European Securities and Markets Authority

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

12 July 2019 ESMA70-156-1471

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 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 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 under the heading 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	European Venues and Intermediaries Association ["EVIA"]
Activity	Regulated markets/Exchanges/Trading Systems
Are you representing an association?	☒
Country/Region	Europe

Introduction

Please make your introductory comments below, if any

<ESMA_COMMENT_MDA_1>

EVIA argues that neither the transparency nor the data model is broken in the trading venue world because there is competition, unlike the exchange world.

Representing 11 parent companies operating over 50 segment MIC MTFs and OTFs which list and admit non-equity instruments and derivative products onto MiFID trading venues, the European Venues and Intermediaries Association ["EVIA"] welcomes this opportunity to broaden the debate concerning MiFIR transparency data, *Reasonable Commercial Basis* together with the concept and implementation of any *Consolidated Trading Tape.*

<u>We emphasise that our entire response is about MiFID data provision only as sought in the consultation.</u>

It is of upmost importance to set out that none of the trading venues in this sector charge any member, participants, APA, or post-trade infrastructure for data provision fulfilling any MiFID2/MiFIR transparency requirements. The provision of pre-trade data and of post-trade data in accordance with MiFIR Articles 1(8), 9(5), 11(4), RTS 2, RTS 3 and other calculations MiFIR Articles 5(9) and 22(4) RTS 4 is done on a free-to-air basis and has been built at the expense of the trading venues.

This situation stands in contrast to the sometimes-significant costs charged by exchanges for MiFID data and perhaps therefore in contrast to much of the media coverage of the trading venues sector as a whole.

The reason for this important difference between exchanges and non-exchange venues likely lies in the levels of competition in both market segments. OTFs/MTFs operate in a highly competitive environment, where small increases in price can have a large impact on client demand for services. There is therefore a drive to keep prices low. By contrast, exchanges often operate in a more monopolistic environment (for products that are listed). This means that demand elasticity is significantly lower.

It follows that more competition for listed exchanges will lead to lower costs. We therefore champion MiFID2's provisions on Open Access to Market Infrastructures (article 35/36 MiFIR) and are looking forward to the expected benefits which Open Access for exchange traded derivatives will bring from the legislative application date of June 2020 onwards.

For the avoidance of doubt, we note that member firms do charge for value added services as opposed to the 'MIFID pre/post trade data' offered by MTFs and OTFs that are the direct subject of this consultation. Firms often operate independent data businesses which provide access on a commercial basis to complex indicative pricing data and derived data services across multiple asset classes which is used extensively by wholesale market participants as well as other financial institutions and service providers.

Therefore, it is important to distinguish the supply of MIFID2 transparency related services and the data business that provides indicative data and derived value-added services. The two services can coexist and be regulated differently. The plain vanilla provision of transparency data may well benefit from regulation on pricing, but the data services on non-transparency data requires different investment, bespoke quality and different resources to deliver a successful innovative product.

In short, though their MiFID trading venues, EVIA member firms are providing significant value to the market through continual innovation supporting complex data requirements of the professional marketplace. We would underscore that these non-exchange firms operate in a highly competitive environment and attempts to impose regulated pricing outside the scope of transparency would have a damaging impact on the market ecosystem by discouraging investment and innovation.

Turning to the consolidated tape, we note that our association's focus is on non-equities, and that we therefore attempt to answer the questions from a non-equities' perspective.

There currently seems to be a lack of consensus in the market as to what the purpose of a consolidated tape should be. Complaints often heard relate to (equities) data costs, data quality and the scope of available data. A tape, as currently legislated for in MiFID, will not contribute to solving any of these complaints.

Nevertheless, if policymakers could identify a purpose that would satisfy a specific need in the market, at a minimum data quality should be improved first through improved industry standards on uniformity of templates. (A tape will not solve data quality issues, but if data quality issues are solved this would remove at least one obstacle to achieving a tape).

Furthermore, legislative changes should be made so that a different commercial model could be applied to the tape. MiFID currently imposes a flawed commercial model on the market by allowing venues to charge for the data they send to the tape. This means that tape fees will at least be equal to the sum of fees charged by all individual venues, which will make it prohibitively expensive.

The commercial model of the US equities consolidated tape (in operation since the seventies) addresses this issue by operating like a utility, which redistributes revenues back to the venues. This puts some limit on the costs (at whatever level prices are set by the utility) while it would maintain a commercial incentive for venues to send their data to the tape.

