|  |
| --- |
| 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 | SOCIETE GENERALE |
| Activity | Banking sector |
| Are you representing an association? |[ ]
| Country/Region | France |

**Introduction**

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

<ESMA\_COMMENT\_MDA\_1>

Société Générale runs complementary businesses in France and around the world notably ;

- French Networks: Retail banking in France consists of three complementary brands: Societe Generale, a leading national bank; Credit du Nord, a group of regional banks; and Boursorama, France’s leading online bank. These brands serve a diverse clientele, which comprises over 12 million customers

- International Retail Banking: Our international retail banking and consumer credit network serves over 18 million individual clients and 13 million insurance clients across 65 countries

- Corporate and Investment Banking: by combining our worldwide expertise in three areas, Investment Banking, Global Finance and Global markets, we tailor solutions for our clients, partnering with them in their development and playing our part in financing the economy and contributing to sustainable and positive impact ambitions.

- Private Banking: one of the leading private banks worldwide, Societe Generale Private Banking offers tailor-made wealth planning to High Net Worth Individuals: strategy and expertise in asset allocation, portfolio management, funds, markets and wealth management solutions.

- Asset Management: our subsidiary Lyxor Asset Management offers asset management and advisory solutions in all asset classes. With a strong culture of risk management and research, Lyxor stands among the leaders in innovative, flexible and transparent asset management.

- Securities Services: Societe Generale Securities Services offers a full range of securities services adapted to the latest financial markets and regulatory trends: clearing services, custody and trustee services, retail custody services, liquidity management, fund administration and asset servicing, fund distribution and global issuer services.

Across thoses activities, Société Générale uses pre and post trade market data from most Trading Venues regulated under MIFID II.

Société Générale believes that MiFID II has so far not yet delivered on its objective to lower the prices of market data. In order to reach that objective, RCB principes should be clarified, reinforced and inforced.

<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>

Société Générale believes that MiFID II has so far not yet delivered on its objective to lower the prices of market data.

Most Trading Venues acknowledge that the revenue they make from market data services is at least stable or has been increasing at least by single digit percent every year.

This acknowledgement must be analysed in the context of very significant redundancies and optimizations done across financial institutions over recent years.

Société Générale believes that such revenue increases (and hence in cost for Financial Institutions, despite massive reduction of number of users and significant cost optimization programs across most Financial Institutions) can be explained by price increases imposed by Trading Venues. Those price increases could be in the form of pure increases of the unit price but also be the form of service changes, repackaging or new licenses (far less obvious to spot) with no additional content delivered.<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>

Société Générale believes that there is no competition across Trading Venues on market data services. In that context where MiFID II reasonable commercial basis principles still have to be clarified, reinforced and taken seriously into account by Trading Venues, prices (hence spend by Financial Institutions) naturaly increase.

<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>

Société Générale has indeed noted the introduction of new market data licenses and also the transformation of existing licenses by most Trading Venues without any significant additional content being delivered. New licenses or updated licenses have regularly being imposed for usages (that prevously existed) such as non-display, derived data or Systematic Internaliser.

<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>

Market data licensing agreements imposed by Trading Venues are indeed getting extremelly complex. More than 100 pages long with very complex terms and definitions.

Trading Venues can leverage that unilateraly imposed complexity to audit whether Financial Institutions comply with all those usage terms and make additional revenue via back billing. It also has to be noted that the increased complexity of market data policies impose a cost on Financial Institutions, since they need more and more resources to monitor the compliance of their usage.

Trading Venues will also tend to impose commercial practices or licenses similar to the ones already implemented by other Trading Venues. Not a really duplication of best practices but the replication of less favorable terms for Financial Institutions.

<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>

Market Data licensing policies and terms are being made available by most Trading Venues on their websites. In this respect, most Trading Venues formaly comply with requirement of making available the information with respect to RCB provisions. Still, as noted above, the increasing complexity of those policies and terms limit the interest of this transparency.

On the requirement to charge market data on a per user basis, most Trading Venues and APAs introduced the possibility to charge on a per user basis but, in practice, it is indeed very difficult to benefit from it as it requires complicated and ressource demanding direct reportings to be put in place with each Trading Venues.

A fair application of RCB principles could be that all Trading Venues accept by default “single source netting” (where user fees are paid only one time per user on a data source where the user is properly identified and hence not requiring complex additional reporting). This is a best practice in place for some Trading Venues and that should be observed by all.

<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>

Société Générale agrees with ESMA’s assessment on the quality of the RCB information disclosed by Trding Venues. When they exist, current disclosures are difficult to find and do not provide transparent and detailed information that could contribute to ensure that RCB principles are indeed respected.

.<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>

The usability and comparability should be at first achieved through massive simplification of agreement, policies and prices list across Trading Venues.

Furthermore, a simple and common template to describe market data services and related fees should be put in place in order to reach such comparability.

<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>

Société Générale believes that MiFID II has so far not yet delivered on its objective to lower the prices of market data. In order to reach that objective, RCB principles should be clarified, reinforced and inforced.

<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>

Rather than a revenue cap model, we tend to believe that an approach to reduce the cost of market data could be to impose the use by venues of a common, standardised and simple format to define their market data price list, with a limited number of items.

Such model would ensure that costs are directly comparable from one venue to the other, and it would be easier to identify prices that are not justified by cost of production.

<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>

Data disaggregation has not indeed resulted in lowering the costs of market data services for data users.

All disaggregated packages proposed by Trading Venues are actually not being made available by market data vendors (aggregators and redistributors) on their real time market data feeds or market data terminals.

As long as market data vendors are not regulated under MIFID II to contribute to RCB, we tend to believe that there will be no success on the objective of lowering market data costs.

<ESMA\_QUESTION\_MDA\_10>

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

<ESMA\_QUESTION\_MDA\_11>

Disaggregation between pre and post-trade data does not make much sense.

Most data users need to access at the same time to both post-trade data and pre-trade data as part of standard business workflow.

There is demand for disaggregation between Level 1 (first top line of the orderbook ) and Level 2 (Top 5 or Top 10 Best Limits of the orderbook ) services real time pre-trade data that could contribute lowering market data costs in the context of MiFID II objectives.

<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>

There is indeed a significant number of Trading Venues that currently do not make 15 minutes delayed data free of charge and charge for such delayed data in many different direct or indirect ways.

<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>

Further supervisory guidance is indeed needed in this area.

If the issue about free access to delayed data is not properly clarified, Trading Venues could leverage this opportunity to start charging for delayed data (even end of day closing prices) much more than what they do today. This would not contribute to the MIFID II objective to lower the prices of market data. This is a strong concern.

Delayed data or End of day data delivered by market data vendors (that create and maintain such a service, not the Trading Venues) should be ready free of any Trading Venue direct or indirect fees.

<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>

Société Générale agrees that the current regulatory framework and competition by non-regulated enties make a Consolidated Tape unattractive to operate.

As long as Trading Venues and APAs can impose the licensing terms and fees they want, there will be no viable business model for an equity CT in Europe.

<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>

TYPE YOUR TEXT HERE

<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>

Post-trade data are available from both Trading Venues and APAs as well as data vendors. Those aggregated data are currently not covering 100% of the market as smaller and/or highly specialised equity trading venues or APAs may not be included.

Market data vendors must apply unreasonable conditions and fees to users imposed by each aggregated Trading Venues.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

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>

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>

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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>