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| Response Form to the Consultation Paper  |
| MiFID II/MiFIR review report on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments |

**Responding to this paper**

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **06 September 2019.**

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

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_MDA\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_MDA\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_MDA\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open consultations” 🡪 “Consultation on Position limits and position management in commodities derivatives”).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. 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 not to disclose the response 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](http://www.esma.europa.eu/legal-notice).

**Who should read this paper**

All interested stakeholders are invited to respond to this consultation paper. This consultation paper is primarily of interest to users of market data and trading venues, but responses are also sought from any other market participant including trade associations and industry bodies, institutional and retail investors.

**General information about respondent**

|  |  |
| --- | --- |
| Name of the company / organisation | Aquis Exchange PLC |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |[x]
| Country/Region | UK |

**Introduction**

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_MDA\_1>

Aquis Exchange PLC (Aquis) welcomes the opportunity to respond to the ESMA consultation paper on ‘the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments’.

Aquis operates two fully transparent equity multilateral trading facilities (MTFs) regulated in the UK and France. It does not operate any form of dark pool or have any externally priced intra-day pegging order types, although we have recently implemented a Market at Close order type that does require closing auction data only. Consequently, as a relatively modest consumer of market data we have not responded to a majority of Questions 1-13 on the costs of market data with the exception of Questions 10 & 11 where Aquis has made specific requests to a number of European trading venues for disaggregated ‘closing auction-only data’.

Aquis does however have significant experience in the provision of real-time equity market data and agrees with the European Commission view that ‘Europe lacks a clear view of how many of its shares are traded, at what price and where’. With specific reference to European equity markets, in our opinion the level of transparency - a key guiding principle in MiFID II - remains insufficient to support market efficiency and investor confidence. In this regard we strongly recommend all forms of trading data be included in a consolidated tape (CT), including market structures where transparent data is challenging to obtain but crucial for end-investor confidence, for example Retail Service Provider (RSP) market structures.

ESMA has already made significant progress in gathering evidence from different stakeholders with regards to the requirements for a CT. Although there are many hurdles ahead of any implementation, Aquis strongly believes that this consultation provides a unique opportunity to deliver a European **Post Trade Real Time Equity Tape of Record** that can provide significant benefit not only to the retail investor but to the investment community as a whole..<ESMA\_COMMENT\_MDA\_1>

**Questions**

1. : Have prices of market data increased or decreased since the application of MiFID II/MiFIR? Please provide quantitative evidence to support your answer and specify whether you are referring to equity and/or non-equity instruments.

<ESMA\_QUESTION\_MDA\_1>

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<ESMA\_QUESTION\_MDA\_1>

1. : If you are of the view that prices have increased, what are the underlying reasons for this development?

<ESMA\_QUESTION\_MDA\_2>

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<ESMA\_QUESTION\_MDA\_2>

1. : Following the application of MiFID II/MiFIR, are there any market data services for which new fees have been introduced (i.e. either data services that were free of charge until the application of MiFID II or any new types of market data services)?

<ESMA\_QUESTION\_MDA\_3>

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<ESMA\_QUESTION\_MDA\_3>

1. : Do you observe other practices that may directly or indirectly impact the price for market data (e.g. complex market data policies, use of non-disclosure agreements)? Please explain and provide evidence.

<ESMA\_QUESTION\_MDA\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MDA\_4>

1. : Do you agree that trading venues/APAs/SIs comply with the requirement of making available the information with respect to the RCB provisions? If not, please explain which information is missing in your view and for what type of entity.

<ESMA\_QUESTION\_MDA\_5>

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<ESMA\_QUESTION\_MDA\_5>

1. : Do you share ESMA’s assessment on the quality of the RCB information disclosed by trading venues, APAs and SIs? If there are areas in which you disagree with ESMA’s assessment, please explain.

<ESMA\_QUESTION\_MDA\_6>

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<ESMA\_QUESTION\_MDA\_6>

1. : Do you agree that the usability and comparability of the RCB information disclosed could be improved by issuing supervisory guidance? If yes, please specify in which areas you would consider further guidance most useful, including possible solutions to improve the usability and comparability of the information.

<ESMA\_QUESTION\_MDA\_7>

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<ESMA\_QUESTION\_MDA\_7>

1. : Do you think that the current RCB approach (transparency plus) can deliver on the objective to reduce the price of market data or should it be replaced by an alternative approach such as a revenue cap or LRIC+ model? Please justify your position and provide examples of possible alternatives.

