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| 03 October 2016 | ESMA/2016/1422 |

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| Reply form for the Consultation Paper on RTS specifying the scope of the consolidated tape for non-equity financial instruments |
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| Date: 03 October 2016 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on the scope of the consolidated tape for non-equity financial instruments, published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type <ESMA\_ QUESTION\_MIFID\_NET\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

* if they respond to the question stated;
* contain a clear rationale, including on any related costs and benefits; and
* describe any alternatives that ESMA should consider.

**Naming protocol**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_MiFID\_NET\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA\_MiFID\_NET\_ESMA\_REPLYFORM or

ESMA\_MiFID\_NET\_ESMA\_ANNEX1

***Deadline***

Responses must reach us by **05 December 2016.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Legal notice’.

# Introduction

Please make your introductory comments below, if any:

< ESMA\_COMMENT\_MIFID\_NET\_0>

Thomson Reuters welcomes the opportunity to respond to this consultation and thanks ESMA for facilitating a public discussion about the scope of the Consolidated Tape for non-equity financial instruments.

Thomson Reuters is the world’s leading source of news and information for professional markets.  Our customers rely on us to deliver the intelligence, technology and expertise they need to find trusted answers.  The business has been operating in more than 100 countries for over 100 years.  The solutions we provide to the global financial community deliver critical news, information and analytics, enabling transactions and connecting communities of trading, investing, financial and corporate professionals, and we are further investing in developing industry solutions to enable the financial community adapt to the changing regulatory landscape.

In general, we support the presence of the non-equities Consolidated Tape regime where it is intended to aid accessibility and availability of consolidated market data to the industry and public.  However, we wish to bring to ESMA’s attention that there is a critical distinction between the distribution and consolidation of market data, which historically have not been regulated, and the Consolidated Tape. Distribution and consolidation of market data must remain an unregulated service in order to provide the flexibility to meet the demands of a wide range of heterogeneous users and aid innovation, whilst the Consolidated Tape should have an appropriate level of regulation to ensure comparable solutions across providers.  In the US, for instance, a consolidated tape is provided, but this co-exists alongside existing market aggregation services, thus both serving different needs.

Not all users require access to the Consolidated Tape as characterised by the requirements of MiFID II, and as such, access to an unregulated service offering greater flexibility in terms of cost of solutions, levels of customisation and innovation must remain an option to enable markets to continue to remain liquid and connected globally.  We therefore strongly believe that the provision of market data outside the scope of the Consolidated Tape (for both equities and non-equities) must remain generally protected under international trade agreements and must not become regulated; this is critical to ensure that the financial community is not disadvantaged by removing products that better serve their current and future needs and that users are able to chose the products they use according to their requirements.

< ESMA\_COMMENT\_MIFID\_NET\_0>

1. Do you agree with ESMA’s proposal to allow non-equity CTPs to specialize their offering? Do you agree to the level of specialisation proposed or would you recommend a less granular or more granular approach?

<ESMA\_QUESTION\_MIFID\_NET\_1>

Thomson Reuters supports the presence of the non-equities Consolidated Tape regime to the extent that it aids rather than hinders accessibility and availability of consolidated market data to the industry and public. There is a critical distinction between the distribution and consolidation of market data and the Consolidated Tape. The former must remain an unregulated service in order to provide the flexibility to meet the demands of a wide range of heterogeneous users and aid innovation, whilst the latter should have an appropriate level of regulation to ensure comparable solutions across providers.

Thomson Reuters believes those requirements associated with providing a Consolidated Tape under the DRSP regime as defined in the Commission Delegated Regulation (EU) (3201) of 2 June 2016 are suitable for those users who are seeking a solution characterised by being stable and complete.

Critically, not all users seeking consolidated market data require the characteristics of the Consolidated Tape. In our view, there are three groups of users who will not be served by the Consolidated Tape: those seeking low cost solutions, those that require a customised or bespoke scope and those that require rapid innovation:

* **Low cost solutions**: The Consolidated Tape increases the cost of providing consolidated market data through the authorisation, conflicts of interest, outsourcing, business continuity and back-up, testing and capacity, security, management of incomplete information and publication arrangement requirements.
* **Customisation**: The Consolidated Tape restricts users’ ability to customise the scope of instruments and markets consolidated since there are predefined requirements relating to which trading venues and APAs must be included. This hinders users’ ability to align their consolidated data with the scope of markets they trade on or to take a discretionary approach to select trading venues and APAs based on which are most cost effective.
* **Innovation**: The Consolidated Tape requirements relating to machine readability (e.g. free, non-proprietary and open standard electronic formats and provision of at least three months notice to changes about how and where to access information) and non-discriminatory requirements restrict the scope and pace at which innovations can be brought to the market.

