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Mr. Werner Bijkerk
International Organization of Securities Commissions
Callo Oquendo 12
28006 Madrid
Spain

Secretariat
Technical Committee
International Organization of Securities Commissions

Sent by email to: market-integrity@iosco.org

Public Comment on Consultation Report: Regulatory Issues Raised by the Impact of Technological Changes on Market Integrity and Efficiency BVI's response

Dear Mr. Bijkerk**,**

In response to the above mentioned consultation, please find below BVI's[1] views on the subject at hand.

We are pleased to have the opportunity to comment on the questions to high frequency trading.

We would like to make the following comments:

General remarks:

Our members welcome the IOSCO report. A vast majority of members believes that HFT strategies which are harmful to asset managers need to be regulated, especially liquidity seeking strategies which detect and trade ahead of large institutional size orders. Such strategies unnecessarily increase the cost of trading and diminish the returns of long term investors.

[1] BVI Bundesverband Investment und Asset Management e.V. represents the interest of the German investment fund and asset management industry. Its 84 members manage currently assets of nearly EUR 1.8 trillion both in mutual funds and mandates. BVI's ID number in the EU register of interest representatives is 96816064173-47. For more information, please visit www.bvi.de.

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Thereby the pension and long term savings of millions of investors are negatively affected.

Questions:

Q1 What impact have the technological developments in the markets in recent years had on your own trading? Has it encouraged, discouraged or had no impact on your willingness to participate on the lit markets, and how does this differ between asset classes and/or instruments?

The technological development in the cash securities markets, especially the equity markets, enable fund managers to access liquidity in numerous markets both on- and off-exchange as well as in lit and unlit markets. The possibility and willingness for self directed trading has increased among the buy side. However, it has become increasingly difficult to trade large scale orders as such orders are now much more quickly detected and utilized by HFTs. As a result, the importance of finding liquidity in dark venues has increased.

Q2 What are your views on the suggestion that proprietary trading firms (including HFT firms) that are not currently subject to registration/authorisation by a regulator should be required to obtain such a registration/authorisation? Are there specific regulatory requirements you believe such firms should face?
To what extent do your answers differ if the proprietary trading firm accesses the market as the customer of an intermediary firm through DEA (i.e. under that intermediary's trading rules/codes) rather than as a direct member of the market itself?

Our members believe that a registration and authorization of all proprietary trading firms is welcome. Our members, however, clearly distinguish between market makers and HFT firms. They would not require that HFT firms need to register as market makers.

Q3 What recommendations, if any, would you propose to strengthen the regulatory requirements around pre- and post-trade risk controls? In particular, what measures, if any, do you think regulators should introduce that relate specifically to the use of and risks posed by algorithmic trading and/or HFT?

The vast majority of our members would welcome the introduction of measures in order to better control the risks associated with HFT. The measures should include circuit breaker rules at market level, minimum rest times for orders of 5 to 15 seconds to allow other market participants to react to orders, minimum tick sizes and clear “order to trade”-ratios to be better able to reduce “noise” in the markets.

Q4 To what extent do you believe the use of trading control mechanisms such as circuit breakers and limit-up/limit-down systems by trading venues should be mandated? If you believe they should be mandated, should venue operators be permitted to design their own controls or should they be harmonised/coordinated across venues (including between interrelated instruments such as a derivative and its underlying)?

Our members believe that there is a need for harmonization of trading control mechanisms across all trading venues and across different instrument and asset classes, including derivatives.

Q5 To what extent do you believe market maker schemes offered by trading venues should be subject to mandatory minimum criteria? Should the criteria be determined by the trading venue alone? To what extent do you agree with the suggestion that the use of stub quotes should be prohibited?

Our members believe that there is a need for harmonization of market maker schemes across Europe by the authorities. Market making needs to be harmonized to insure that market makers provide meaningful liquidity to the market. Additionally, quasi market making behaviour such as the use of stub quotes should be prohibited.

Q6 Do you have suggestions for improvements to regulators' surveillance capabilities with respect to the markets and modern trading techniques? Please elaborate.
Who should bear the cost of investing in such capabilities and the cost of operating and supervising the markets in order to ensure fairness among market participants? Please elaborate.

Our members believe in early and regular contacts of market authorities with at least all direct market participants. Good understanding and intense cooperation with market participants may reduce the need for formal regulation. Market information to regulators needs to be improved without increasing necessarily the reporting burden on market participants. Regulators should agree on the use of international reporting standards and identifiers. BVI supports the use of ISO standards for this purpose. in particular the ISIN as instrument identifier and the (draft) legal entity identifier (LEI) as trade party identifier.

Q7 What do you perceive as the major causes of settlement indiscipline and settlement failures? What steps, if any, do you believe regulators should take to address these causes?

No comment. Settlement occurs between brokers and custodian banks. Settlement fails usually do not directly affect the buy-side.

Q8 Have the appropriate steps been taken to limit or manage conflicts of interest that arise where an investment firm simultaneously conducts client-serving activities and proprietary trading or a trading participant is also a shareholder in a venue on which it trades? If you believe conflicts management is inadequate, please explain how this manifests itself and any recommendation you have for how conflicts management could be improved.

Our members do not report major issues at investment firms that conduct simultaneously client services and proprietary trading. The buy side firms usually monitor all trade execution over extended periods of time to ascertain themselves that investment firms that conduct client servicing and proprietary trading simultaneously are effectively managing their conflicts of interest.

Q9 Do you think existing laws and rules on market abuse and disorderly trading cover computer generated orders and are relevant in today's market environment?

While our members acknowledge that existing laws and regulations also cover electronic trading, they maintain that the regulatory set up was made for a different market set-up which predates ALGOs and HFT. The majority of members therefore believes that the regulatory environment needs adjustment. Please see also our comment on Q3 above.

Q10 Are there any strategies employed by HFT firms that raise particular concerns? If so, how would you recommend that regulators address them?

A majority of members believes that HFT strategies which are especially harmful to asset managers are liquidity seeking strategies which detect and trade ahead of large institutional size orders and which increase the cost of trading. The measures to control HFT should include circuit breaker rules at market level, minimum rest times for orders of 5 to 15 seconds to allow other market participants to react to orders, minimum tick sizes and clear "order to trade"-ratios to be better able to reduce "noise" in the markets.

Furthermore, the sponsored access market participation structure needs to be reviewed to limit potential HFT abuse.

Q11 Should charges or fees be imposed on messages, cancellations or high order-to-trade ratios? If so, how should the fees or charges be determined and on what basis?

BVI supports the idea of charges or fees to be imposed on messages, cancellations or high "order to trade"-ratios to be set by the venue in question subject to regulatory controls.

Q12 Should market operators be required to make their co-location services available on a fair and non-discriminatory basis?

BVI supports support the idea that all market operators be required to make their co-location services available on a fair and non-discriminatory basis. There needs to be a level playing field among all interested trading parties.

Q13 Should market operators be required to provide testing environments to enable participants in stress test their algorithms? If so, what kind of minimum requirements are reasonable?

Our members are split about this suggestion. Some believe that market operators need to deliver a stable market mainly through circuit breakers. Other believe that providing testing environments for algorithms is useful to strengthen market resilience.

Q14 To what extent do you have other comments related to the risks to market integrity and efficiency raised by the issues in this report?

BVI does not have further suggestions on the IOSCO report which covers the market integrity issues in an exhaustive way.

We hope that our views are of assistance to IOSCO and remain at your disposal for further clarification of the issues at hand. Our response can be made public.

With kind regards

Rudolf Siebel, LL.M
(Managing Director)

Marcus Mecklenburg
(Senior Vice President)