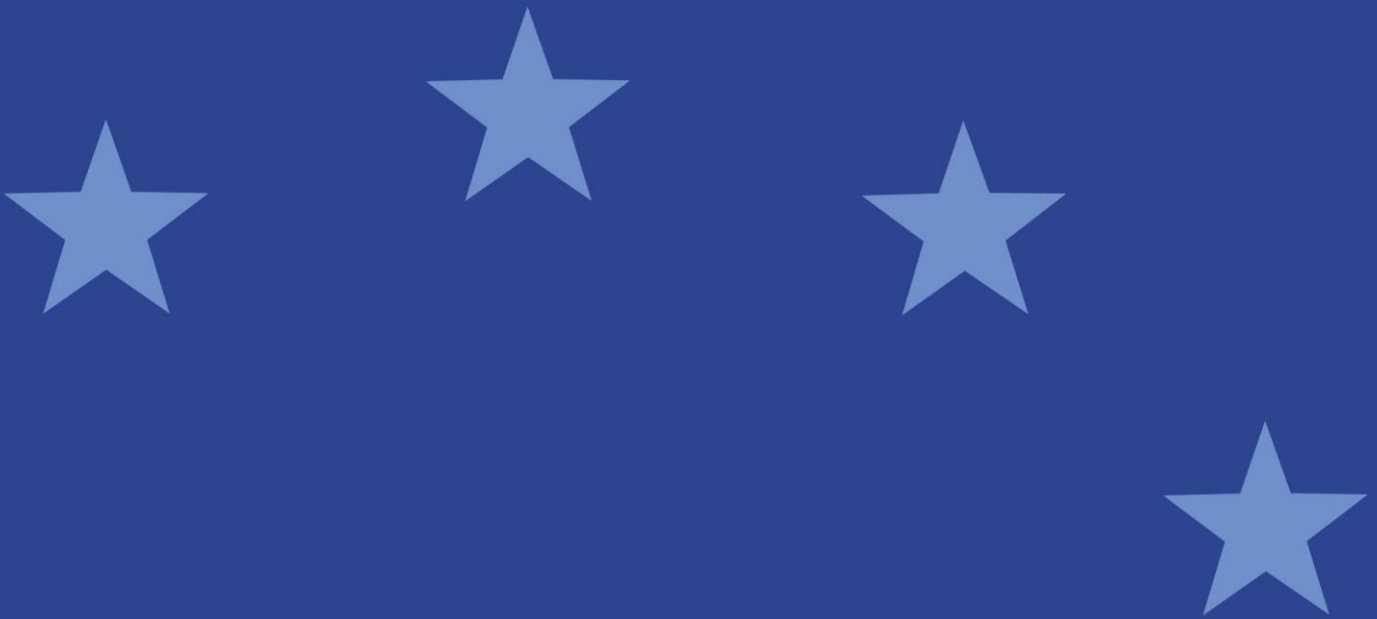




European Securities and
Markets Authority

Reply form for the Consultation Paper on the functioning of the regime for SME Growth Markets under the Markets in Financial Instruments Directive and on the amendments to the Market Abuse Regulation for the promotion of the use of SME Growth



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the Consultation Paper on the functioning of the regime for SME Growth Markets under the Markets in Financial Instruments Directive and on the amendments to the Market Abuse Regulation for the promotion of the use of SME Growth Markets.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_CP_SME_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

Naming protocol

In order to facilitate the handling of stakeholders' responses please save your document using the following format:

ESMA_CP_MiFID_EQT_NAMEOFCOMPANY_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA_CP_SME_ESMA_REPLYFORM or

ESMA_CP_SME_ANNEX1



Deadline

Responses must reach us by **15 July 2020**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and 'Data protection'.



General information about respondent

Name of the company / organisation	Deutsche Börse Group
Activity	Regulated markets/Exchanges/Trading Systems
Are you representing an association?	<input type="checkbox"/>
Country/Region	Germany

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_CP_SME_1>

[Deutsche Börse Group (DBG) appreciates the opportunity to provide feedback to ESMA's consultation on the functioning of the small and medium-sized enterprises (SME) Growth Market regime in the European Union (EU) and the two draft technical standards, introduced by the amendments to the Market Abuse Regulation (MAR) for the promotion of the use of SME Growth Markets.