Provision of consolidated market data outside the scope of the non-equities Consolidated Tape is critical to ensure users are not disadvantaged by removing products that better serve their current and future needs.

Subject to no restrictions on the provision of consolidated or aggregated market data Thomson Reuters accepts ESMA’s recommendation that the non-equity Consolidated Tape Provider (“CTP”) could “*specialise in only one asset class, offer the entire spectrum of asset classes or any combination*”. However, Thomson Reuters recommends that ESMA does not define Consolidated Tapes with excessively granular asset classes since the lack of obligation for disaggregation amongst APAs could make the regime economically unviable. Consolidated Tapes will likely have to purchase all data published by each APA, since there is no obligation for them to disaggregate it. In addition, there is no reason to believe that APAs will be aligned to ESMA’s asset class definition for Consolidated Tapes. This means that each Consolidated Tape will be required to purchase a broader scope of data than mandated under the asset class definition. This misalignment of scope between in-bound and out-bound data could significantly increase the cost of providing a Consolidated Tape.

<ESMA\_QUESTION\_MIFID\_NET\_1>

1. Do you agree that the threshold determining whether a trading venue or APA needs to be included in the CT should be based both on the volume and the number of transactions? If not, please explain and present an alternative approach.

<ESMA\_QUESTION\_MIFID\_NET\_2>

No, we do not agree that the threshold determining whether a trading venue or APA needs to be included in the Consolidated Tape should be based both on the volume and the number of transactions. The threshold for determining whether a trading venue or an APA needs to be included in the Consolidated Tape should be based on trade count only. The reasons for excluding trade volume are as follows:

* Volume is not a consistent measure across all types of non-equities instruments as demonstrated by Commission Delegated Regulation (4301 Annex) dated 14 July 2016 (RTS 2) Annex 1, Table 4, which illustrates that the measure of volume will be a combination of nominal value, number of units traded, notional amount and tons of carbon dioxide equivalent depending on the type of instrument traded. Whilst an inconsistent volume definition does not prohibit provision of a Consolidated Tape that specialises in an individual asset class, it does restrict the provision of a non-equities Consolidated Tape that covers the entire spectrum of non-equity instruments.
* Using a volume-based threshold will lead to overrepresentation of instruments that typically trade in large volumes (such as IR derivatives) and underrepresentation of instruments that trade in smaller volumes (such as bonds). This is because non-equity instruments are a heterogeneous group of asset classes.
* The marginal cost associated with determining market share for both trade count and trade volume is materially higher than trade count alone, since twice the number of calculations would need to take place, plus there is the process of identifying which thresholds (if any) applies.
* The marginal benefit associated with determining market share for both trade count and trade volume is not materially different than trade count alone since the two metrics are typically highly correlated.

<ESMA\_QUESTION\_MIFID\_NET\_2>

1. Do you agree with the proposed level for the threshold? In particular, do you agree that the threshold is set at the same level across all asset classes and for both the volume and number of transactions? If not, please explain why and propose an alternative approach.

<ESMA\_QUESTION\_MIFID\_NET\_3>

Yes, Thomson Reuters agrees with the 2.5% threshold on the basis that it is applied to trade count only and does not apply to trade volume. We provided reasons in our response to Q2 why Thomson Reuters does not support the application of a 2.5% threshold to trade volume. Based on the limited non-equities market data available today, we expect the application of a 2.5% threshold to trade count only to be a sensible compromise that covers the vast majority of the market but excludes a very small proportion of non-material trading venues and APAs.

Thomson Reuters urges ESMA not to introduce an excessively complex non-equities CTP regime with different thresholds per asset class unless there is compelling evidence to support a differentiated approach.

