



European Securities and
Markets Authority

Reply form for the Consultation Paper on RTS specifying the scope of the consolidated tape for non-equity financial instruments



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on the scope of the consolidated tape for non-equity financial instruments, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_MIFID_NET_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider.

Naming protocol

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_MiFID_NET_NAMEOFCOMPANY_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA_MiFID_NET_ESMA_REPLYFORM or

ESMA_MiFID_NET_ESMA_ANNEX1

Deadline

Responses must reach us by **05 December 2016**.

All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input/Consultations’.



Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that 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 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 under the heading 'Legal notice'.



Introduction

Please make your introductory comments below, if any:

< ESMA_COMMENT_MIFID_NET_0 >

Dear Sir or Madam,

CFA Institute appreciates the opportunity to respond to this consultation paper on Regulatory Technical Standards (RTS) for the consolidated tape for non-equity financial instruments.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behaviour in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 140,000 members in 150 countries and territories, including 133,000 Chartered Financial Analyst® charter holders, and 147 member societies.

Our comments below focus on the extent to which consolidated tape providers should be permitted to specialise among asset classes and how to determine when a trading venue should be added to, or removed from the consolidated tape.

Please do not hesitate to contact us should you wish further elaboration of the points raised.

Yours faithfully,

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< ESMA_COMMENT_MIFID_NET_0 >

Q1. Do you agree with ESMA’s proposal to allow non-equity CTPs to specialize their offering? Do you agree to the level of specialisation proposed or would you recommend a less granular or more granular approach?

<ESMA_QUESTION_MIFID_NET_1>

CFA Institute agrees with ESMA’s proposal to allow consolidated tape providers (CTPs) to select the asset classes for which they will provide data. The universe of non-equity financial instruments listed by ESMA ranges from bonds to commodity derivatives to emission allowances and it is not realistic to expect a single entity to provide a consolidated tape for all of these. Further, prescribing the asset classes for which CTPs must provide data will likely reduce the number of possible entities willing to engage in this business. Equally we acknowledge that specialisation may go too far in the other direction and allowing CTPs to provide, for example, data on only a subset of foreign exchange derivatives (e.g. only for certain currency pairs), which would limit the usefulness of the consolidated tape.

In summary, we agree with the level of specialisation proposed (at the asset class level) while acknowledging that this may not be attractive for some commercial CTPs given the breadth of instruments within the various asset classes (e.g. bonds). However, some level of aggregation is necessary if the tape is to be truly “consolidated” and therefore meaningful for investors. |

<ESMA_QUESTION_MIFID_NET_1>

Q2. Do you agree that the threshold determining whether a trading venue or APA needs to be included in the CT should be based both on the volume and the number of transactions? If not, please explain and present an alternative approach.

<ESMA_QUESTION_MIFID_NET_2>

CFA Institute agrees with ESMA’s proposal to use both volume and number of transactions thresholds to determine whether a trading venue or Approved Publication Arrangement (APA) needs to be included in the consolidated tape. |

<ESMA_QUESTION_MIFID_NET_2>

Q3. Do you agree with the proposed level for the threshold? In particular, do you agree that the threshold is set at the same level across all asset classes and for both the volume and number of transactions? If not, please explain why and propose an alternative approach.

<ESMA_QUESTION_MIFID_NET_3>

CFA Institute agrees with ESMA’s proposal to have a single headline number for the threshold across all asset classes and for both the volume and number of transactions. We believe, when possible, that simpler regulatory designs are better. For example, investor understanding of what constitutes the consolidated tape would be improved by having a simple headline number rather than an entire schedule of thresholds. Further, this should help to limit unintended consequences of designing the consolidated tape or trading venues ‘to the rule book’.

However, CFA Institute believes the threshold number of 2.5% is too large and may result in a significant proportion of the market to be missed by the consolidated tape. For example, it would take only 4 trading venues with a market share of 2.4% for almost 10% of market volume/ transactions to be excluded from the consolidated tape. CFA Institute believes that a threshold number of around 1% is preferable. |

<ESMA_QUESTION_MIFID_NET_3>

Q4. Which entity should perform the calculations? Should it be the data source, i.e. trading venues and APAs, or the CTP?

<ESMA_QUESTION_MIFID_NET_4>



CFA Institute agrees that requiring trading venues and APAs to perform the calculations necessary to determine whether the trading venue or APA exceeds the threshold beyond which it must be aggregated onto the consolidated tape makes more sense than requiring potential CTPs to perform the calculations, which appears overly burdensome and may discourage new entrants.

This proposal allows a CTP to be an aggregator without requiring it to assess whether a trading venue or APA should be included or not. We note, however, that under this proposal it appears necessary to require trading venues and APAs to notify the CTP when they exceed the threshold. |

<ESMA_QUESTION_MIFID_NET_4>

Q5. Do you agree with the proposed calculation and publication frequency? Do you agree that only trading venues and APAs that have reported transactions covering the full reference period of 6 months should be required to carry out the assessment? If not, please explain why and propose an alternative solution.

<ESMA_QUESTION_MIFID_NET_5>

No comment. |

<ESMA_QUESTION_MIFID_NET_5>

Q6. Do you consider it appropriate to provide for a grace period of up to 6 months after the first assessment date for including new sources into the data stream? Do you consider the proposed length appropriate?

<ESMA_QUESTION_MIFID_NET_6>

CFA Institute believes it is important for the consolidated tape to be updated in a timely manner and as such the six-month lag with which a new trading venue or APA that exceeds the inclusion threshold would be included on the tape seems unnecessarily long. We propose that trading venues and APAs carry out their assessments as to whether they exceed the inclusion threshold quarterly. |

<ESMA_QUESTION_MIFID_NET_6>

Q7. Do you agree that a source be only excluded if the thresholds are not met for at least three consecutive periods? If not, what do you consider to be the appropriate length of time?

<ESMA_QUESTION_MIFID_NET_7>

CFA Institute believes it is important for the consolidated tape to capture as much market information as practicable. To that end it may be appealing to require trading venues or APAs that fall below the inclusion threshold to wait three consecutive periods (i.e. 18 months under the proposal) before being removed from the tape, as proposed by ESMA. This proposal would create an asymmetry between being included onto the tape (6-month lag) and being removed from the tape (18-month lag). This asymmetry would create a conservative over-inclusion of trading venues on the tape, which is likely desirable from the perspective of market participants and the completeness of the information.

However, under our proposal of quarterly assessment, the lag with which trading venues are removed from the tape would be reduced from 18 months to 9 months, which we feel strikes a better balance between consolidated tape stability and timeliness. |

<ESMA_QUESTION_MIFID_NET_7>