The intention behind introducing SME GMs was to attract smaller companies to listing. However, the interest of issuers to list on an SME GM is limited. Hence, we believe, in order to deliver on this policy objective further benefits and alleviations for the SME GM label should be introduced. In doing so, it is important to find a balance between maintaining a liquid and trusted market with reduced burdens for issuers and ensuring adequate levels of investor protection. SME GMs should retain a certain level of flexibility whilst ensuring efficiency and integrity.

Against this background, we would like to emphasize a few points before we move on to the Consultation's questions.

Availability of Research of SMEs

Pre-MiFID II, research was provided as part of a bundled service, paid by execution fees. Research post-MiFID II is required to be unbundled and priced separately from execution of trading of financial instruments. This "unbundling" rule has had a negative effect on SMEs or companies that are planning an IPO since coverage of SMEs as well as the quality of SME research reports have declined. However, for many reasons the availability of high-quality research on SMEs is decisive for SMEs. High-quality research does not only enhance the SMEs visibility, but also provides for a level playing field in relation to transparency and comparability. We therefore welcome the fact that the European Commission has given priority to this issue in its upcoming MiFID II review and will reflect on the impact of the unbundling rules on research in a comprehensive manner and against the background of strengthening capital market access for the respective enterprises. While this holistic approach may also entail the amendments of the Level 1 provisions which are not in scope of this consultation, we explicitly welcome ESMA's inclusion of these topics in this consultation and will share some reflections and experiences from a market operator perspective for ESMA's consideration. We believe that a program set up by a market operator to publish SME research would improve research coverage. For example, we at DBG have been running an independent research model for our SME GM Scale for two years now. In this model, DBG acts as a neutral intermediary that provides the framework agreement and settles the matter between the research provider and issuer. However, beyond that further steps must be taken (see our answer to Q14).

Further alleviations in the Prospectus Regulation 2017/1129

We appreciate the recently adopted amendments to the Market Abuse and Prospectus Regulation and the MiFID II Delegated Regulation aiming at further facilitating access to capital for SMEs by introducing more proportionate rules for SME GMs. In particular, the revision of the prospectus rules was a very important step to reduce costs and burdens for companies whilst improving their access to financing. We particularly welcome the amendment that allows issuers listed on SME GMs for at least two years who intend to transfer quotations to the Regulated Market, to only have to prepare a simplified prospectus. We believe, as the issuer already fulfils transparency requirements on SME GM, that it is also acceptable to allow issuers, whose securities have been traded on an SME GM for a certain period of time and who made use of the EU growth prospectus, to be admitted to trading to a regulated market without the need to prepare any prospectus (see our answer to Q2).



Continue adapting the Market Abuse Regulation (MAR)

We welcome ESMA's proposal to reduce the amount of information to be included in insider lists while keeping certain minimum requirements in order to facilitate the proper conduct of supervisory tasks as it is reflected in its draft ITS on insider lists. We consider this to be a sensible and targeted approach which we deem suited to strike the balance between market integrity and regulatory alleviations for SME. However, we believe that a significant part of the administrative burden is also resulting from a lack of differentiation in the Regulation itself, leading to uncertainty and differing interpretations, for example as regards the disclosure requirements, notably in relation to the burden around information dissemination or the interpretation of the necessary speed around an ad hoc announcement, depending on the actual announcement. Against this background, we believe that a differentiation between trading prohibitions and disclosure requirements (i.e. considering this as two separate processes) would possibly reduce the deterrent effect of the MAR regime for SMEs (see our answer to Q2 and Q19).

Creating one single regime whilst taking into account national market conditions

We appreciate ESMA's proposal to create homogeneous admission requirements for issuers admitted to trading on SME GMs in order to foster cross border investment and cross-border listing. However, for exchanges it is crucial to keep a certain degree of flexibility in applying rules suited to local market conditions. This applies, for example, to ESMA's proposal on the harmonization of national accounting standards (see our answer to Q7) and on creating a two-tier SME regime (see our question to Q 10). We suggest focusing on creating one regime with the most appropriate alleviations for all SMEs so that the current regime can be developed into a more attractive proposition for SME issuers.]

<ESMA_COMMENT_CP_SME_1>



Q1. Do you have any views on why the SME activity in bonds is limited? If so, do you see any potential improvements in the regime which could create an incentive to develop those markets?

