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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 | Citadel |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | International |

**Introduction**

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

<ESMA\_COMMENT\_MDA\_1>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

ESMA’s assessment found that approximately 10% of trading venues and APAs do not publish the required information on their website. In addition, a greater percentage failed to disclose (a) how prices for market data were set and (b) overall revenues from market data, both of which are important components of the reasonable commercial basis (“RCB”) disclosure framework. In our view, these non-compliance rates are still too high and justify a continued emphasis on enforcement.

We also recommend that ESMA clarify that the disclosure exception for trading venues and APAs that make market data available to the public free of charge is limited to specific market data that is actually published real-time free of charge. For example, complying with MiFID II requirements to publish delayed data free of charge should not provide trading venues and APAs with an exemption from disclosing the costs associated with real-time market data.

With respect to the publication practices of SIs, we note that, for non-equities, ESMA may have received limited feedback due in part to the current interpretation of the phrase “traded on a trading venue” (ToTV). Since ESMA has interpreted ToTV to mean that an instrument must share the exact same reference data details as an instrument on a trading venue that has been reported to the ESMA FIRDS database (i.e. all reference data fields must “match”), almost all off-venue OTC derivatives transactions are not being considered ToTV (and therefore will not be published by SIs). According to data from ANNA-DSB, only ~2% of all OTC ISINs have been reported to the ESMA FIRDS Transparency System.[[1]](#footnote-2)

In connection with assessing the publication practices of SIs, we recommend that ESMA determine the approximate percentage of total SI quoting activity that is required to be made available to market participants. This will provide helpful context regarding the materiality of the current obligation for SIs to make quotes public on a RCB. In addition, we recommend that ESMA re-assess the current interpretation of ToTV in order to ensure that more off-venue trading activity in non-equities is subject to MiFID II transparency requirements (and potentially RCB obligations).

<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>

TYPE YOUR TEXT HERE

<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>

We would support both additional supervisory guidance designed to increase the utility of the RCB disclosures and a continued emphasis on enforcement.

One area where further guidance would be useful is increasing the amount of information that trading venues, APAs, and SIs disclose regarding the content of the market data that is being charged for (as required by CDR 2017/565 and CDR 2017/567). Given the number of waivers and deferrals from MiFID II transparency requirements, it would be extremely helpful to understand the percentage of trading activity on the relevant trading venue, APA, or SI, per sub-asset class, that is included in the real-time data. For example, analysis of available data suggests that approximately 72% of aggregate volume (by notional) in EUR interest rate swaps is being reported with a deferral,[[2]](#footnote-3) which reduces the value of the real-time data published for these instruments. This additional information regarding the content of the market data being charged for by trading venues, APAs, and SIs will greatly assist market participants in evaluating its value relative to its cost.

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

No, despite regulatory attention to the issue and recent improvements in the overall compliance rate, several trading venues and APAs are still not complying with the MiFID II requirement to provide data free of charge 15 minutes after publication. As clarified by ESMA supervisory guidance, this requirement means that trading venues and APAs must publish data free of charge in a format that is:

* Machine-readable (i.e. 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);
* Accessible to everyone;
* Available for at least 24 hours after publication; and
* Similar to the format used to publish information on a reasonable commercial basis.

Please refer to our annex for specific examples of trading venues and APAs failing to comply with these requirements.[[3]](#footnote-4)

In addition, we note that other trading venues and APAs, while publishing the required data free of charge, purport to impose terms of use on market participants that conflict with elements of the ESMA supervisory guidance. For example, several trading venues and APAs impose terms of use that prohibit any copying or aggregation of the data (even for internal use) or that specify that the data is being provided on a “view only” basis. This clearly violates the ESMA supervisory guidance and removes any benefit that market participants could derive from the published data.

<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>

In our view, the primary focus should be on ensuring the consistent enforcement of the existing MiFID II requirement and ESMA supervisory guidance, both of which are clear.

Trading venues and APAs must not be permitted to evade this regulatory requirement through spurious arguments, such as asserting that data should only be made available free of charge to retail investors and that machine-readable data is therefore unnecessary. First, the MiFID II requirement is clear that all market participants should have access to delayed data free of charge 15 minutes after publication. Second, given the number of trading venues and APAs, the only way this data will be useful to anyone (including retail investors) is if it is published in a machine-readable format that enables the data to be aggregated and analysed. This will enable market participants and third parties to produce market research and commentary and apply more sophisticated transaction cost analysis tools, both of which benefit all market participants (including retail investors).

