order to deter OTC transaction on the shares listed on it, whilst it has increased the overall costs for local as well as retail transactions.

7. Do you think that there has been significant fragmentation of trading and/or liquidity in European equity markets? If so, please elaborate. Do you think that such fragmentation raises concerns (for example, does it impact on the price formation process, the overall efficiency of the markets, search costs, best execution requirements)? If so, please elaborate on those concerns.

It has been observed that since the implementation of MiFId, there has been significant fragmentation of trading as well as liquidity. Larger credit institutions tend to bypass both regulated markets and MTFs and build in-house platforms, where they execute all their customers' transactions, with unclear terms and prices, and no transparency obligations (mostly due to the MiFID waivers). This practice, indeed, has a negative impact the price formation process, the overall efficiency of the markets, search costs, best execution requirements, etc.
Moreover, we feel that most alternative trading venues serve as a means to bypass transparency and exclude market participants, instead of increasing the competition amongst exchanges and lowering the costs. We urge that instead of attempting to clarify problems in detail (e.g. are there problems to enter these venues, is it difficult to access the central counterparty), the European Commission should

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re-examine the legal framework of the venues and introduce a new consultation with regards to internalization.

8. Do you think that MiFID pre- and post-trade transparency requirements adequately mitigate potential concerns arising from market fragmentation?

Unfortunately, MiFID pre- and post-trade transparency requirements serve as an excuse to allow extensive internalization.
On the information side, MiFID has created a whole new industry of venue and price information providers. The purpose was to obtain the most accurate insight into price and volume movements of assets that trade in multiple venues. The results are: fragmentation of information, difficulty in obtaining the information, complexity in handling various types and providers of the information and inability to effectively compare and monitor price movements. All these lead to additional costs and barriers to operate for market professionals. As a result, Market participants are almost unable to obtain the total amount of information and resort to 'choosing' the venues they can handle. This is called obscurity. Finally, providers of information, use their capacity/positioning in order to impose pricing, instead of competing for the lowest possible cost to the customers.
On the other hand, Reporting has created the need to invest in multiple software/hardware utilities that impose large maintenance costs and result in a total chaos as per the quality and timeliness of the information provided. We suppose that such inefficiencies regarding the gathering of information, decrease the authorities' and professionals' abilities to have a transparent view on the market movements.

The only solution to mitigate these concerns is to create a central system for all transactions, fully and directly accessible to all market-participants. The investor benefits from competition between market participants and not from competition between market-places.

9. Is the categorisation of shares appropriate in relation to: the definition of liquid shares; 'standard market size'; 'orders large in scale'; and 'deferred publication'? If not, please elaborate.

No, it is not proper. Quantitative criteria used at pan-European level do not apply to all European Markets. For example, in Greece the number of shares qualifying as liquid shares is very restricted, although many non-qualifying shares are very liquid given the circumstances of the specific market.
In our view, all shares listed on regulated markets should be considered liquid.

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10. Do you see any benefits (e.g. no market impact) to dark pools of liquidity (to be understood as trading platforms using MIFID pre-trade transparency waivers based either on the market model or on the type or size of orders)? If so, what are they?
11. Do you see any downsides to dark pools of liquidity (e.g., impacts on the informational content of light order books)? If so, what are they?

It is obvious that the existence of dark pools always has a market impact. This could be positive, if the conditions we mentioned above are met, otherwise dark pools lead to even further fragmentation.

12. Do you consider the MiFID pre- and post-trade transparency regime is working effectively? If not, why not?

Our answer to question 8 covers the subject.

13. What MiFID pre- and post-trade transparency data do you use, and for what purpose? Does the available data meet your needs and the needs of the market in general?
14. Do you think that MiFID pre- and post-trade transparency data is of sufficient quality? If not, please elaborate why and how you think it could be improved.

We use pre- and post-trade transparency data issued by the Athens Exchange concerning all transactions executed on the Exchange. As we mentioned above, data from alternative venues is not easily available or it is costly.

15. Do you think that there has been significant fragmentation of market data in the EEA equity markets? If so, please elaborate. Do you think that such fragmentation raises concerns (for example, does it impact on the price formation process, the overall efficiency of the markets, search costs)? If so, please elaborate on those concerns.

Enhancing our answer to question 8, which almost covers the subject, MiFID pre- and post-trade transparency data should never have become a commercial product, as it is mainly a tool serving to the efficiency of the market and investor protection.
As we mentioned above, we think that there should be a central system for all transactions, freely and directly accessible to all market-participants, both members of the market and vendors.

16. Does the current availability of data facilitate best execution? If not, please elaborate.

Concerning best execution, we would like to stress the inability to verify the actual price received due to the lack of transparency of various platforms and the structural problems imposed by data vendors (as mentioned above).

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17. Do you think that commercial forces provide effective consolidation of data? If not, please elaborate.

On the contrary, we thing that commercial forces have led to further fragmentation of data, which in turn has led to the creation of an oligopoly (two or three international vendors) that offer to provide consolidated data on very high costs.

18. Do you think that the implementation of MiFID is delivering the directive's objectives in relation to equity secondary markets (e.g., fostering competition and a level-playing field between EEA trading venues, upholding the integrity and overall efficiency of the markets)? If not, why do you think those objectives have not been met?

For the reasons mentioned above, we believe that MiFID objectives have not been met. Moreover, national gold-plating, which exists, tends to impose further barriers and an unlevel-playing field between local investment firms and their European counterparties.
For example, on the single trading platform that is operated by ATHEX and CSE, the participating Greek investment firms- ATHEX members are obliged to hold as initial capital 5 million € (full service investment firms) while the initial capital for the respective Cypriot investment firms – CSE members amounts to 750,000 € (minimum level set by the CRD).
Another example is that a UCITS management company, established in Luxembourg has an initial capital of at least 125,000 €, while the respective company, established in Greece, is obliged to have an initial capital of at least 1,200,000 €.

We believe that in respect of capital requirements, these should be set at European level and not left at the discretion of the regulator of each member-state.

19. Do you see any other impact or consequence of MiFID on equity secondary markets functioning?
N/A.

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