<ESMA\_QUESTION\_MIFID\_NET\_3>

1. Which entity should perform the calculations? Should it be the data source, i.e. trading venues and APAs, or the CTP?

<ESMA\_QUESTION\_MIFID\_NET\_4>

ESMA, with support from NCAs, should perform the calculations based on data received via trade reports. ESMA should publish the data on its website or make a feed available so that it is absolutely clear the list of trading venues and APAs from which the CTP is mandated to collect data.

<ESMA\_QUESTION\_MIFID\_NET\_4>

1. Do you agree with the proposed calculation and publication frequency? Do you agree that only trading venues and APAs that have reported transactions covering the full reference period of 6 months should be required to carry out the assessment? If not, please explain why and propose an alternative solution.

<ESMA\_QUESTION\_MIFID\_NET\_5>

No. We disagree that the 2.5% threshold should be calculated over a 6-month period and recommend that, for the purpose of simplicity, the period should be aligned with the maximum length of time that the transparency regime is recalibrated, i.e. one year. We believe this would help reduce costs to the industry as a whole.

In this respect, parallels can be drawn from the equity markets. Analysis conducted on five years of EU equity data from the Thomson Reuters Market Share Reporter (MSR) application illustrates that venues switch between below / above the 2.5% trade count threshold infrequently. Therefore using an annual period rather than a 6-month period would have a limited impact on the scope of trading venues and APAs to be included in the Consolidated Tape, but would reduce industry costs associated with implementing the regime. In addition, using a one-year period for calculation and publication frequency helps address ESMA’s concerns about the stability of the trading venues and APAs included in the Consolidated Tape. Consequently, using an annual period would be less likely to lead to trading venues and APAs falling in and out of scope.

<ESMA\_QUESTION\_MIFID\_NET\_5>

1. Do you consider it appropriate to provide for a grace period of up to 6 months after the first assessment date for including new sources into the data stream? Do you consider the proposed length appropriate?

<ESMA\_QUESTION\_MIFID\_NET\_6>

No; Thomson Reuters supports ESMA’s proposal to include a grace period after the assessment date for including new trading venues and APAs into the Consolidated Tape, but does not agree that the grace period should be 6 months.

Thomson Reuters recommends that the grace period should be 18 months after the assessment date for including new sources into the data stream. This provides sufficient time for:

* Negotiation of contractual and commercial arrangements
* Definition, planning and implementation of technical connectivity
* Definition, planning and implementation of feed specifications
* Testing, which can frequently take three months.

It is critical that the obligation to A) onboard new trading venues and B) maintain existing trading venues sits with both the CTPs and the Trading Venues / APAs. Without this, each Trading Venue and APA could be incentivised to delay participation or threaten to withdraw from the Consolidated Tape in order to push up the price of their own data and drive the commercial benefits in their favour. This would increase the overall cost of delivery of a Consolidated Tape making it materially less attractive to users of consolidated market data. This obligation alone risks making the Consolidated Tape economically unviable.

<ESMA\_QUESTION\_MIFID\_NET\_6>

1. Do you agree that a source be only excluded if the thresholds are not met for at least three consecutive periods? If not, what do you consider to be the appropriate length of time?

<ESMA\_QUESTION\_MIFID\_NET\_7>

No, we do not agree that a source should only be excluded if the thresholds are not met for at least three consecutive periods. The basis on which ESMA has proposed that a trading venue or an APA can only be removed following three consecutive periods of falling below the threshold is not clear. Thomson Reuters believes that increasing the length of time for the reference period from 6 months to one year, as we propose in our answer to question 5, would better address the challenge of frequent changes to the scope of instruments to be included in the Consolidated Tape.

Thomson Reuters recommends that once a Trading Venue or APA falls below the threshold for inclusion in the Consolidated Tape for a single period, it should be at the discretion of the CTP whether to include or exclude that Trading Venue or APA.

Thomson Reuters believes that Trading Venues and APAs that have previously been mandatorily included in the Consolidated Tape at an earlier point in time should be reinserted into the tape on the same basis as new Trading Venues and APAs. This is because, once the Trading Venue or APA has been removed, there is no reason to believe that there are still existing technical connectivity and contractual arrangements that can be leveraged to speed up the process.

<ESMA\_QUESTION\_MIFID\_NET\_7>