<ESMA\_QUESTION\_MDA\_8>

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<ESMA\_QUESTION\_MDA\_8>

1. : Do you consider that a revenue cap model as presented above might be a feasible approach to reduce the cost of market data? Which elements would be key for successfully implementing such a model?

<ESMA\_QUESTION\_MDA\_9>

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<ESMA\_QUESTION\_MDA\_9>

1. : Did data disaggregation result in lower costs for market data for data users? If not, please explain why?

<ESMA\_QUESTION\_MDA\_10>

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<ESMA\_QUESTION\_MDA\_10>

1. : Why has there been only little demand in disaggregated data?

<ESMA\_QUESTION\_MDA\_11>

A majority of market data consumers receive data via designated data vendors who are generally non-regulated entities. If vendors are not prepared to deliver requested disaggregated products for commercial reasons regulators have limited powers to impose the delivery of bespoke requests to bring down the overall costs of data.

Currently pre-trade and post-trade continuous trading data is available in a disaggregated format following formal regulatory guidance. Potentially if the list of mandatory disaggregated products was increased this could provide greater customer choice and reduce prices. Closing auction-only data is a specific example of a product where disaggregation could be mandated.<ESMA\_QUESTION\_MDA\_11>

1. : Do trading venues and APAs comply with the requirement to make available data free of charge 15 minutes after publication? If not, please explain in which areas you have identified deficiencies

<ESMA\_QUESTION\_MDA\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MDA\_12>

1. : Do you consider it necessary to provide further supervisory guidance in this area (for instance by reviewing Q&As 9 and/or 10) Please justify your position and explain in which area further guidance may be needed? Please differentiate between pre- and post-trade data.

<ESMA\_QUESTION\_MDA\_13>

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<ESMA\_QUESTION\_MDA\_13>

1. : Do you agree that the identified reasons, in particular the regulatory framework and competition by non-regulated entities, make it unattractive to operate an equity CT?

<ESMA\_QUESTION\_MDA\_14>

Yes, we agree that the regulatory framework in Article 65 of MiFID II and in particular the obligation for 100% coverage of equity and equity-like instruments as well as data being completely free of charge after 15 minutes have made it commercially unattractive to operate a CT. However, we do believe these specific issues are not insurmountable and could be resolved by mandated contributions from trading venues, preferred commercial access to data for the nominated CTP to consolidate, and a robust commercial revenue redistribution model that remunerates greater transparency. In this regard we would support a revenue redistribution model which rewards contributions from lit venues over data supplied by less transparent venues and SIs.<ESMA\_QUESTION\_MDA\_14>

1. : Do you consider that further elements hinder the establishment of an equity CT? If yes, please explain which elements are missing and why they matter.

<ESMA\_QUESTION\_MDA\_15>

Yes there are a number of further elements that hinder the establishment of an equity CT. These include:

* Addressable and non-addressable liquidity with particular reference to Systematic Internaliser (SI) trades. Much greater clarity is required in this area although this could be resolved through further granularity of mandated FIX/MMT ‘flagging’.
* Clock Synchronisation. RTS 25 proposes different timestamping granularity for trading venues (milliseconds/microseconds) This requires harmonisation through regulation to resolve any potential latency issues for an accurate real-time post trade CT.
* Delayed Reporting. Greater standardisation of how delayed reporting should function. This may require variations according to asset class such as fixed income but does require regulatory revision.
* Latency would be very challenging for any pre-trade tape of reference and may result in advantages for some participants over others with inferior technology. It is one of the principle reasons why we do not believe any pre-trade tape should be considered in the first instance.

<ESMA\_QUESTION\_MDA\_15>

1. : Please explain what CTP would best meet the needs of users and the market?

<ESMA\_QUESTION\_MDA\_16>

Aquis considers that a single CTP mandated for a designated period (possibly 3-5 years) by ESMA would be the most efficient way of delivering a truly reliable and robust real-time post-trade tape of record. We believe that there is considerable opportunity for competition and innovation to deliver multiple auxiliary services supported by the raw consolidated data, but multiple CTP’s that may have slightly different methodology and output could potentially dilute the value of a consolidated tape of record. We would also prefer that the CTP be a non-for-profit organisation although do accept that a Cost+ business model could function provided that common data standards are respected, governance is guaranteed, and that all trading venues and APA’s provide their data free of charge. Contributors would then benefit from the redistribution of revenue determined by an independent CT administrator.<ESMA\_QUESTION\_MDA\_16>

1. : Do you agree that real-time post-trade data is available from both trading venues and APAs as well as data vendors and that the data is currently not covering 100% of the market, i.e. including all equity trading venues in the EU and all APAs reporting transactions in equity instruments? If not, please explain.