<ESMA_QUESTION_CP_SME_1>

[DBG supports the proposal to include a cumulative issuance criterion not exceeding EUR 50 million over a period of 12 months. However, it is difficult for a market operator to verify if an issuer of bonds is or is not an SME because they do not have (full) access to the nominal value of the debt issuances of an issuer on all trading venues across the EU. Therefore, we suggest that this should be undertaken by ESMA.

Issuers of bonds should not be required to make a statement on working capital in the admission document (Article 78 (2) e) of Regulation 2017/565) – notably because issuers of bonds are not required to mention this info in a prospectus pursuant to the prospectus regime.

The MAR provisions, in general, are deemed to be onerous for issuers of bonds as they are not sufficiently tailored to the characteristics of debt securities. We therefore urge ESMA and the European Commission to undertake further analysis to make this regime more appropriate for fixed income.

One final technical point to note regarding SME GMs for fixed income is that article 90(2) B) of Regulation 2017/565 should not refer to “*OTF registered as a SME Growth Market*” (given that the label is reserved for MTFs).]

<ESMA_QUESTION_CP_SME_1>

Q2. In your view, how could the visibility of SME GMs be further developed, e.g. to attract the issuers from other members states than the country of the trading venue?

<ESMA_QUESTION_CP_SME_2>

[We appreciate the amendments to the Market Abuse and Prospectus Regulation and the MiFID II Delegated Regulation that were recently adopted to facilitate access to capital for SMEs by introducing more proportionate rules for SME GMs. In particular, the revision of the prospectus rules was a very important step to reduce costs and burdens for companies whilst improving their access to financing.

We especially welcome the amendment that allows issuers listed on SME GMs for at least two years who intend to transfer quotations to the Regulated Market, to only have to produce a simplified prospectus. This will be very beneficial for smaller companies in earlier stages of growth that are more dependent on local investors for financing. Moreover, as the issuer already fulfils transparency requirements on SME GM, we would further propose to allow issuers whose securities have been traded on an SME Growth Market for a certain period of time and who made use of the EU growth prospectus to be admitted to trading to a regulated market without the need to prepare any prospectus.

However, while the intention behind creating SME GMs was to attract smaller companies to listing, there is no real increased interest from issuers to list on an SME GM.

We believe that EU-wide joint and long-term communication measures should be considered in order to further promote SME GMs. Communication measures should particularly focus on common requirements that all European SME GMs fulfil as well as on the alleviations that come with listing on an SME GM. This would increase the level of awareness among (European) investors and companies and would help to establish the SME GM as one access channel to capital markets.

To deliver on the policy objective, we also believe that there should be further benefits for the SME GM label. It is important to find a balance between maintaining a liquid and trusted market with reduced burdens for issuers and adequate levels of investor protection. SME GMs should retain a certain level of flexibility



whilst ensuring efficiency and integrity. Overall, we think it is necessary to further enhance the attractiveness of capital market financing in registered SME Growth Markets for small and medium-sized enterprises. Therefore, it is appropriate to further simplify access to the capital market for SMEs and, as a result, to make technical adjustments to the European regulatory framework. We consider the conceptual implementation/execution - namely to reduce administrative and legal burdens as well as to reduce costs for the issuers and to increase the liquidity of equity instruments in SME GMs without endangering market integrity or investor protection – reasonable and expedient. However, the alleviations introduced in the recent legislation remain behind from what we believe is necessary to strengthen the attractiveness of the SME GMs.

Our proposals for further alleviations and areas where further clarity would be beneficial are set out below and throughout this response.

Market Abuse Regulation (MAR)

We consider the alleviations available to issuers through amendments to MAR, to be of limited or marginal advantage to issuers. We believe that more significant alleviations are required to achieve the intended effects.

MAR obliges all issuers of financial instruments to notify the market of inside information. A more proportionate approach may be needed going forward as SMEs may be disincentivised by the comparatively high regulatory burden. Therefore, MAR should be further adjusted with regard to:

- disclosure requirements, notably around information dissemination;
- the duty to react on rumours related to inside information;
- the level of detail of insider lists;
- requirements in relation to managers' transaction reporting;
- the interpretation of the necessary speed around an ad hoc announcement, depending on the actual announcement; and
- the very high level of sanctions.

