

Milan, 21th April 2006
Prot. n. 60/06/MCO/mco

CESR
The Committee of European
Securities Regulators
11-13 avenue de Friedland
75008 Paris - France

RE: Consolidation of Market Transparency data – Call for evidence

Introduction

ASSOSIM is the Italian Association of Financial Intermediaries, which represents the majority of Italian financial intermediaries, banks and branches of foreign institutions, active in the Investment Services Industry.

We agree with the analysis carried out by CESR in the introduction of the document under discussion.

There is a clear risk of data fragmentation following the implementation of MIFID, which could potentially undermine the transparency objective in MIFID. In order to achieve efficient price discovery and facilitate achievement and monitoring of best execution, information about prices and transactions should ideally be available in consolidated format.

In our view given the risk of data fragmentation and its negative consequences clearly identified by CESR, leaving the consolidation only to market forces is not opportune. The efficiency of the entire system set up by the MIFID will depend on the effectiveness of the actions taken on this point.

1. What are the market needs for market data consolidation?

a) Efficient price discovery

We believe that without the consolidation of pre and post-trade information what gained in terms of transparency as the result of transparency obligations given by MIFID and the implementing Regulation loses its beneficial impact on the price formation process.

Generally speaking investors trying to access all available sources of liquidity will have substantial troubles searching multiple web sites and may be unable as a practical matter to do so in a timely manner particularly in fast moving markets. This would affect especially, but not only, retail investors.

b) Monitoring of best execution

Moreover consolidation of pre- and post-trade information and “the availability, comparability and consolidation of information concerning the quality of execution of various execution venues” (see article 44. 5 and recital 64 of the proposed implementing Directive) is a means

to guarantee a control of the best execution policies from the intermediary and a control from the client on the execution given him by the intermediary.

On the last point intermediaries raised the concern that if nothing is established as far as the consolidation is concerned in a way to allocate different responsibilities, they could have an information obligation towards the client (coming from the general obligation of investors' protection) they would not be able to discharge or that would be very expensive for them. Comprehensive information coming from an efficient consolidation process cannot be considered as intermediaries's exclusive responsibility since as we know different subjects should be involved in the process.

2. What are the obstacles for consolidation?

We agree on CESR's examples of obstacles for consolidation having a technical nature. We would also stress the issue of technology **for making the data simultaneously available to consolidators**.

However we believe that this kind of problems can be solved relatively easily in comparison to others regarding **the subjects who should carry out the consolidation** and therefore **the nature of the activity (public or private) itself**.

In our view this is an important premise to the discussion on data consolidation having different implications depending on the nature of the subjects who will carry it out.

The subjects could be:

- Data vendors
- FESE as final addressee of data already collected by national regulated markets
- or CESR as final addressee of data collected by national Regulators

The three possible options show a different approach, from the choice to totally leave consolidation to the market forces to a profound intervention of Regulatory Authorities.

In any case even if the first approach is preferred what should be clear is that the consolidated data are a public good and therefore the thought of profit gain can't be the unique approach to the issue.

This should be reflected in the **policy of costs** and in the **choice of criteria for collecting information**. Such a control would be difficult to be carried out in case the data consolidation is totally left to the market (data vendors, FESE).

Leaving aside for the moment the issue of costs (see below) we would like to give an example of the importance of determining opportune criteria for the collection of data.

In case the consolidation is left to market forces without any regulation, data vendors who would do it might find no interest and therefore not get data from systematic internalisers who deal with small volumes.

There could be a leak of information **if the logic is only that of profit, with obvious negative consequences in terms of efficient price discovery**.

Another problem which arises in case the consolidation is left to market forces only is that in case more data vendors operate in the market, this could imply the **problem of the integration of the data consolidated by different private subjects** (data vendors).

We can also consider the costs an obstacle for consolidation (see below).

3. What is needed to remove the obstacles and by whom?

In our view, given the importance of the consolidation of data for the function of the new system set out by MIFID an action is needed to be carried out by the Authorities. Moreover, this action should be taken at European level, in order to help the integration of financial market. When speaking about consolidation we mean by that the European market data, just in order to have a significant framework. In fact all the regulation under discussion aims at the integration of financial markets and all the obligations given by Mifid have to be complied with in consideration of a wide approach which sets aside the domestic level.

On the contrary if the issue is completely left to market forces or some actions are taken by single authorities not in a unitary framework, the danger is that of worsening the fragmentation of data.

Given that we have to bear in mind that any action taken at level 3 of the Lamfalussy Process is not binding for member states and therefore would not necessarily lead to a common approach to the issue of consolidation.

4. What costs would arise by moves to facilitate consolidation and who would bear them?

In the view of some information providers there should be a positive obligation regarding consolidation where an investment firm elects to meet its quotations publication obligations through a proprietary web site.

In those cases the web site operator should be required to allow direct linkages to data consolidators to ensure that all data provided on web sites are simultaneously available to consolidators for consolidation and wider distribution among investors.

Moreover data vendors ask that there should be a provision stating that pre- and post-trade information should be made available to data vendors on a reasonably commercial basis.

(source: Bloomberg's answer to CESR Consultation Paper 05-164)

However, we do not know yet what the results of the balance of market forces will be.

The flow of the payment just described could not be the only one: it could be that intermediaries be asked to pay for the *service* of consolidation of data by data vendors or regulated markets. Moreover, intermediaries will have to pay again for the final product, the consolidated data.

Therefore we believe that the request of information providers to have available data on a reasonably commercial basis is understandable in the light of what said before that the consolidated information is a public good.

But such a reference to the reasonably commercial basis should be introduced also for the costs relative to the services provided by data vendors both when consolidating data and when selling the final product.

Specifically on the data relating to the quality of execution of transactions in the ESC document in the ESC/23/2005 – rev2 Working Document there was a provision concerning the costs of data, which has been cancelled in the draft directive of 6th February 2006.

Article 17 par. 6 In order to enable investment firms to identify those execution venues that will [or are likely to] deliver the best possible result for their clients for the purposes of Article 21(1), execution venues shall make available to the public on a reasonable commercial basis data relating to the quality of execution of transactions on that venue on at least an annual basis.

The Committee of European Securities Regulators shall establish the content and the format of the data to be made available in accordance with the previous sentence with the view of their comparability by [31 October 2006].

4. CESR's Role in the process

From what said above it is clear that we do not agree on the approach which consider the consolidation process to be exclusively market driven.

Therefore we would suggest to drive the discussion on a possible role to be given to the Authorities at least in monitoring whether or not the steps taken by the industry are consistent with the objectives of market efficiency and investors' protection.

Since we believe that any actions should be taken at European level we think that CESR's role can be very important as it is the European Committee of National Authorities.

We are at your disposal for any clarifications.

Your Sincerely

Il Segretario Generale
Franco Gherra