<ESMA\_QUESTION\_MDA\_17>

Yes we agree that the data is currently not covering 100% of the market. Equally important is that generally the average retail investor has no visibility of any trade events other than those executed on the market of listing which is clearly unacceptable considering the level of fragmentation in equity markets today.<ESMA\_QUESTION\_MDA\_17>

1. : Do you agree that post-trade data is provided on a timely basis and meets the requirements set out in MiFID II/MiFIR and in the level 2 provisions? If not, please explain.

<ESMA\_QUESTION\_MDA\_18>

Yes we agree that post-trade data is provided in a timely basis but would refer to our comments in Q15 re clock synchronisation when considering a post trade CT supplied by all types of execution venue and SI.<ESMA\_QUESTION\_MDA\_18>

1. : Do you agree with the issues on the content of data and the use different data standards identified or do you consider that important issues are missing and/or not correctly presented?

<ESMA\_QUESTION\_MDA\_19>

Yes we agree the improvement in data standards is an essential prerequisite for the efficient functioning of a CT. Standardisation of the reporting of non-addressable liquidty trades, improvement in the price-forming and non-price-forming flags and greater granularity of SI trades, and visibility into the RSP activity all require enhancement to improve data quality.<ESMA\_QUESTION\_MDA\_19>

1. : Do you agree that the observed deficiencies make it challenging to consolidate data in a real-time data feed? If yes, how could those deficiencies best be tackled in your view?

<ESMA\_QUESTION\_MDA\_20>

The observed deficiencies do not impact directly the actual function of consolidating the data but do make it very challenging to obtain a comprehensive and accurate CT which would significantly reduce the overall benefits.<ESMA\_QUESTION\_MDA\_20>

1. : What are the risks of not having a CTP and the benefits of having one?

<ESMA\_QUESTION\_MDA\_21>

Improved post-trade transparency will deliver significant benefits to best execution, risk management, compliance monitoring and reconciliation. We also agree with ESMA that a CT priced at a reasonable commercial basis will enhance the objective of a more integrated European marketplace, particularly for the retail segment.

As is the case today, not having a CT means that transparency is only available to those privileged institutions that have both the technical and financial capacity to consolidate the data themselves. This, in our opinion, is NOT a level playing field.

We would however question ESMA’s statement in point 157 ‘Last but not least the CTP would be required to provide data for free 15 minutes after publication’

In our view ‘if everyone paid something’ we would get much closer to the RCB the industry desires.<ESMA\_QUESTION\_MDA\_21>

1. : Would you be supportive of an industry-led initiative to further improve data quality and the use of harmonised standards or would you prefer ESMA guidance? Please explain.

<ESMA\_QUESTION\_MDA\_22>

We believe industry standards such as MMT and FIX are appropriate industry bodies to harmonise standards. However, such groups do need to work in collaboration with ESMA or the appointed CT administrator as certain decisions on standards cannot always be achieved by consensus.<ESMA\_QUESTION\_MDA\_22>

1. : In addition to the standardisation of the reporting and format, as described before, did you identify any further relevant data quality issue to be considered for the successful establishment of CTPs?

<ESMA\_QUESTION\_MDA\_23>

Clock- synchronisation timings across all types of execution venue and SI, along with delayed publication differences as mentioned in Q15 should be considered.<ESMA\_QUESTION\_MDA\_23>

1. : Do you agree that the mandatory contribution from trading venues and APAs to a CTP would favour the establishment of CT?

<ESMA\_QUESTION\_MDA\_24>

Yes, a mandatory contribution is one solution although an appropriate commercial model that remunerates trades reported could also achieve a similar result.<ESMA\_QUESTION\_MDA\_24>

1. : Do you have preferences between the option of (i) requiring trading venues and APAs to contribute data to the CT, or, in alternative (ii) setting forth criteria to determine the price that CTPs should pay to TVs and APAs for the data? If so, please explain why.

<ESMA\_QUESTION\_MDA\_25>

We have a clear preference for requiring trading venues, SIs and APA’s to contribute data free of charge to the CT. A revenue reallocation model determined by the CT administrator that rewards transparency and sanctions incorrect data submissions could be applied. Such a model would ensure data is delivered on a RCB and market transparency enhanced.<ESMA\_QUESTION\_MDA\_25>

1. : Do you agree that the mandatory consumption could favour the establishment of a CT? If not, please explain your concerns associated with the mandatory consumption.

