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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 | FIX Trading Community |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Europe |

**Introduction**

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

<ESMA\_COMMENT\_MDA\_1>

The FIX Trading community welcomes the opportunity to participate in the discussion surrounding the provision of a Consolidated Tape (CT)and would like to confirm that our responses are focused on addressing the standards elements of the consultation and do not consider any commercial aspects. FIX Trading Community is the non-profit, industry-driven standards body at the heart of global trading. The organization is independent and neutral, dedicated to addressing real business and regulatory issues impacting multi-asset trading in global markets through standardization, delivering operational efficiency, increased transparency, and reduced costs and risks for all market participants. Central to FIX Trading Community’s work is the continuous development and promotion of the FIX family of standards, including the core FIX Protocol messaging language, which has revolutionized the trading environment and has successfully become the way the world trades. Over recent years, FIX has promoted a new standard in support of efficient data aggregation - known as the Market Model Typology (MMT). Through FIX Trading Community’s work and coordination with the financial industry, MMT has been broadly adopted and has become the de facto standard to enable the usability of consolidated equity data as a means of enhancing the transparency in European equity markets. The introduction of CT should leverage the work FIX has done to date and take advantage of FIX’s developmental work going forward.

Guidance on the consultation makes it clear that ESMA’s ambition is to have a CT that would cover both Pre and Post trade across all asset classes , while FIX supports this ambition, in the first instance it would most likely be more effective to leverage the work the FIX Trading Community has done to enable equity post-trade transparency. The current MMT v3.04 covers both equity/equity-like and non-equity instruments and supports consistent trade flagging across all asset classes under MiFID regulation. Unless specifically stated in the detailed answers the views expressed below apply to all asset classes.

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In our experience Industry-led solutions are a good way to provide the industry what it (they) need, however we recognise that in order to meet the needs of the markets and the regulators the most effective solution would be an industry led initiative in cooperation and with guidance from the regulators. The industry is continually evolving, and any adopted standards must be flexible in order to adapt to those changes and continually create and develop best practice.

The aim of the CT should be to provide good quality data and a comprehensive view across markets based on as close to 100% contribution as possible.<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MDA\_10>

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

<ESMA\_QUESTION\_MDA\_11>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

**Views expressed below are related only to the equity asset class.**

Yes, we are aware of a number of challenges that currently exist and if left unaddressed will hinder the establishment of a robust CT.

The FIX standard MMT has established a framework that functions efficiently for a significant portion of equity trades, but further enhancements/improvements could include the following

1. Addressable and non-addressable liquidity - Engagement between the regulators and the industry is required to provide greater clarity on what is addressable and non-addressable liquidity - for example should a negotiated trade be considered addressable? Currently MMT flagging provides some information but this could be expanded (with further guidance) by developing these tags.  MMT supports unambiguous granular identification of all execution types from lit to OTC.
2. To help validate a genuine post trade tape of record and enable correct sequencing, consolidation based on different timestamping granularity (as specified in RTS 25) needs to be addressed.
3. There are current issues with identification and related data quality. There is a growing variety of identifiers, data, data sources, an evolution of different standards, and the desire to have a best of breed approach in solutions across the industry. This enables innovation, increased quality, and reduced costs across the FIX Community's membership while increasing transparency through the use of open data. Where appropriate, future proofing through alternative identifiers may be required as the industry and industry practices evolve.

The FIX CT Working Group will be available to work with ESMA on the resolution of all the above issues.<ESMA\_QUESTION\_MDA\_15>

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

<ESMA\_QUESTION\_MDA\_16>

The choice and means of the selection of a CT Provider is a matter for the industry and regulators. We assume that the selection process will include a partnership with the industry for the evaluation and selection of CTP(s) and involvement in the structure of any resulting regime.

Whichever CT Provider or CT Providers are selected we believe that they should utilise FIX and FIX/MMT standards. The CT Provider(s) should work closely with the FIX Trading Community on the implementation and long-term evolution of the CT.

