



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 >

The Wholesale Markets Brokers' Association (WMBA) and the London Energy Brokers' Association (LEBA) (jointly referred to in this document as the 'WMBA') are the European industry associations for the wholesale intermediation of Venue traded and Over-the-Counter (OTC) markets in financial, energy, commodity and emission markets and their traded derivatives. Our members, in addition to operating some twenty MTFs and eight SEFs, will almost all apply to have OTF permissions and act solely as intermediaries in wholesale financial markets and do not undertake any proprietary trading. As a result, they are classified in the UK as Limited Activity and Limited Licence Firms in respect of the current Financial Conduct Authority classification. The WMBA originated in 1963 from market oversight in central banking, but is an independent industry body.

The WMBA has been a founder member of a wider "Venues and Vendors Group" who have met with AFME regularly over the last 4 years to discuss issues and solutions pertaining to the MIFID2 roll out of a wider scope applicable to Approved Publication Arrangements ("APAs") and to Consolidated Tape Providers ("CTPs") together with the potential relationships between the two. We would simply note here that, despite no inconsiderable application of constructive thought, endeavour and good-will, the industry has found the combined solutions extremely difficult from both a practical and a commercial viewpoint.

It is in the light of this experience that the WMBA strongly condones a structural approach that supports specialist CTPs in areas where the industry requires and would pay for these services, or where they have tertiary benefits in related areas of market functioning and efficiency.

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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>

Yes, the WMBA does agree with the ESMA proposal to allow non-equity CTPs to specialize their offering.

However, the WMBA would disagree with the level of specialisation proposed which is too broad to make specialist CTP services feasible. Rather, we are in favour of more granularity including most specifically by type of MiFID trading venue. Additionally, we would suggest using the ESMA classification as set out in RTS 2 as the most workable solution. This would mean that the sub-class, belonging to a given sub-asset class, of a given instrument (as identified by the reference data submission) would be considered an appropriately granular level to display an aggregation of liquidity and traded outcomes across fungible liquidity pools.

As examples, we would use the sets of venues that organise primary dealers access to government bonds or the sets of venues that enable particular packages of derivatives, such as basis trades, to form specialist consolidated tapes to a nominated provider. In this way the sub asset class and the type of venue would both be specified and delimited in the trades and orders aggregated.

TYPE YOUR TEXT HERE |

<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>

Yes, the WMBA does agree with the ESMA proposal to require the inclusion of a trading venue or APA into the CT if the trading venue or APA meets any of the thresholds based on the volume and number of transactions reported.

However, the WMBA would disagree with the threshold being based as asset-class level because this broad and diverse level of specialisation proposed which is too broad to make specialist CTP services feasible. Rather we would apply the ESMA test at the sub-class, belonging to a given sub-asset class, of a given instrument (as identified by the reference data submission). Clearly without a much more granular scope to the contents of the CTP, comparisons of volume become ineffective and would need to be risk-adjusted adding huge complexity.

Additionally, we would allow the CTP provider to accept data from either trading venues or APAs as required, most specifically because certain wholesale ('professional') markets are exclusively on trading venues such as CCP cleared derivative markets (e.g. certain EUA carbon emissions) or Basis Spread markets.

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<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>



Yes, the WMBA does agree with the ESMA proposal to require the inclusion of trades of a threshold of 2.5% is met, although we would argue for a transitory move to this level from a starting point at 15% for the sub-class, belonging to a given sub-asset class. This would effectively make for a simpler and efficient starting point for certain CTPs, and avoid the need for a differential approach between different asset classes, at least in the initial years of MiFID2 whilst the transparency phase-in is underway.

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<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>

WMBA does agree with the ESMA that the CTP would only have to purchase the data stream of asset classes it covers based on its specialisation decision. This would effectively circumvent the difficult requirement for CTPs to perform the assessment of aggregated information on the numerator and determining the denominators of these tests.

In the opinion of the WMBA the best placed data source to compute and publish the denominators needed for the calculations alongside the transparency calculations would of course be ESMA via the FIRDS database. Beyond this suggestion, there appears to be no net gain in restricting the calculation to any part of the trading venues, APAs, CTPs chain since they may each have a relative advantage or may wish to cooperate.

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<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, the WMBA does not agree with the ESMA proposal that the 2.5% threshold should be calculated over a 6-month period and recommend that, for the purpose of simplicity, the period should be aligned with the maximum length of time that the transparency regime is recalibrated, i.e. one year. We believe this would help reduce costs to the industry as a whole. We would therefore deduce that the first assessment on whether the minimum thresholds to be mandatorily included in the CT are reached should be carried out and the results thereof published by 1 March 2019 based on data covering the calendar year of 2018, or shifted 6 months later if more appropriate.

The WMBA also does however agree that newly licensed APAs and trading venues should only be required to carry out the assessment where at the time of carrying out and publishing the results of the assessment they already reported transactions covering the whole reference period.

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<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>



Whilst, the WMBA does agree with the ESMA proposal that the 6-month equity regime should be transposed across to the non-equity regime as a minimum, given the more complex nature of the bond and derivatives markets it's likely that a rather longer period may be appropriate.

Specifically, the transition period should be 18 months after the assessment date for including new sources into the data stream. This provides sufficient time for:

- Negotiation of contractual and commercial arrangements
- Definition, planning and implementation of technical connectivity
- Definition, planning and implementation of feed specifications
- Testing, which can frequently take three months

It is critical that the ongoing obligations and the on-boarding of any new trading venues apply to both the CTPs and the Trading Venues / APAs. Without this, each Trading Venue and APA could be incentivised to delay participation or threaten to withdraw from the Consolidated Tape in order to push up the price of their own data and drive the commercial benefits.

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<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>

The WMBA concurs that a CTP will be free to additionally include sources that report trades below the thresholds if it wishes to do so.

In light of this it would seem appropriate to curtail the mandated inclusion to a single period, (perhaps 12-months is the appropriate period length, but 6-month if that is the minimum) rather than a threshold of three consecutive, or 18 months, of inactivity.

This narrowing of the period would effectively move more control to the discretion of the CTP as to whether to include or exclude that Trading Venue or APA, which is a better outcome.

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<ESMA_QUESTION_MIFID_NET_7>