In addition to continuing to focus on enforcement efforts, we recommend that ESMA consider:

* Clarifying that the terms of use imposed by trading venues and APAs with respect to the use of published data cannot conflict with MiFID II regulatory requirements, as further clarified by ESMA supervisory guidance (see our response to Q12 for relevant examples).
* Recommending that the machine-readable requirement for trading venues be formally codified in either Level 1 or Level 2.
* Given the ongoing difficulties in securing compliance with current regulatory requirements, recommending that trading venues and APAs not be permitted to charge for regulatory-required post-trade transparency data, even prior to the expiration of the 15 minute delay period. This will remove the commercial incentive trading venues and APAs currently have to decrease the quality of the data published free of charge in order to compel market participants to subscribe to expensive real-time data packages. We note that this approach is consistent with how post-trade transparency generally operates in the US.

<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>

We agree that ESMA has correctly identified reasons why it is commercially unattractive to operate an equity CT under the current regulatory framework.

However, all of these issues can be addressed by requiring trading venues and APAs to provide the relevant data to the CTP free of charge. This would immediately transform the business case, as the CTP would no longer be required to individually negotiate with more than 150 trading venues and APAs in order to obtain the necessary data (which ESMA estimates may end up costing at least 10 million EUR per year). Under this framework, the equity CTP would have a critical advantage over non-regulated entities and the corresponding regulatory requirements associated with operating a CT would appear much more sensible and proportionate.

We note that mandatory contribution is a key element of every post-trade transparency framework implemented in the US, including for equities, corporate bonds, municipal bonds, and OTC derivatives.

<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>

Please see our response to Question 14 regarding the importance of requiring trading venues and APAs to provide the relevant data to the CTP free of charge.

<ESMA\_QUESTION\_MDA\_15>

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

<ESMA\_QUESTION\_MDA\_16>

The initial focus should be on introducing a post-trade CT for as many asset classes as possible. A post-trade CT meaningfully improves post-trade transparency for market participants if it is:

* **Comprehensive**. A post-trade CT should provide market participants with a consolidated view of all trading activity in a particular instrument (both on-venue and off-venue). Comprehensive coverage is critical to being able to use the post-trade CT for transaction cost analysis and best execution assessments, as well as for more general market research and commentary that will benefit all investors. At the moment, market participants must attempt to access and aggregate post-trade data from hundreds of trading venues and APAs, which is extremely costly and burdensome.
* **Real-time**. A post-trade CT should provide market participants with data as close to real-time as possible. Real-time data enables market participants to use the post-trade CT to more confidently assess current market dynamics, which increases investor confidence and is particularly important during times of market volatility. In addition, real-time data reduces existing information asymmetries, where certain market participants may have greater knowledge regarding ongoing trading activity than other investors. Leveling the playing field with respect to access to information regarding ongoing trading activity helps investors hold liquidity providers accountable and promotes overall market competition.

We note that, in certain asset classes, the current calibration of liquidity assessments and deferrals means that a significant percentage of trading activity is not subject to post-trade transparency until four weeks later. For example, data shows that over 70% of trading volume in EUR IRS is currently subject to a four week deferral.[[4]](#footnote-5) In connection with implementing a post-trade CT in a particular asset class, we encourage ESMA and NCAs to assess the operation of existing post-trade deferrals (including the percentage of transactions currently qualifying for the maximum deferrals, based on both trade count and trading volume) and make changes as necessary to ensure the post-trade transparency framework is operating as intended and is benefiting investors.

* **Low cost (or free of charge)**. A post-trade CT must be low cost (or free of charge) in order to be accessible by all investors and to level the playing with respect to access to information regarding market trading activity. This can be achieved by requiring trading venues and APAs to submit post-trade data to the CTP free of charge.

We note that the US has successfully implemented a post-trade CT in both equities (e.g. the SIP) and non-equities (e.g. TRACE for corporate bonds,[[5]](#footnote-6) EMMA for municipal bonds,[[6]](#footnote-7) and the DTCC DDR for OTC derivatives[[7]](#footnote-8)). Importantly, each post-trade CT satisfies the three criteria above in that it is comprehensive, real-time, and low cost (or free of charge).

<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>

In connection with assessing the availability of real-time post-trade data, we encourage ESMA to take into account the associated costs to market participants. If it is too costly for an average market participant to obtain the data, then it is not actually being made available in practice. ESMA has estimated that the cost of obtaining data from equities trading venues and APAs may amount to 10 million EUR per year.

