ABI reply to the ESMA Consultation Paper on Draft technical Advice to the European Commission on the amendments in the research provisions in the MIFID II Delegated Directive in the context of the Listing Act

Question 1: Do you agree with the proposed approach? Or would you prefer a more or less detailed approach? Please state the reasons for your answer

We support the ESMA approach in setting the new requirements that investment firms shall follow for the provision of research by third parties by introducing some high-level requirements applicable to the payment options to receive financial research.

Such an approach, amending the Article 13 of Commission Delegated Directive (EU) 2017/593 to articulate the MiFID II Delegated Directive with the amendments made at level 1 provisions by Directive 2024/2811, should be aimed at simplifying the current requirements in order to revitalise the market of the investment research, ensuring at the same time an high level of transparency.

That said, we highlight that many proposals concretely put forth by ESMA in the consultation paper seem not consistent with the high-level approach that ESMA declares and intends to pursue, as we better clarify below.

Moreover, these proposals risk depriving the important and positive developments of the Listing Act, related to the unbundling rule, of their practical effectiveness.

Question 2: Do you agree with the introduction of new paragraph 1b in Article 13 of Commission Delegated Directive (EU) 2017/593? Please explain why

We support the need of a comparison of the quality, usability and value of the research used by investment firms, as this approach will allow them to get valuable information on the quality of the services they are offering.

However, we also consider that a fundamental justification of the review of the Listing Act in the field of research was to support small- and mid-caps research.

Therefore we fear that the introduction of new paragraph 1b in Article 13 of Commission Delegated Directive (EU) 2017/593 aimed to introduce a comparison by investment firms between research producers together with the annual assessment of the quality, usability and value of the research itself for the improvement of investment decisions, as already provided by the current legislation, goes in the opposite direction and risks deterring local brokers from performing research on smaller issuers, also reducing the scope of insights and potential opportunities for investors.

As of today, the lists of providers are quite narrow. In this context, ESMA proposal introduces a very complex and burdensome way to perform comparison.

These problems are likely to aggravate as long as an investment firms users of the research would be prevented from making recourse to a research provider which is not listed yet in his/her "providers list" unless this asset manager undergoes a long and burdensome update of its benchmarking. The final outcome of this proposal would harm innovation and diversification of research.

Moreover, the elements on which investment firms users of research should carry out this comparison are not disclosed. We consider that such a comparison should not be made between local intermediaries (local brokers) and global ones, which operate with scales and business volumes more significant.

ESMA proposals includes within the same "playing field" both local and regional operators, on the one side, and large and global operators, on the other side. In so doing, it risks replicating a scenario where local and regional operators suffer from competitive disadvantage vis-à-vis large operators.

Benchmarks which are not sufficiently granular in terms of sector and in terms of geography would hinder the possibility to identify research providers in specific market segments, particularly with reference to small- and mid-caps.

ESMA proposals would be detrimental to local and regional research provider, who mainly target at relatively few sector/industries and cover the geographies where they operate, with a very deep and detailed coverage.

Question 3: If you do not agree with the introduction of new paragraph 1b in Article 13 of Commission Delegated Directive (EU) 2017/593, please provide alternative suggestions and/or explain how investment firms operating a research payment account currently assess the quality of research purchased (Article 13, point 1(b)(iv) Delegated Directive)

So far, investment firms users of research have developed internal mechanisms with the goal to assess – on a dynamic basis and based also on rankings published by external independent providers, where appropriate – the quality of the research provided by third parties, with specific reference to compatibility of this research with their specific needs as well as their clients' demands, e.g. i) compatibility with their investment strategies ii) adequacy of costs' levels and iii) impact in terms of value added for clients.

An annual mandatory comparison risk being not practical for smaller or specialized firms. As alternative solutions, we propose that the new paragraph 1b in Art. 13 requires firms: i) to perform "bottom-up" and "internally-driven", reviews based on their needs and their clients' demands; ii) to use free trials coupled with short-term contracts with new providers to assess research quality: this would allow firms to test other providers and to

guarantee that the research at issue really fulfills their needs before entering long-term contractual relationships.

Free trials are a valid tool for investment firms with a view to assessing the quality of research produced by other providers and to explore, at the same time, investment opportunities in financial instruments which are not covered by the research produced by the providers included in their broker lists.

Question 4: Do you agree that, when conducting the annual assessment provided in new Article 24(9a)(c) of MiFID II, an investment firm could be required to include a comparison with potential alternative research providers? Please state the reasons for your answer. Please also provide feedback on the availability of free trials for research services and why they may or may not be appropriate for investment firms to fulfil their obligations under Article 24(9a)(c). If free trials are not appropriate, which other methods could be used for comparison?

We support the need of a comparison of the quality, usability and value of the research used by investment firms, as this approach will allow them to get valuable information on the quality of the services they are offering.

However, we note that investment firms already assess the quality of the research produced by third parties, also on the basis of the same items. Thus, we consider that providing further elements through a comparison of potential alternatives by the investment firms, as ESMA proposes, will imply the risk to get this evaluation more complex.

We are in favor of the use by investment firms of free trial research packages for evaluating whether they are still obtaining the best value from research producers.

Free trials are an essential feature of research markets and it’s important to preserve their availability. To this extent, it is important to extend ESMA Q&A 12 to all payment options.

Promoting the use of free trials would allow firms to test other providers and to ensure that the research at issue really meets their needs before entering long-term contractual relationships

Free trials are a valid tool for investment firms with a view to assessing the quality of research produced by research providers and to explore, at the same time, investment opportunities in financial instruments which are not covered by the research produced by the providers included in their broker lists.

Question 5: Do you agree with the introduction of new paragraph 10 in Article 13 of Commission Delegated Directive (EU) 2017/593? Please state the reasons for your answer

We don't not consider it useful to introduce analytical and complex evaluation criteria regarding the methodology for the remuneration that an investment firm should accept when enter in agreement for joint payments relating to research and executive services.

Indeed, there is the risk that such criteria may represent a blocking factor for providing research together with other financial services, as happened under the previous regime. Furthermore, investment firms users of research already evaluate the payments for the research also considering the compliance with the best execution requirements indicated in the ESMA's proposal.

Question 6: Do you think that any further requirements or conditions applicable to investment research provided by third parties to investment firms should be introduced in the proposed amendments to Commission Delegated Directive (EU) 2017/593? Please state the reasons for your answer

We would like to take this opportunity to raise the issue of including research among the elements which contribute to the best execution of orders under MiFID II (Article 27). This would be particularly important and would "make the difference" in the specific context of small- and mid-caps.

The impact of such regulatory change would be relatively modest for large caps, which are covered, already at this stage, by many brokers and whose securities are already included in the main market indexes. On the contrary, this regulatory change would make the difference in the context of those small and medium caps which generally suffers from insufficient or even non-existent research, which are covered by few brokers.

The investments that these brokers make in covering small and mid-caps should be incentivized as long as these brokers allocate resources to cover these entities and therefore these brokers should be considered as "best executing" (and not those brokers who do not cover these entities).