

Submission Date

14/11/2018

ESMA_QA_1554

Status: Published Answer Updated

Additional Information

Level 1 Regulation

Markets in Financial Instruments Regulation (MiFIR) Regulation (EU) No 600/2014-
Secondary Markets

Topic

Equity transparency

Subject Matter

Transparency - data (pre- and/or post-trade data) available free of charge 15 minutes after publication

Question

How should trading venues, APAs make data (pre- and/or post-trade data) available free of charge 15 minutes after publication and ensure non-discriminatory access to the information? What practices are not compatible with the requirement to make data available

free of charge and ensure non-discriminatory access to the information?

ESMA Answer

16-10-2024

Original language

In order to ensure that all potential users can access the information made available free of charge 15 minutes after publication, trading venues and APAs should make clear instructions to the public on their website on how and where to access the data. The post-trade data should be available to anybody free of charge and in a format which can be understood by the average reader.

ESMA considers that publishing information on a website that is not accessible to everybody imposes restrictions on access to the data and does not meet the requirement for making information available free of charge. Similarly, the publication of data through third parties that do not charge specific fees for the relevant data but raise regular, for instance monthly or yearly, fees for subscribing to their services, does not meet the requirement to make information available free of charge. Furthermore, ESMA is of the view that allowing access to the data via a human interface only from ex ante registered IP addresses does not meet the requirement to make information available to the public free of charge. However, such a restriction is acceptable for data provided in a machine readable way.

- Publishing information in a format that prevents users to read, use and copy the information

Trading venues and APAs should publish information in an electronic format that can be directly and automatically read by a computer, and that can be accessed, read, used and copied by any potential user through computer software that is free of charge and publicly available.

ESMA does not consider that publishing data as an image (i.e. in such a way that the user cannot copy the data in a format that can be read by a computer) or requiring the purchase of a specific software for downloading, processing or reading the information meets the requirement of making data available free of charge.

- Requiring market participants to submit search queries in order to access data

The data made available free of charge should be published in a similar format as real-time data published on a reasonable commercial basis.

ESMA does not consider that offering only publication arrangements whereby market participants are required to submit search queries in order to access limited portions of the data (e.g. ISIN-by-ISIN searches, limited time periods) meet the requirement of making data available free of charge, but such search queries could exist in addition.

- Deleting data shortly after publication

The data made available free of charge should replicate the information published on a reasonable commercial basis but with a 15 minutes delay. ESMA is of the view that the information should be available for any party to initiate a retrieval of the data for a period of at least 24 hours from the publication. It is not reasonable to have the data available for a period that is not long enough for it to be downloaded reliably either on an ad-hoc or in a repeatable manner

- No publication of post-trade data on transactions benefitting from a deferral

ESMA recalls that the obligation to make available post-trade data free of charge 15 minutes after publication applies also to transactions benefitting from a deferral. ESMA therefore expects that information on those transactions is made available on the same conditions as information on transactions not subject to deferred publication.

14-11-2018

Original language

[ESMA 70-872942901-35 MiFIR transparency Q&A, Q&A 2.10]

ESMA expects trading venues, APAs and CTPs to make post-trade data, as well as pre-trade data, available free of charge 15 minutes after publication in an easily accessible manner for all potential users using a format that can be easily read, used and copied. This is without prejudice to Q&A 1553 which allows, in certain cases, to charge fees or other similar restrictions on data. Furthermore, trading venues, APAs and CTPs are required to ensure the non-discriminatory access to pre- and post-trade data, including for data made available free of charge.

Article 14 of RTS 13 requires APAs and CTPs to publish data in a machine readable way. In order to ensure that the information published by APAs and trading venues can be effectively and efficiently used by the public, ESMA expects that trading venues follow similar publication standards and publish data in a machine-readable way. In addition, APAs, CTPs and trading venues should also provide the data in a format that can be understood by an average reader.

ESMA considers that any practice designed to circumvent the provisions in Article 13(1) of MiFIR and Articles 64(1) and 65(1) and (2) of MiFID II is not compatible with the requirement to make data available free of charge 15 minutes after publication and ensure non-discriminatory access to the information. This includes, but is not limited to, the following practices:

- Imposing restrictions on access to the published data

In order to ensure that all potential users can access the information made available free of charge 15 minutes after publication, trading venues, APAs and CTPs should make clear instructions to the public on their website on how and where to access the data. The post-trade data should be available to anybody free of charge and in a format which can be understood by the average reader.

ESMA considers that publishing information on a website that is not accessible to everybody imposes restrictions on access to the data and does not meet the requirement for making information available free of charge. Similarly, the publication of data through third parties that do not charge specific fees for the relevant data but raise regular, for instance monthly or yearly, fees for subscribing to their services, does not meet the requirement to make information available free of charge. Furthermore, ESMA is of the view that allowing access to the data via a human interface only from ex ante registered IP addresses does not meet the requirement to make information available to the public free of charge. However, such a

restriction is acceptable for data provided in a machine readable way.

- Publishing information in a format that prevents users to read, use and copy the information

Trading venues, APAs and CTPs should publish information in an electronic format that can be directly and automatically read by a computer, and that can be accessed, read, used and copied by any potential user through computer software that is free of charge and publicly available.

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English

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