

Equivalence for UK trading venues

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Plato Partnership notes that MiFIR Article 23 imposes a share trading obligation (“STO”) on EEA investment firms to ensure that they may only ‘undertake’ trades on a non-EEA trading venue if that venue has been determined to be ‘equivalent’ by the European Commission. The consequences of the STO were acknowledged by the European Commission prior to the entry into force of MiFIR, as it recognised trading venues in Australia, Hong Kong and the United States as equivalent in December 2017⁽¹⁾.

Therefore, with the UK due to leave the EU on 29 March 2019, we believe that it is critical the European Commission declares UK trading venues equivalent in order that EEA investment firms and their clients can continue to trade on these venues or otherwise provides guidance that enables EEA investment firms to continue to be able to trade on UK trading venues. The FCA have already announced that UK trading venues will continue to be subject to the UK versions of MiFID and MiFIR so there should be no valid reason why equivalence should not be granted to UK trading venues.

Plato acknowledges the efforts from regulators and policy makers to make European capital markets the most efficient in the world. However, the issue of equivalence for UK trading venues would have major consequences on EEA and UK markets and disrupt the great progress in market efficiency over the last 15 years. The absence of equivalence for UK trading venues (LSE, Pan European MTFs) will result in a significant fragmentation of liquidity that will impact the ability of EEA investment firms to achieve best execution for their clients and will result in reduced competition, increased volatility and increased execution costs. Access to liquid trading platforms in non-EEA countries for EEA Investment firms supports the EU’s competitive position as a global financial centre rather than undermining EU objectives. This access enables EEA investment firms to support diverse investment strategies of their end investors and achieve best execution.

Plato Partnership also believes the design and scope of the MiFIR STO should ultimately be revised. The STO is triggered by EEA investment firms trading in any third country listings and can only be resolved by issuing equivalence to third country trading venues. We believe the STO scope should be adjusted to relate only to EEA instruments trading in an EEA currency, and that exceptions should also be made (irrespective of trading currency) where an issuer establishes a second listing (e.g. Irish stocks on LSE) so as to access the third country’s investor base and be included in the third country’s indices.

We note the following consequences in detail –

- The fragmentation of liquidity will result in increased execution costs for EEA investment firms who would be unable to access liquidity of UK listed issuers on the London Stock Exchange and would have to trade dual listings on EEA trading venues (where available) where there is low liquidity that will result in higher execution costs.

- EEA investment firms would also be unable to access liquidity in EEA instruments on pan European UK-based trading venues such as Cboe, Turquoise, Liquidnet, Aquis, Equiduct, UBS MTF and ITG Posit who represent approximately 30% of total European Equities trading volumes. This includes trading on Dark LIS venues that is considered key for minimising execution costs for large trades.
- The fragmentation of liquidity is likely to discourage UK listed issuers from dual listings on EEA trading venues and in some cases may result in de-listings from EEA trading venues with a corresponding loss of listings and revenues to EEA primary exchanges. As the recent Swiss equivalence negotiation has shown, the UK could also greatly accelerate de-listings by legally requiring UK listed issuers to have a single listing in the UK.
- EEA investment managers must maintain access to the most liquid markets and it is likely a number of EEA Investment Managers will set up the required organisation in the UK and/or identify alternate solutions. EFAMA and the BVI have indicated a number of their members are actively evaluating these options.
- If equivalence is not granted, it may also result in UK regulators not issuing equivalence to EEA-based trading venues that would further separate liquidity and complicate the trading of shares for Global investment firms. This would cause further liquidity fragmentation, raising execution costs for end investors and may also force end investors to change their investment and implementation process.

If an immediate equivalence decision is not possible, other policy tools can be utilised in the interim to avoid the cliff edge faced by EEA investment firms including:

- confirming that until an equivalence assessment is conducted for UK venues (e.g. to permit the collection of data on which dual listed shares trade significantly in the EU post-Brexit, and are therefore in scope of the trading obligation), that EEA Investment firms are able to continue trading UK-traded shares; or
- clarification of the scope of the share trading obligation on the basis of ISIN code and currency (e.g. not to apply to GB ISINS or to apply to EU27 ISINs trading in an EU27 currency). While such a clarification may provide immediate relief for most shares, it may still require an equivalence assessment for some shares (e.g. Irish) that trade significantly on UK venues.

Plato Partnership recommends the equivalence decision for UK trading venues is urgently issued or that guidance is provided to enable continued trading on UK trading venues in order not to disadvantage EEA Investment firms and their end investors. A failure to declare UK trading venues equivalent or provide appropriate guidance on the scope of the share trading obligation would be counter to the statements⁽¹⁾ made by Valdis Dombrovskis that "It is important that European firms can trade shares on international markets. Access to major international trading venues will boost the EU's competitive position as a financial centre".

(1) MiFID II: Commission adopts equivalence decisions to facilitate global trading in shares http://europa.eu/rapid/press-release_MEX-17-5267_en.htm



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About Plato Partnership Limited

Plato Partnership Limited ("Plato Partnership"), a not-for-profit company comprising 25 European buy-side and sell-side member firms, was formed in September 2016 with a vision of bringing creative solutions and efficiencies to today's equity marketplace. The group's key aims are to reduce trading costs and simplify market structure for the benefit of all market participants, and to act as a champion for end investors.

Members of Plato Partnership include:

Baillie Gifford, BlackRock, Cedar Rock, DWS Group, Fidelity International, Invesco, Janus Henderson, Legal & General Investment Management, Liontrust, Norges Bank Investment Management, Union Investment, Barclays, Bank of America Merrill Lynch, Citi, Deutsche Bank, Goldman Sachs, Instinet Europe, Jefferies, J.P. Morgan, Morgan Stanley, RBC, Redburn, Societe Generale and UBS.

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