It is also essential to differentiate between trading prohibitions and disclosure requirements. In addition, the requirement under Article 33.3 of MIFID II is not very clear where it states that member states shall ensure that MTFs are subject to effective rules, systems and procedures which ensure that the following is complied with, in particular in relation to point e:

“issuers on the market as defined in point (21) of Article 3(1) of Regulation (EU) No 596/2014, persons discharging managerial responsibilities as defined in point (25) of Article 3(1) of Regulation (EU) No 596/2014 and persons closely associated with them as defined in point (26) of Article 3(1) of Regulation (EU) No 596/2014 comply with relevant requirements applicable to them under Regulation (EU) No 596/2014”.

We consider that this can be misunderstood, as the surveillance of market abuse is a direct competence of the national regulators and not the operator of the MTF; for an MTF it is impossible to have *systems and procedures* which literally “ensure” the compliance of MAR by the issuers.

Prospectus

We welcome the provision to allow an issuer whose securities are admitted to trading on an SME GM continuously for at least the last 18 months to benefit from a simplified prospectus when raising further issuances. We suggest to clarify that this is calculated as of when the issuer was admitted to trading on the MTF (even without SME GM label at that time) rather than from the moment that the MTF obtains the SME GM label, as this will ensure issuers that meet this criteria can benefit from this provision at an earlier stage.]

<ESMA_QUESTION_CP_SME_2>

Q3. In your view does the 50% threshold set in Article 33(3)(a) of MIFID II remain appropriate for the time being as a criterion for an MTF to qualify as an SME GM? Do you think that a medium-term increase of the threshold and the creation of a more specialised SME GMs regime would be appropriate?

<ESMA_QUESTION_CP_SME_3>

[Yes, DBG believes the 50% threshold as set out in Article 33(3)(a) of MiFID II remains appropriate. We do not see the need for this threshold to increase in the medium-term as we don't believe the threshold is an issue. In addition, we do not support the idea of creating a different, more specialised SME GM regime – instead we think further work is required to be undertaken with respect to the current SME GM regime and the specific alleviations that apply so that it becomes a more attractive proposition for SME issuers.

We would support further alleviations for SME GMs by raising the threshold for companies qualifying from an average market capitalisation of EUR 200 million to EUR 500 million. In a next step it might be even considered to raise the threshold to EUR 1 billion. The current qualifying threshold for SMEs of EUR 200m is too low as it only takes into consideration small enterprises and not mid-caps. This would help contribute to a strengthening of SME GM's ability to attract more companies, with the potential to increase liquidity on these markets.]

<ESMA_QUESTION_CP_SME_3>

Q4. Do you consider that a further alignment of the definitions of an SME in different pieces of regulation with the MiFID II definition of SME would be helpful? Can you provide specifics of where alignment would be needed?

<ESMA_QUESTION_CP_SME_4>

[Overall a consistent approach to the SME definition within EU legislation would be welcome. There are definitions of an SME in MiFID II, the Prospectus Regulation and the ELTIF Regulation.

As mentioned above, we would support further alleviations for SME GMs by raising the threshold for companies qualifying from an average market capitalisation of EUR 200 million to EUR 500 million. The current qualifying threshold for SMEs of EUR 200m is too low as it only takes into consideration small enterprises and not mid-caps. This would help contribute to a strengthening of SME GM's ability to attract more companies, with the potential to increase liquidity on these markets.]

<ESMA_QUESTION_CP_SME_4>

Q5. Which are your views on the regime applicable to SME GMs regarding the initial and ongoing admission to trading of financial instruments? Are there requirements which should be specified?

<ESMA_QUESTION_CP_SME_5>

[DBG does not consider that the SME GM regime should be amended to introduce further harmonised requirements in relation to the requirements for initial and ongoing admission to trading. Exchanges should retain some flexibility to apply rules suited to local market conditions.

In relation to bond issuers, there are a few amendments to the requirements that we propose should be made as set out in our response to Q1.]

<ESMA_QUESTION_CP_SME_5>



Q6. Do you think it could be beneficial to harmonise accounting standards used by issuers listed on SME GMs with the aim of increasing cross-border investment?

<ESMA_QUESTION_CP_SME_6>

[One of the key advantages of listing on an SME GM is the possibility to apply national accounting standards. A harmonization of accounting standards will eventually lead to higher costs and efforts for issuers. Should accounting standards for issuers on SME GMs be harmonised, it is important that this be done in a proportionate manner to not disincentivise listing and that it remains voluntary for issuer to opt in to using this standard.]