From a FIX perspective there is no opinion on whether there should be one or many CT Providers, other than that in the case of multiple CT Providers:

* Addressing interoperability issues between CT Providers is paramount
* switching between CT Providers should be as easy as possible and ideally seamless
* all should use the same standards of implementation (i.e. FIX and FIX/MMT)

<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>

TYPE YOUR TEXT HERE

<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>

In general, through feedback and discussions with our members we agree with most of the analysis detailed in paragraph 150, however we would also add:

* If non-price forming trades are to be included clear and concise data descriptions are required to identify which trades are non-price forming.
* **Equity Asset Class Only -** Duplicate reporting of trades due to lack of a trusted, complete and common record of SI status (in Equities) needs to be addressed, unlike non-equities where the industry collaboration around the SI Registry Data Group has provided the necessary clarity. There would appear no reason why this model and approach could not be fully extended to completely cover Equities also via the participation of other APAs and SIs.

There are issues with identification and related data quality. There is a growing variety of identifiers, data, data sources, an evolution of different standards, and the desire to have a best of breed approach in solutions across the industry. This enables innovation, improved quality, and reduced costs across the FIX Community's membership while increasing transparency through the use of open data. Where appropriate, future proofing through alternative identifiers may be required as the industry and industry practices evolve. There should be better and wider adoption in the unambiguous use of qualifying tags.<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>

**Views expressed below are related only to the equity asset class.**

* The observed deficiencies make it challenging to identify the trades that should be used for trade analysis and which trades should be ignored. The importance here for trade flagging is that different entities would be looking to use the CT for different reasons and the subset of trades required would differ from use case to use case.
* These deficiencies can best be addressed using a free and open standard such as the FIX Protocol and FIX MMT

1. In order to address these inefficiencies more granular work should be conducted to identify and document those use cases that are causing firms challenges and ensure that there are clear and unambiguous standards with appropriate flagging, created and consistently applied (i.e. through the use of a single technical standards MMT)

* Technical details:
* Consolidation based on different timestamping granularity (as specified in RTS 25) needs to be addressed.
* different classifications of instruments occur on FIRDS database – where there are data classification/identification issues, future proofing through alternative identifiers may be required as the industry and industry practices evolve.

When dealing with trades that have been deferred as per the regulation, appropriate flagging should be used. <ESMA\_QUESTION\_MDA\_20>

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

<ESMA\_QUESTION\_MDA\_21>

TYPE YOUR TEXT HERE

<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>

**Views expressed below are related only to the equity asset class.**

An Industry-led solution could enable an effective dialogue with the regulators and reduce costs of implementation and enable greater accuracy in the output of data. Therefore the solution could be an industry led initiative in cooperation with and guidance from the regulators.

MMT is part of the FIX family of standards and the FIX trading community is ideally placed to assist with the purpose of improving the data quality, however, we would welcome a joint approach of an industry led initiative alongside ESMA guidance. <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>

Time stamping/clock synchronisation - There are a number of technical challenges with regard to timestamping

* Consolidation based on different timestamping granularity (as specified in RTS 25) needs to be addressed.
* Differences between different deferral regimes

Inconsistencies between time of transaction and time of publication maybe based on the delay according to regulation. Significant delay differences may even occur per member state and add to the burden of creating a sensible and supportive CT Provider.

Where there are data classification/identification issues, future proofing through alternative identifiers may be required as the industry and industry practices evolve. <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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

The Adoption of FIX/ FIX/MMT as the official standard, which is led by the industry providing best practice in alongside regulatory review. MMT is part of the FIX family of standards and the FIX Trading Community is ideally placed to assist with the purpose of improving the data quality, and we would welcome a join approach of an industry led initiative alongside ESMA guidance. However, we believe that further work around the use of timestamps will help to negate the impact of consolidation latency. Consolidation based on different timestamping granularity (as specified in RTS 25) needs to be addressed.<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>

The provision of clear and unambiguous standardised data across the industry should not preclude the concept of competition between or with CT Providers, with equivalent information to be combined. However, in the definition of the standards, the specification of reporting entity/regime will be of utmost importance to ensure that consumers of the data would be able to strip out those trades that have been reported multiple times.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

We recognise the challenges that a single CT might introduce, however if multiple CTs were required the use of a standard to harmonise the creation of those CTs might aid the success of a CT, but we do not underestimate the issues that this will bring to the industry and ultimately to the ability to provide clear and unambiguous data to the end investor.

From a FIX perspective there is no opinion on whether there should be one or many CT Providers, other than that in the case of multiple CT Providers

* interoperability issues should be addressed,
* switching between CT Providers should be as easy as possible and ideally seamless
* all should use the same rigid standards implementation (i.e. FIX)

One of the main challenges will be the identification of trades that are required to be reported in multiple jurisdictions.<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MDA\_36>