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Transmitted via web-upload: www.esma.europa.eu

your reference
ESMA70-156-785

your message of
09.11.2018

city_date
Frankfurt/Main, 11.01.2019

ESMA Call for evidence: Periodic auctions for equity instruments

9 November 2018, ESMA70-156-785

Dear Sir, dear Madam,

the *Bundesverband der Wertpapierfirmen e.V.* (bwf) is a trade association representing the common professional interests of securities trading firms and market specialists at the securities exchanges throughout Germany.[1] In this capacity, we expressly welcome the possibility to comment on ESMA's call for evidence on periodic auctions for equity instruments.

Although, bwf members, from what we know, do not participate in *"frequent batch auctions"* based trading on which ESMA's call for evidence is focused, we nevertheless consider it useful and desirable that these new forms of periodic auctions and their potential impact on market structure and price-formation should be subject to an impartial and comprehensive regulatory analysis and debate.

However, in order to foster a focused discussion, we would like to restrict our comments to one fundamental question on the potential impact of *"frequent batch auctions"* on the quality of price formation and to one remark regarding the process of possible regulatory/legislative intervention, leaving the in-depth discussion of technical details to those more directly affected.

Traditional auctions are a well-established and constitutive parts of various market models, possibly most prominent, the opening and closing auctions in electronic open order book trading systems which aim at pooling/concentrating liquidity in order to increase the quality of price formation and to enable investors to buy or unwind larger positions.

[1] bwf is listed on the EU register of interest representatives under the ID 258694016925-01.

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The characteristics of *"frequent batch auctions"* differ in particular (but not only) with respect to call period and total auction length which are very low at a comparative Level (25ms to 150ms according to the figures provided by ESMA in its call for evidence), which indicates that the primary purpose of those auctions can hardly be the concentration of liquidity.

The core question from a regulatory point of view therefore should be, whether the duration of an auction can be shortened indefinitely without negatively effecting the quality[2] *and nature of the price formation process?*

While we think that from a general perspective, this question is rather rhetoric in nature, it might be difficult in praxis to determine a critical time interval which shall not be undercut without negatively effecting the ability of market participants to interact in an auction[3] to an extent which would compromise the auction's multilateral character and the quality of price determination in general.

Furthermore, even if *"frequent batch auctions"* would not fully fulfill the expectations which are traditionally attributed to auction based trading, the second check necessary for justifying regulatory intervention would be further evidence that orderly trading or market integrity will be negatively affected and/or legal provisions, e.g. with respect to transparency obligations, will not be met.

Equally important, any form of intervention would require a sound legal basis. Accordingly, if ESMA should come to the conclusion that *"frequent batch auctions"* give raise to regulatory concern and in particular a minimum overall auction length should be prescribed, such active intervention in markets would necessitate a recast on "Level 1" and could and should not be addressed by changes to the proven market typology in table 1 of Annex I of RTS 1. [4]

Yours sincerely,

Michael H. Sterzenbach
Secretary General

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[2] Including the fulfillment of legal e.g. pre-trade transparency obligations.

[3] To assess this question, among other factors, the current state of development of trading technology, the IT-infrastructure available to various market participants and in particular resulting variations in latency would have to be taken into account.

[4] In this context, it must be remembered that a „minimum resting time" of 500ms for orders was proposed by the European Parliament in the course of the early MiFID II negotiations. Even though the proposal was later cancelled, it became unequivocally clear that an active and fundamental intervention in markets which directly regulates the factor "time", would necessarily require a legitimation at "Level 1".