We would suggest that it is important to maintain flexibility in this area, so that should issuers seek cross-border listings, they can choose to adhere to the more harmonised standards.]

<ESMA_QUESTION_CP_SME_6>

Q7. Should ESMA propose to create homogeneous admission requirements for issuers admitted to trading on SME GMs? Should such requirements be tailored depending on the size of the issuer (e.g. providing less burdensome requirements for Micro-SMEs)?

<ESMA_QUESTION_CP_SME_7>

[Harmonisation of admission requirements are helpful in the communication towards investors as well as to establish a certain standard in SME GM. Nonetheless, DBG does not consider that the SME GM regime should be amended to create homogenous admission requirements for trading as issuers may benefit from local legislation. Exchanges should retain some flexibility to apply rules suited to local market conditions.]

Regarding the proposal to tailor the requirements for micro-SMEs, we suggest that this could over-complicate the current regime and that the focus should be on applying the most appropriate alleviations to make the current regime a more attractive one for SME issuers.]

<ESMA_QUESTION_CP_SME_7>

Q8. Should ESMA suggest an amendment requiring an MTF registering as SME GM to make publicly available financial reports concerning the issuers admitted to trading on the SME GM up to one year before registration?

<ESMA_QUESTION_CP_SME_8>

[No, DBG is of the view that there should not be an amendment requiring an MTF registering as SME GM to make publicly available financial reports concerning the issuers admitted to trading on the SME GM up to one year before registration.]

It should be noted that financial reports covering two years before, when available, is already included in the listing requirements, the prospectus or the Registration document requested by most of the SME GM. A more general point in relation to registering MTFs is that it was a quite protracted process and that understanding certain requirements was difficult, for instance regarding the possibility to classify certain segments of an MTF as an SME GM, resulting in different interpretations and difficulties in implementation. Our suggestion to facilitate registration would be to have a simplified process in place in cases where the entity applying for authorisation to register an SME GM is already operating a Regulated Market and/or and MTF.]

Moreover, DBG notes that the ESMA database does not distinguish between MTFs and SME GMs.]

<ESMA_QUESTION_CP_SME_8>



Q9. Is there any other aspect of the SME GMs regime as envisaged under MiFID II that you think should be revisited? Would you consider it useful to make the periodic financial information under Article 33(3)(d) available in a more standardised format?

<ESMA_QUESTION_CP_SME_9>

[We do not consider that proposals for making periodic financial information available in a more standardised format would favour listing of SMEs. We share ESMA's assessment that this could represent a burden for smaller SMEs. Overall, issuers on SME GMs should not be required to fulfil more transparency requirements than issuers on regulated markets.

We support measures facilitating sharing of company information, provision of information to investors, and that give companies visibility on a European basis. By facilitating access to information about companies in other Member States or regions, more cross-border investments could potentially be encouraged.

In the context of recent policy proposals on the potential creation of a European harmonised data repository for company reporting, a so-called EU Single Access Point, DBG considers that an such an Access Point should include information disclosed by companies listed on Regulated Markets and SME Growth Markets. The Single Access Point would facilitate access and availability of data about companies and as such serve as a basis for investors' assessments, potentially informing their decisions. SMEs would benefit from pooling the information they disclose at a one-stop shop: The SMEs' visibility would be increased and barriers to access capital reduced, overall ensuring and increasing their competitiveness. A Single Access Point could also serve as a starting point for the establishment of a European database for SME-research.

To increase integration but keep the project efficient and manageable in terms of administrative burden of data processing, the scope should encompass disclosures stemming from the Transparency Directive for issuers listed on Regulated Markets or, in the case of issuers on SME GMs, the relevant disclosure documentation required. Should policy makers conclude that the disclosure requirements of SMEs should be extended, particularly as regards sustainability-related disclosures, this information should also be integrated into the EU Single Access Point (please refer to our public statement on the NFRD review for further considerations). Thereby, it is important to consider that, depending on how it is implemented, this may introduce considerable extra costs for listed companies compared to non-listed ones as many reporting obligations do not apply to private companies and this would be a concern.