<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>

TYPE YOUR TEXT HERE

<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>

We agree that improving data quality should remain a priority issue for both ESMA and NCAs. In this context, we encourage ESMA to assess data quality for both equities and non-equities asset classes in order to identify areas where further guidance, or enforcement of existing rules and guidance, is required. For example, despite ESMA issuing further guidance in September 2018, it appears that market participants are still incorrectly completing the “Delivery Type” field for interest rate swaps.[[8]](#footnote-9) It is critical that reporting rules and supervisory guidance are implemented in a consistent manner by market participants.

<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>

Existing data quality issues should not prevent the establishment of a real-time post-trade CT. While it is important to continue to take steps to improve data quality, data vendors have already demonstrated that it is possible to aggregate existing data. In addition, the data published by a CTP may include a fewer number of data fields than other MiFID II reporting, and therefore may suffer from fewer data quality issues. Finally, a CTP should be expected to establish a consistent set of standards regarding data submission, which should help to improve overall market data quality.

<ESMA\_QUESTION\_MDA\_20>

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

<ESMA\_QUESTION\_MDA\_21>

A well-designed post-trade CT that is comprehensive, real-time, and low cost (or free of charge) meaningfully improves post-trade transparency and benefits all investors in EU financial markets by:

* **Facilitating more accurate assessments of execution qualit**y. A post-trade CT can be used for transaction cost analysis and best execution assessments, as it provides a neutral and reliable source of current market trading activity and pricing.
* **Leveling the playing field with respect to access to information**. A post-trade CT removes existing information asymmetries, where certain market participants may have greater knowledge regarding ongoing trading activity than other investors. This enables investors to more confidently assess current market dynamics, increasing overall investor confidence, particularly during times of market volatility.
* **Promoting competition**. By enabling investors to compare the prices they receive from liquidity providers with concurrent trading activity across the market, a post-trade CT promotes price competition as investors are able to demand more accountability from their liquidity providers. In addition, new liquidity providers are more likely to enter the market, as they are able to access information regarding current market dynamics, including trading volumes and pricing, on an equal basis compared to existing liquidity providers.
* **Promoting market resiliency**. The removal of existing information asymmetries contributes to market resiliency by ensuring that changes in supply and demand are more efficiently reflected in current price levels. In addition, without a neutral and reliable source of current market trading activity, investors may be more likely to pull back during times of volatility.
* **Supporting the CMU**. A post-trade CT strengthens EU capital markets by linking together the disparate trading venues and APAs across the EU, enhancing investor confidence and access to liquidity. Stronger and more liquid EU capital markets promote capital formation, job creation, and economic growth.

Academic research has clearly found that post-trade transparency delivers tangible benefits to investors. In the US corporate bond market, for example, academic research has found that post-trade transparency has improved liquidity and has reduced transaction costs.[[9]](#footnote-10) Post-trade transparency has benefited not only retail investors, but also institutional investors transacting in larger size, as customer bargaining power increases and liquidity providers can be held more accountable.[[10]](#footnote-11) Importantly, post-trade transparency has caused “trading costs to decline significantly for the entire bond market.”[[11]](#footnote-12) Similar results are evident in the US OTC derivatives market, with academic research finding that increased post-trade transparency has contributed to improvements in liquidity.[[12]](#footnote-13)

For these reasons, we strongly support introducing a post-trade CT in both equities and non-equities asset classes. The benefits of post-trade transparency cannot be fully realized until investors have access to a comprehensive, real-time, and low cost (or free of charge) post-trade CT that aggregates information from the hundreds of EU trading venues and APAs.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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, as detailed in our response to Question 14, we believe it is critical to require trading venues and APAs to provide the relevant data to the CTP free of charge. This will enable the CTP to provide a low cost (or free of charge) and comprehensive solution to market participants, and will serve to differentiate the CTP from unregulated data vendors that may offer similar products. In addition, requiring trading venues and APAs to contribute to the CTP means that the CTP will be well-placed to establish a consistent set of standards governing data submission, which should improve overall market data quality to the benefit of all market participants.

We note that mandatory contribution is a key element of every post-trade transparency framework implemented in the US, including for equities, corporate bonds, municipal bonds, and OTC derivatives.

<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>

As noted in Questions 14 and 24, we believe it is critical to require trading venues and APAs to provide the relevant data to the CTP free of charge.

First, this ensures that the CTP will not have to engage in bilateral negotiations with each trading venue and APA in order to obtain the necessary data, which would be an extremely onerous and costly undertaking given the number of EU trading venues and APAs.

Second, requiring mandatory contribution for free is the only approach that ensures the CTP can provide a low cost (or free of charge) and comprehensive solution to market participants, which is critical to maximising demand. The current problems identified with respect to the interpretation of the RCB standard demonstrate that, regardless of how granular the regulatory criteria are, trading venues and APAs will seek to maximise market data revenues as long as they are permitted to charge for market data.

