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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 | Invesco |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | International |

**Introduction**

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

<ESMA\_COMMENT\_MDA\_1>

We welcome the opportunity to provide feedback to ESMA on this important issue. Ensuring efficient and effective capital markets is a core part of the Capital Markets Union agenda. MiFID II/MiFIR has increased competition and transparency in European capital markets but it is important to review the operation of these new rules to guard against unintended consequences and ensure that the original objectives of the legislation are being delivered.

As identified by ESMA, one major area that warrants attention is in relation to market data. MiFID II/MiFIR has significant increased the demand for market data for firms’ operations but also in order for firms to comply with their regulatory obligations. However, the supply of such data remains in the hands of a small number of data providers, leading to a lack of competition in this space. This has led to spiralling costs for investors, who are reliant on third party data providers for many aspects of their operations, such as best execution, asset valuation, liquidity risk management and compliance.

Our experience is that market data services are over-priced and extremely difficult to keep under control given the complexity of the charging structures that have been put in place. Investors have, therefore, been required to commit significant resources to manage market data and its associated costs.

Issues around market data have also meant that a consolidated tape has failed to emerge in Europe. We believe that the provision of a consolidated tape is a utility to the market and therefore is unlikely to emerge without some regulatory intervention to support it. While the development of an equity CT is the most pressing and a good starting point, we believe that a CT covering all asset classes, starting with those that are most frequently traded on exchange (e.g. ETFs) should be the ultimate goal and will support the overall ambition of developing a Capital Markets Union in Europe.

<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>

Yes, our experience is that prices for market data have increased exponentially since MiFID II was introduced but this has merely exacerbated an existing trend, whereby costs for data have increased year on year. We believe that market data is overpriced and such costs are increasingly difficult to keep under control. This applies to all asset classes, but indices and ratings are the products where we have seen the most material increases.

<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>

There are a number of factors driving these price increases. The primary reason is the significant increase in demand for data from market participants, particularly as a result of regulatory requirements but also to make firms’ operations more efficient. Market data is required for a variety of reasons, from best execution, to liquidity risk management purposes and for compliance reasons. This has consideradly expanded the range of data required and its uses across the business. Secondly, the fragmentation of trading across multiple venues has increased the cost of accessing and aggregating data, requiring dedicated resources to do so. This has created the conditions for market data providers to behave opportunistically in the way they have set pricing for market data services due to a lack of competition in this market. <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>

Market data providers have introduced new fee structures that are designed to take advantage of the need for data for other market participants to comply with their regulatory obligations. Users of data are charged additional fees depending on the use of the data, i.e. whether it is for internal purposes, client reporting or regulatory reporting.

<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>

The complexity of the licensing fee structure can make it difficult for users of market data to compare different market data service providers. Data service providers have different charging structures depending on the use of the data, and therefore understanding the cost ex-ante can be challenging. This is leading to users of data being required to invest in dedicated resources to manage these issues.

We also find that our choice of market data provider is sometimes constrained by the preferences of our clients. For example, clients may have a specific preference for a certain benchmark provider for which they have already conducted due diligence, which can limit our ability to shop around for cheaper alternatives. <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>

We disagree that trading venues and APAs are making the information available. As mentioned above, the full details of the charging structure are often not made available, making it difficult for data users to understand the costs and effectively compare between different providers. While SIs do provide more granular information, there is still room for improvement.

<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>

Yes, we agree.

<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>

Yes, we agree that supervisory guidance could be useful to ensure greater transparency, however we believe that this will not resolve the underlying structural issue in relation to market data services and lack of competition in this space. <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>

While additional transparency is always welcome, we believe that the current issues in relation to costs of market data are more structural in nature and therefore require a structural response. It will remain difficult for users of data to shop around, even in a more transparent market, if there are a lack of alternative providers to create a more competitive environment to exert downward pressure on fees.

<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>

We do not believe that a revenue cap is the right approach to resolve this issue. .<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>

Our experience is that data disaggregation has in fact resulted in higher costs. Data is increasingly broken down into smaller tranches, each of which is charged for separately, leading to additional costs. <ESMA\_QUESTION\_MDA\_10>

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

<ESMA\_QUESTION\_MDA\_11>

Disaggregated data is more expensive than bundled data.

<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>

While trading venues and APAs may be complying with the letter of the law in respect of this requirement, we do not believe that they are complying with the spirit of the rules. The data made available free of charge is often restricted in terms of its use, and therefore users are still required to pay to effectively make use of the data. Furthermore, the requirement for the data to be provided free of charge only applies to the trading venues and APAs, but data distributors and aggregators may still charge for such 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>

Yes, we agree that supervisors guidance could be helpful to clarify the spirit of these rules and the outcomes that were intended.

<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 provision of an Consolidated Tape is essentially a utility to the market and therefore the current framework will make it unattractive to operate an equity CT.

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_MDA\_15>

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

<ESMA\_QUESTION\_MDA\_16>

We believe that the most suitable CTP would be a not-for-profit CTP run by a commercial entity or in conjunction with the regulator that covers all asset classes, not only equities.

<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.

<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.

<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.

<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>

Yes, we agree. Greater standardisation of data formats would be the first step to tackle these issues.

<ESMA\_QUESTION\_MDA\_20>

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

<ESMA\_QUESTION\_MDA\_21>

Transparency is essential for efficient capital markets to ensure effective price discovery. A consolidated tape would enable financial market participants to deliver best execution for their clients and increase competitive dynamics in the market. <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 that the two are complementary: industry-led standards can be further embedded through 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>

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.

<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 believe that requiring trading venues and APAs to contribute data to the CT is a pre-requisite for the CT to operate efficiently.

<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>

While it may favour the establishment of a CT, we need to avoid the current issues already experience in relation to market data, which has created a huge demand for data and thereby a huge increase of costs for investors.

<ESMA\_QUESTION\_MDA\_26>

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

<ESMA\_QUESTION\_MDA\_27>

It could impact best execution if there is a requirement to compare execution with the CT in pre-trade.

<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>

We believe that it is important for the CT to covers all trading venues and APAs and the whole scope of equity instruments. While equity is obviously the more pressing case, we would also urge the CT to be expanded to other asset classes, including ETFs.

<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

<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>

TYPE YOUR TEXT HERE

<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>

While we believe that competition can contribute to a dynamic market, measures should be taken to ensure that this does not undermine the CT. <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>

We believe that the cost of the CT should be borne equally by users of the service.

<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 believe that an EU27 CTP would add significant value to the EU market and issues around Brexit should not act as a hindrance to the development of an EU27 CTP. If it were possible to build a CTP including UK data, that would indeed be of additional value but we should not allow the perfect to be the enemy of the good in this respect. However, we believe that allowing relevant third country jurisdictions to contribute to the CTP, not only the UK but also others such as Switzerland, could be helpful.

<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>

In the event of Brexit, an EU27 CT could would contribute to the furthering of the Capital Markets Union by increasing the attractiveness of European capital markets as a channel to invest, particularly for the development of wholesale financial markets in Europe.

<ESMA\_QUESTION\_MDA\_36>