It will be important to ensure that any reporting requirement targets information that is useful. This is key to ensure there is an added value and that new reporting requirements do not simply come on top of currently existing ones but rather replace requirements currently in place i.e. to avoid gold plating, as we want to avoid any unnecessary additional costs. In parallel to establishing a Single Access Point, the Commission should take this opportunity to clarify certain disclosure requirements. The costs linked to a lack of clarity in the regulation should not be underestimated as risk averse issuers (in particular SMEs) will consider the regulatory risks in choosing their financing options.

While some harmonisation of information may be required, this should be done in a proportional manner that does not negatively impact issuers, in particular SMEs, which may lack resources to report according to certain standards. It should therefore be considered that there is value added in pooling information in one place, even when the information may not be exactly the same. A differentiation between SME GM and Regulated Market issuers will be necessary, where, while they are both required to disclose similar information, they are still subject to different requirements. We would not support issuers on SME GMs being subject to the same requirements as issuers on Regulated Markets under the Transparency Directive. The approach therefore needs to be tailored to the different markets.

In terms of approach, we suggest that a federal model would be best whereby ESMA maintains the central database, but the information is still filed locally and flows through to the ESMA database. This way ESMA can set the requirements for reporting to become more standardised so that the data can easily flow through to the central database, while ensuring the local NCAs continue to be involved which is important for the local ecosystem. The responsibility for ensuring the new requirements are complied with should be made clear.

In view of fostering supervisory convergence and genuinely integrated capital markets, DBG considers that ESMA should be entrusted with supervision and maintenance of such a database. However, supervision of reporting requirements should be performed by the respective NCAs. Different or even conflicting supervisory practices overall constitute barriers to cross-border operations and do not accelerate market integration.]

<ESMA_QUESTION_CP_SME_9>

Q10. Do you think that in the medium term a two-tier SME regime with additional alleviations for micro-SMEs could incentivise such issuers to seek funding from capital markets? If so, which type of alleviations could be envisaged for micro-SMEs?

<ESMA_QUESTION_CP_SME_10>

[Instead of trying to create a two-tier SME regime, we suggest the focus should be on creating one regime with the most appropriate alleviations for all SMEs so that the current regime can be developed into a more attractive proposition for SME issuers.]

<ESMA_QUESTION_CP_SME_10>

Q11. Do you think that requiring SME GMs to have in place mandatory liquidity provision schemes, designed in the spirit of what is envisaged in Article 48(2) and (3) of MiFID II, could alleviate costs for SMEs issuers and provide them an incentive to go public? Do you think that on balance such provision would increase costs for MTFs in a way which encompasses potential benefits, resulting in reducing the incentive to register as an SME GM?

<ESMA_QUESTION_CP_SME_11>

[While we fully support the objective of increasing liquidity in trading in SME securities, we do not believe there should be a mandatory liquidity provision scheme that is required to be implemented by the market operator. We believe it should be for the operator of the SME GM to determine the most appropriate scheme for its market.

Mandatory liquidity provision would mean an extra and significant cost for the MTF. This may also represent a serious difficulty for countries with no tradition of market making nor firms specialised in it. Alternatively, the issuer liquidity contract is an adequate tool to improve liquidity.

In addition, we welcome the new regime for issuer liquidity contracts on SME Growth Markets introduced in the Market Abuse Regulation as this is another element which should contribute to supporting and increasing liquidity for SME trading.]

<ESMA_QUESTION_CP_SME_11>

Q12. Do you think the requirement in Article 33(7) of MiFID II regarding the issuer non objection in case of instruments already admitted to trading on SME Growth Markets to be admitted to trading on another SME growth market should be extended to any trading venue? Should a specific time frame for non-objection be specified? If so which one?

<ESMA_QUESTION_CP_SME_12>



[We do not support the proposal to extend the 'issuer non-objection requirement for admission to trading' of SMEs to Regulated Markets and MTFs. Share trading would be further fragmented, and the issuer would not have any influence on the inclusion.]

<ESMA_QUESTION_CP_SME_12>

Q13. Do you think that it should be specified that obligations relating to corporate governance or initial, ongoing or ad hoc disclosure should still hold in case of admission to trading in multiple jurisdiction?

<ESMA_QUESTION_CP_SME_13>

[Yes, we agree that this should be specified (see our answer to Q12).]

<ESMA_QUESTION_CP_SME_13>

Q14. How do you think the availability of research on SMEs could be increased?