We note that starting with a post-trade CT means that trading venues and APAs will still be permitted to charge for pre-trade transparency data, direct data feeds, and other data-related products under this approach. In addition, trading venues and APAs may be permitted to share in any revenues of the CTP.

<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 our view, mandatory consumption is not necessary for a successful CT, and may raise a number of issues to the extent the CT is not free of charge. Instead, we recommend that the focus be on ensuring the CTP can provide a low cost (or free of charge), real-time and comprehensive solution to market participants. This will ensure sufficient demand for the post-trade CT, as demonstrated in the US across a wide range of asset classes.

<ESMA\_QUESTION\_MDA\_26>

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

<ESMA\_QUESTION\_MDA\_27>

TYPE YOUR TEXT HERE

<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>

With respect to a particular instrument, it is critical that a post-trade CT provide market participants with a consolidated view of all trading activity in that instrument (both on-venue and off-venue). Comprehensive coverage is critical to being able to use the post-trade CT for transaction cost analysis and best execution assessments, as well as for more general market research and commentary that will benefit all investors. At the moment, market participants must attempt to access and aggregate post-trade data from hundreds of trading venues and APAs, which is extremely costly and burdensome. We note that the US has successfully implemented comprehensive post-trade transparency frameworks that cover all trading activity in a wide range of asset classes, including equities, corporate bonds, municipal bonds, and OTC derivatives.

With respect to the scope of instruments covered, we recommend that the post-trade equities CT be as broad as possible in order to ensure that investors have access to information relating to correlated instruments (e.g. shares and ETFs). Focusing solely on shares is unlikely to significantly simplify the structure of the post-trade CT or materially reduce the number of relevant trading venues and APAs. In our view, a post-trade CT should be implemented in as many asset classes as possible, including both equities and non-equities.

<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 that the post-trade CT should provide market participants with data as close to real-time as possible regarding each transaction that is executed in the relevant instrument. Real-time data enables market participants to use the post-trade CT to more confidently assess current market dynamics, which increases investor confidence and is particularly important during times of market volatility. In addition, real-time data reduces existing information asymmetries, where certain market participants may have greater knowledge regarding ongoing trading activity than other investors. Leveling the playing field with respect to access to information regarding ongoing trading activity helps investors hold liquidity providers accountable and promotes overall market competition.

We note that, in certain asset classes, the current calibration of liquidity assessments and deferrals means that a significant percentage of trading activity is not subject to post-trade transparency until four weeks later. For example, data shows that over 70% of trading volume in EUR IRS is currently subject to a four week deferral.[[13]](#footnote-14) In connection with implementing a post-trade CT in a particular asset class, we encourage ESMA and NCAs to assess the operation of existing post-trade deferrals (including the percentage of transactions currently qualifying for the maximum deferrals, based on both trade count and trading volume) and make changes as necessary to ensure the post-trade transparency framework is operating as intended and is benefiting investors.

We note that real-time access to data is a key component of all of the US post-trade transparency frameworks for equities, corporate bonds, municipal bonds, and OTC derivatives.

<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>

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<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>

We agree that the optimal structure is for there to be one registered CTP per asset class. This will maximise demand for the post-trade CT, while simplifying operational workflows for the trading venues and APAs submitting data. In addition, having a single CTP establish and enforce a consistent set of standards governing data submission should improve overall market data quality.

We note that the registered CTP could be appointed by asset class, such that multiple firms could serve as a CTP simultaneously as additional post-trade CTs are introduced. This may create healthy competition as more than one firm gains experience in operating as a CTP, and can then challenge for the role in other asset classes as re-appointments occur.

<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>

Yes, to the extent only one CTP is permitted per asset class, it is important to ensure accountability and competition through a regular re-tendering process. We suggest that the registered CTP be appointed every three years.

<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>

A post-trade CT must be low cost (or free of charge) in order to be accessible by all investors and to level the playing with respect to access to information regarding market trading activity.

In order to achieve this, it is critical that trading venues and APAs are required to submit post-trade data to the CTP free of charge. This should enable the CTP to minimise its fees, even if permitted to earn a specified margin for its services.

