Cboe Europe response to the Next CMU High-Level Group questionnaire

As the largest pan-European trading venue in European equity, Cboe Europe offers a gateway for international and European capital flows to reach a wide range of EU issuers, trading over 3,700 EU27 shares and other equity like instruments**.** We welcome the initiative launched by the French, Dutch, and German ministers to revisit the CMU project. The CMU project should focus on ways to make EU-27 market structure more attractive to international investors, given that - according to our trading participants - 80% of client driven EU-27 equity trading originates from non EU-27 investors.

Cboe Europe is a pan European operator of stock exchanges and OTC reporting services, with licenses to operate regulated markets, MTFs and APAs in the UK and the Netherlands. Cboe is also one of the five shareholders in Euro CCP, the pan-European clearing house. Cboe is consistently one of the largest venues for trading European equities and equity like instruments and has been at the forefront of the many positive developments in European equity markets since MiFID was implemented in 2007. These have included dramatic reductions in trading and reporting fees, the development of a competitive interoperable clearing model and innovative trading services such as the Cboe LIS service for block trades and periodic auctions for low impact institutional trading.

We will here provide responses to those questions which we believe are most relevant to us as a pan-European operator of market infrastructure.

1. Could you provide us with an analysis of deep trends and developments (such as digital and artificial intelligence transformation, aging, climate change, UK's decision to leave the EU) relevant for the future of the Capital Markets Union? What is the impact of these trends on capital markets in Europe, its products and services? (Please provide data).

From our perspective as a provider of financial market infrastructure, Brexitvand represents the most significant and immediate issue that the next version of the CMU needs to address. Brexit offers both risks and opportunities for an EU-27 CMU. The focus of the CMU from this point must be on making the best of those opportunities and mitigating the risks.

2. From a forward-looking perspective, how do you view strengths and weaknesses of the Capital Market Union in its current state and when made of 27 Member States? From the perspective of companies (all sizes and at each stage of their growth), consumers, (wholesale and retail) investors and other market players? How do you view the role of EU's and national supervisors? How does Brexit change the prospect for a financial integration in the EU?

While the EU-27 already enjoys a number of significant advantages, not least the size of its single market and the legislation that has already been put in place to support it, Brexit provides an opportunity to build upon those advantages. Brexit has already precipitated a transfer of skills and functions into EU-27 from the UK. However, that opportunity could be wasted it there are attempts to close the EU-27 market. For the EU-27 capital markets to become global, the EU-27 regulatory regime in particular must make the EU an attractive place to develop financial services and make it possible for global investors, firms and infrastructure providers to access those markets. Furthermore, London's proximity must be viewed as a strength that is complementary to the attractiveness of the EU-27. A priority should therefore be for the EU27 and the UK to seek mutual equivalence to ensure ongoing regulatory alignment. The alternative will be divergence and potentially damaging regulatory competition, leading to fragmentation and market inefficiencies such as higher trading cost and smaller liquidity pools

4. Home bias in investments still characterizes the EU landscape. What would you say are the main issues limiting cross border flows and what steps could be taken to encourage more cross border activity?

Home bias is created and reinforced by misguided protectionism at the national level. Member states retain a strong attachment to the idea of having a locally based stock exchange. There is an important role to play for small, specialist exchanges to provide niche services that do not require scale, but the continued existence of small national exchanges just for the sake of it often adds cost for investors and their presence does not serve local companies as efficiently as they do not provide access to EU wide capital, let alone international capital. Furthermore, for a variety of legal and cultural reasons, multiple local registrations are still required even when clear passporting rights exist. Euronext provides a great example of an organisation that is trying to deliver consolidation through harmonising technology and – to a certain extent – market rules across multiple member states. However it is still necessary for it to maintain 6 exchange licenses within the EU, 5 of them in the EU-27.

The new ambitions of the CMU project need to genuinely address those protectionist tendencies for the sake of the EU-27 and the other areas where monopolistic behaviour is allowed to continue.

We are encouraged by the recent ESMA consultation on market data, and the fact that DG COMP is looking at market data. The implementation of a consolidated tape will help to address some of the competition issues around market data, and will also help to address home bias by providing investors across the EU-27 with access to prices from all European venues. Action must also be taken to ensure genuine open access to clearing and to deal with the competitive distortions, and increased systemic risk being created by the growing size of equity market closing auctions. This latter issue has been observed globally, but particularly in Europe as investors save order flow up for the closing auctions, which generally only last for the last 5 minutes of the trading day. This concentration means that there is less volume throughout the day, potentially damaging price formation, the operators of those auctions enjoy increased pricing power over both the trading and market data prices associated with those auctions and it also means that if system issues strike during this closing session, the market wide disruption that is caused is magnified. The competitive aspects of this could be addressed by running these auctions as utilities with all venues contributing order flow.

8. What are crucial elements for a well-functioning deep and liquid financial market within the EU27? How should the EU27 Capital Markets Union be structured to be a globally competitive and attractive financial market? How should the relations with financial markets in third countries be strategically shaped?

From an infrastructure perspective, consolidation is required to remove the inefficiencies created by the persistence of smaller national providers. This then needs to be aligned with a regulatory regime and approach that encourages competition and innovation, to ensure that the EU-27 CMU is globally competitive and attractive.

Healthy competition is often misrepresented as fragmentation. The first MiFID created the basis for a robust framework, based on transparency and best execution that would allow competition to flourish. That competition would, absent the obstacles detailed below, lead to consolidation as those providers that were successful either replaced or acquired their less successful rivals. The missed opportunity of MiFID 2 has been the failure so far to deliver a consolidated tape, and the lack of teeth behind the open access provisions which are necessary to allow for more competition at the post trade level. Instead, the focus both in its development and in regulatory focus since its implementation has been to limit acceptable forms of market microstructure, which in turn inhibits innovation and competition. The EU's markets and the infrastructure providers that support them need the scope to innovate so that they can not only compete effectively within Europe, but also globally.

Once again – Brexit has provided an opportunity to be built upon. UK based trading venue operators across all asset classes have established venues within the EU 27, significantly increasing the number and range of venues available within the bloc. However, the success of those venues will be dependent upon their ability to innovate and compete against not just those venues that stay in London, but venues from across the world. Efforts to try and "trap" business in the EU 27 through restrictive trading obligations, when allied to intrusive rules about market infrastructure will only make EU-27 venues less attractive to the international investors that provide the majority of EU market volume.

9. What should be the 3 key priorities for the next phase of Capital Markets Union?

1) Ensure that the EU-27's markets remain open to international capital and service providers and encourage innovation and competition
2) A consolidated tape for both pre and post trade equity data
3) Effective enforcement of MiFID 2 open access to clearing requirements

If you have any questions or would like to discuss these points, please don't hesitate to contact us.

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