<ESMA_QUESTION_CP_SME_14>

[DBG considers that measures should be taken to improve access to equity research on SMEs. Pre-MiFID II, research was supplied as part of a bundled service, paid by execution fees. Research post-MiFID II is required to be unbundled and priced separately from execution of trading of financial instruments.]

A growing number of SMEs are paying independent research providers to write research and take the initiative in approaching investors directly. However, this is challenging due to potential conflict of interests and a lack of recognition and coverage limitations due to budget constraints. Some exchanges have launched programs to provide SME research coverage and the first results suggest that it can create additional liquidity for listed SMEs.

A Pan-European program should be launched to cover the costs of research coverage based on the lessons learnt from these pilot programs. A possible additional way to improve liquidity of SME shares would be to establish user-friendly platforms for analysts to share their reports on. Retail investors should also have access to such a platform. Against this background, we believe that a program set up by a market operator to provide SME research would also improve research coverage. For example, we at DBG have been running an independent research model for our SME GM Scale for two years now. In this model, DBG acts as a neutral intermediary that provides the framework agreement and settles the matter between the research provider and issuer.

Furthermore, the introduction of a Single Electronic Access Point could facilitate access and availability of data about companies and as such serve as a basis for investors' assessments, potentially informing their decisions. SMEs would benefit from pooling the information they disclose at a one-stop shop: The SMEs' visibility would be increased and barriers to access capital reduced, overall ensuring and increasing their competitiveness. A Single Access Point could also serve as a starting point for the establishment of a European database for SME-research.

Access to equity research on SMEs could be improved by:

- Launching a Pan-European program to cover the costs of research coverage.
- Establish user-friendly platforms for analysts to share their reports on.
- Amend unbundling rules to allow brokers to send SME-research reports to fund managers.

Authorising the bundling of SME research would be the fastest way to increase production and distribution of independent reports and may have the biggest effect on the liquidity of SMEs.]

<ESMA_QUESTION_CP_SME_14>



Q15. Do you agree with the proposed limits on resources or would you propose different ones? If so, please provide a justification.

<ESMA_QUESTION_CP_SME_15>

[The limits on the resources that issuers may make available to a liquidity provider are stated in Article 5 of the draft RTS on liquidity contracts and are based on the Points of Convergence document that ESMA published in 2017. The Points of Convergence establish that the maximum limit for illiquid securities can be 500% of the average volume traded in a certain period or 1% of the capitalisation the day before the signing of the contract, both with the limit of EUR 1 million. However, the document under consultation (in the draft contract proposal) does not consider the second possibility (1% of capitalisation) but only the first (500% of the average daily volume). In our opinion the draft contract proposal should also incorporate the possibility of 1% of capitalisation. We agree with the rest of the limits set out in Article 5 of the draft RTS.

On a general note, DBG considers that it should be the responsibility of the competent authority and not the market operator to monitor that the liquidity provider complies with its requirements. We would therefore like to provide an overview of the current existing framework, explain the issue with some proposals and propose some potential solutions.

Existing practices: Liquidity Contracts / Market Making Agreements

The liquidity contracts referenced in MAR are signed between an issuer and an investment firm (issuer liquidity contracts) with the investment firm agreeing to provide liquidity for that specific issuer. The trading venue is not involved in the agreement of the issuer liquidity contract and National Competent Authorities (NCAs), not trading venues, have to be informed of the existence of these issuer liquidity contracts.

In contrast, market making agreements or liquidity provision contracts signed between trading venues and investment firms set out obligations for trading members to provide liquidity in the markets and a continued presence during the trading day. These agreements are focused on ensuring the continued liquidity in the market operated by the trading venue.

MAR requirement and the role of the market operator

The new MAR provisions, aimed at promoting the use of SME GM, stipulate that an issuer admitted to trading on an SME GM may enter into a liquidity contract for its financial instruments if a certain set of conditions are met. One of these conditions is that the market operator (operating the SME GM) acknowledges in writing to the issuer that it has received a copy of the liquidity contract and agrees to that contract's terms and conditions. DBG questions the legal basis for this requirement given the fact that the market operator is not a party to the issuer liquidity contract: it is unclear how regulatory compliance with the condition for market operators to agree to the contracts' terms and conditions can be delivered. While trading venues have a responsibility to ensure fair and orderly markets and they continuously monitor the quality and liquidity of its market; this does not involve agreeing to any commercial contracts between issuers and investment firms. Moreover, the market operator supervises the issuer of the SME GM with regard to the conditions for inclusion and follow up on inclusion obligations, but it is not part of the market operator's duties to supervise such issuers with regard to its compliance with MAR. In fact, monitoring issuers with regard to MAR is the responsibility of the NCA.