We note that the fee schedules used for US post-trade transparency frameworks may be instructive:

* SIP (note includes both pre-trade and post-trade data): <https://www.ctaplan.com/publicdocs/ctaplan/notifications/trader-update/Schedule%20Of%20Market%20Data%20Charges%20-%20January%201,%202015.pdf> / <https://www.utpplan.com/doc/DataPolicies.pdf>
* TRACE: <https://www.finra.org/industry/trace-pricing>
* EMMA: <http://www.msrb.org/msrb1/pdfs/MSRBSubscriptionServicesPriceList.pdf>
* DTCC DDR: Free

<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>

To the extent trading venues and APAs are permitted to share in the revenues of the post-trade CT, it will be important to impose adequate transparency. For example, market participants should be aware of the total revenues and operating expenses of the CTP and how profits are divided among the contributing entities.

We note that the optimal commercial model may vary by asset class. For example, in the US, contributing firms share in the revenues of the equities SIP, which includes both pre-trade and post-trade data. Other asset classes, such as bonds and OTC derivatives, focus exclusively on post-trade transparency and have not implemented a similar revenue-sharing model.

In addition, we note that starting with a post-trade CT means that trading venues and APAs will still be permitted to charge for pre-trade transparency data, direct data feeds, and other data-related products, and therefore CTP-related revenues may be less meaningful.

<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>

A post-trade CT should provide market participants with the most comprehensive view of market trading activity as possible. Therefore, it would be preferable to include UK data post-Brexit. However, an EU27 CT would still create material benefits for market participants in EU financial markets compared to the current situation, where post-trade data is extremely costly to obtain and is fragmented across hundreds of trading venues and APAs.

<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.

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1. See <https://www.anna-dsb.com/2018/05/04/firds-data-analysis-for-april-2018/>. [↑](#footnote-ref-2)
2. See “MiFID II Transparency Update,” Clarus Financial Technology (April 17, 2019), available at:

   <https://www.clarusft.com/mifid-ii-transparency-update/>. [↑](#footnote-ref-3)
3. See also <https://www.clarusft.com/5-things-that-are-making-mifid-ii-data-useless/>. [↑](#footnote-ref-4)
4. *See* “MiFID II Transparency Update,” Clarus Financial Technology (April 17, 2019), available at: <https://www.clarusft.com/mifid-ii-transparency-update/> [↑](#footnote-ref-5)
5. <http://finra-markets.morningstar.com/BondCenter/Default.jsp> [↑](#footnote-ref-6)
6. <https://emma.msrb.org/TradeData/MostActivelyTraded> [↑](#footnote-ref-7)
7. <https://rtdata.dtcc.com/gtr/> [↑](#footnote-ref-8)
8. *See* Section 16 at <https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-56_qas_mifir_data_reporting.pdf> [↑](#footnote-ref-9)
9. *See, e.g.,* Bessembinder, H., et al., “Market transparency, liquidity externalities, and institutional trading costs in corporate bonds” (2006) Journal of Financial Economics, available at: <https://www.researchgate.net/publication/222515781_Market_Transparency_Liquidity_Externalities_and_Institutional_Trading_Costs_in_Corporate_Bonds>; Edwards, A. K., et al., “Corporate bond market transaction costs and transparency” (2007) The Journal of Finance, available at: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=593823>; and Goldstein, M. A., et al., “Transparency and liquidity: A controlled experiment on corporate bonds” (2007) Review of Financial Studies, available at: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=686324> [↑](#footnote-ref-10)
10. *See, e.g.,* Asquith, P., et al., “The Effects of Mandatory Transparency in Financial Market Design: Evidence from the Corporate Bond Market” (April 2019) at page 29, available at: <https://www.nber.org/papers/w19417>; and Jacobsen, S., et al., “Does trade reporting improve market quality in an institutional market? Evidence from 144A corporate bonds” (2018) at pages 1 and 7, available at: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3171056> [↑](#footnote-ref-11)
11. Asquith, P., et al., “The Effects of Mandatory Transparency in Financial Market Design: Evidence from the Corporate Bond Market” (April 2019) at page 29, available at: <https://www.nber.org/papers/w19417> [↑](#footnote-ref-12)
12. *See, e.g.,* Loon, Y. C., Zhong, Z. K. The impact of central clearing on counterparty risk, liquidity, and trading: Evidence from the credit default swap market. Journal of Financial Economics 112 (1), 91-115 (2014), available at: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2176561>; and Loon, Y. C., Zhong, Z. K. Does Dodd-Frank affect OTC transaction costs and liquidity? Evidence from real-time CDS trade reports. Journal of Financial Economics, 119 (3), 645–672 (2016), available at: <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2443654> [↑](#footnote-ref-13)
13. *See* “MiFID II Transparency Update,” Clarus Financial Technology (April 17, 2019), available at: <https://www.clarusft.com/mifid-ii-transparency-update/> [↑](#footnote-ref-14)