<ESMA\_QUESTION\_MDA\_26>

In the highly competitive financial services industry mandatory consumption is not our preference. We do believe that if the CT was of the highest technical standard and delivered on a RCB for all consumers then a large majority of European data consumers would subscribe.<ESMA\_QUESTION\_MDA\_26>

1. : Would mandatory consumption impact other rules in MiFID II and if yes, how?

<ESMA\_QUESTION\_MDA\_27>

As stated in our answer to Q26, we do not believe in mandatory consumption and believe that competition and choice are important.<ESMA\_QUESTION\_MDA\_27>

1. : Do you consider it necessary that the CT covers all trading venues and APAs and the whole scope of equity instruments or would you be supportive of limiting the coverage of the CT? Please provide reasons for your preference and explain your preferred approach.

<ESMA\_QUESTION\_MDA\_28>

The CT should ultimately cover all types of trading venue, SIs, RSPs, non-addressable liquidity executions via APA’s. However, in our opinion from a practical perspective a phased implementation could be considered in order to accelerate delivery.<ESMA\_QUESTION\_MDA\_28>

1. : Do you agree with ESMA’s preferred model of real-time CT? If you consider that, on the contrary, the delayed or tape of record CT are preferable, please indicate the reasons of your preference.

<ESMA\_QUESTION\_MDA\_29>

Yes, we agree with ESMA’s preferred model of a real time post trade CT. As already mentioned in Q21 this would be particularly beneficial for best execution, risk management and compliance functions.<ESMA\_QUESTION\_MDA\_29>

1. : Are there any measures (either technical or regulatory) that can be taken in order to mitigate the latency impacts?

<ESMA\_QUESTION\_MDA\_30>

If the issues of clock synchronisation as outlined in Q15 are resolved, we believe questions of latency are only critical if ESMA is considering implementing a pre-trade tape of reference. The difficulties of potential arbitrage between pre-trade consolidated tapes and direct feeds have been well documented in the US and would also incur significant technical and regulatory obstacles in Europe. This is the one of the principal reasons Aquis prefers the implementation of a real-time post-trade CT only for the first phase of implementation.<ESMA\_QUESTION\_MDA\_30>

1. : Do you agree that the CT should be operated on an exclusive basis? To what extent should other entities (e.g. APA or data vendors) be allowed to compete with the CTP?

<ESMA\_QUESTION\_MDA\_31>

Please refer to response to Q16.<ESMA\_QUESTION\_MDA\_31>

1. : Should the contract duration of an appointed CTP be limited? If yes, to how many years?

<ESMA\_QUESTION\_MDA\_32>

We believe an appropriate duration of an appointed CTP would be 3-5 years. Please refer to our response to Q16.<ESMA\_QUESTION\_MDA\_32>

1. : Please indicate what would be, in your view and on the basis of your experience with TVs and data vendors, a fair monthly or annual fee to be charged by a CTP for the real-time consolidation per user?

<ESMA\_QUESTION\_MDA\_33>

This question is very broad and very dependent upon different use cases. If 15-minute delayed data was included in the pricing structure (concept of everyone should pay something) in our opinion costs would dramatically reduce on a per user basis. Pricing of other more complex use cases and derived works would require more detailed analysis.<ESMA\_QUESTION\_MDA\_33>

1. : Would you agree with the abovementioned model for the CT to charge for the provision of consolidated date and redistribute part of the revenues to contributing entities? If not please explain.

<ESMA\_QUESTION\_MDA\_34>

Yes, we would agree with the model that the CT charges for the provision of consolidated data and redistributes part of the revenues. This is subject to the condition that the governance of the CT is independent and there is sufficient oversight from the regulator.<ESMA\_QUESTION\_MDA\_34>

1. : How would Brexit impact the establishment of a CT? Would an EU27 CTP consolidating only EU27 transactions be of added value or would a CT that lacks UK data not be perceived as attractive?

<ESMA\_QUESTION\_MDA\_35>

Inclusion of UK data would obviously be beneficial for a European CT; however we do believe EU27 data will have significant value regardless of the outcome of Brexit.<ESMA\_QUESTION\_MDA\_35>

1. : In your view, how would an EU27 CT impact the level playing field between the EU27 and the UK? Please explain.

<ESMA\_QUESTION\_MDA\_36>

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<ESMA\_QUESTION\_MDA\_36>