Clarification on the role of market operators

We believe clarity is required on this provision and would welcome consideration of our view that the obligation on the trading venue only relates to the trading venue ensuring that the issuer liquidity contract would not impede the orderly functioning of the market.

But, if a review by market operator is requested then it should be restricted to the part of the contract that is clearly specified by ESMA in the related RTS. The market operator cannot be expected to give any consent to any (commercial) provisions added by the issuer and the liquidity provider that are not within scope of the legislation. In this context, we would also like to point out that it should be the responsibility of the issuer to inform the market operator as soon as a liquidity contract has been concluded, cancelled or



expired. The latter is important especially when the market operator would need to ensure aggregate publication on its website.

MAR Accepted Market Practice Regime

We also believe it would be helpful to provide further clarity on how the new regime interacts with the current Accepted Market Practices regime already in place that will continue to exist under MAR. We would welcome clarification that:

- An issuer traded on an SME Growth Market should still be able to benefit from a liquidity contract under an Accepted Market Practice and that, in such cases, the issuer should not be covered by the obligation of the new legislation;

Given many issuers traded on SME Growth Markets have already signed a liquidity contract with investment firms and these contracts are known by the relevant NCA, it should be clarified that these can continue to be accepted under this new regime. These issuers should not be required to replace the existing contract by a “new contract” as this would lead to increased costs and burdens for issuers on SME Growth Markets.]
<ESMA_QUESTION_CP_SME_15>

Q16. Do you agree with the proposed limits on volumes or would you propose different ones? If so, please provide a justification of the alternative proposed parameters.

<ESMA_QUESTION_CP_SME_16>
[Yes, we consider that the proposed limits are adequate.]
<ESMA_QUESTION_CP_SME_16>

Q17. Do you think that specific conditions should be added as regards trading during periodic auctions? For SME GMs following different trading protocols, are there criteria or safeguards which should be considered in order to make sure that the liquidity contract does not result in a manipulative impact on the shares' price?

<ESMA_QUESTION_CP_SME_17>
[Regarding the behaviour of liquidity providers during auction periods, we believe that a distinction should be made between liquid and illiquid securities. It cannot be the same limit for both. For very illiquid securities it may be that the amount that the liquidity provider puts up for in the auction makes the most part, even 100% on one of the sides. We therefore suggest putting a limit (of 20%, for example) for liquid values and a higher limit, 50% or even no limit for illiquid values.]
<ESMA_QUESTION_CP_SME_17>

Q18. Do you agree with ESMA's view that the liquidity contract may cover large orders only in limited circumstances as described in paragraph 118?

<ESMA_QUESTION_CP_SME_18>
[We fully agree that block trades can benefit from the safe port provided by the liquidity contract, given that they are made through the market and comply with the limits established by the trading rules for this type of transactions.]
<ESMA_QUESTION_CP_SME_18>

Q19. Do you agree with the proposal described above regarding the template for the insider list to be submitted by issuers on SME GMs? If not, please elaborate.



<ESMA_QUESTION_CP_SME_19>

[We support the proposed approach by ESMA to reduce the information required on insider lists. MAR obliges all issuers of financial instruments to notify the market of inside information. A more proportionate approach in terms of the level of detail of insider lists may be needed going forward as SMEs may be disincentivised by the comparatively high regulatory burden.

However, regarding the data to be provided, we do not fully agree with ESMA's analysis. It appears disproportionate and an unjustified intrusion into the privacy of the individuals included in the insider list to require by default the entry of the private phone numbers. This information is simply not necessary to identify the relevant individuals. In the case of an actual suspicion, NCAs may easily ask the person obliged to draw up an insider list for more specific data.]

<ESMA_QUESTION_CP_SME_19>

Q20. CBA: Can you identify any other costs and benefits? Please elaborate.

<ESMA_QUESTION_CP_SME_20>

[TYPE YOUR TEXT HERE]

<ESMA_QUESTION_CP_SME_20>