Again, all these factors do not deliver guaranteed success; without agreement on which problems a tape tries to solve for and therefore what product it will deliver, it remains questionable whether end consumers would find the data useful enough (over and above the current commercial offering) to actually use it and pay for it.

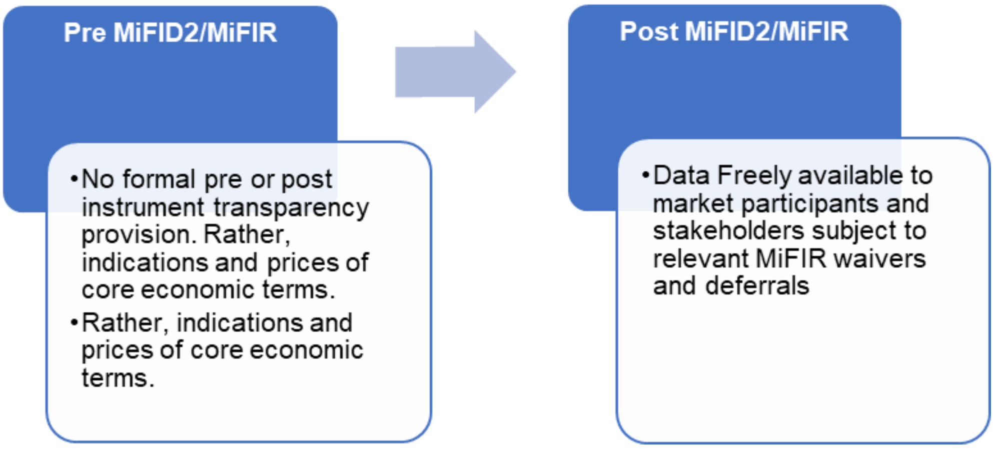
<ESMA_COMMENT_MDA_1>

Questions

Q1 : 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>
No, prices of market data have not increased since the application of MiFID2/MiFIR. The provision by the OTF and MTF fixed income and derivative market pre-trade data and of trade data in accordance with MiFIR Articles 1(8), 9(5), 11(4), RTS 2, RTS 3 and other calculations MiFIR Articles 5(9) and 22(4) RTS 4 operated by EVIA member firms is done on a free-to-air basis and has been built at the expense of the trading venues.

Conversely these specified data prices have neither decreased since the period prior to MiFID2/MiFIR simply because such transparency data did not pre-exist on non-equity trading venues because it was not required in these formats.



Non-equity platforms market data structures are different from RM for the reasons that the product is negotiated via their core economic terms and traded as low frequency but large sized blocks or packages constituting a very great number of ISIN denominated instruments whose delayed data which is produced and published for MiFID transparency is freely available. There are almost always no intellectual property or licensing rights accruing to the instrument, there are almost always competing trading venues and almost always a choice of post trade infrastructures for settlement and clearing.

We are aware of sell side concerns of the monopoly of exchange data setting prices thus leading to increase of prices, but in our market, if clients are not satisfied with our prices there is adequate competition for clients to source this information with our competitors.
<ESMA_QUESTION_MDA_1>

Q2 : If you are of the view that prices have increased, what are the underlying reasons for this development?

<ESMA_QUESTION_MDA_2>
EVIA have not stated the view that the prices charged by trading venues have increased for that data required by market participants for pre- and post-trade transparency requirements

across the gamut of non-equity instruments and products. These are for the structural reasons set out above in the answer to question 1 that no prices are charged.

This is not the case for instruments transparency resold by APAs and DRSPs, again for the structural reason that these charges did not pre-exist prior to 2018. For the avoidance of doubt, APAs and DRSPs are provided with their data requirements free of charge by trading venues.

This is not the case for equities instruments (which were already caught under MiFID1), although these are not generally offered by member trading venues, and we understand that there is evidence that prices may have risen in the period in question. The report published by Oxera in March this year entitled: "*The Design of Equity Trading Markets in Europe*" does admit to fee increases in the Regulated Markets environment for equities despite being commissioned by practitioners, detailing that the share of revenues coming from market data services ranges between approximately 20% and 50% of joint (trade execution and data) revenues across exchanges and has been relatively stable over time—on average 31% in 2018, unchanged from 2017, and compared to 32% in 2016 and 30% in 2015. We point out that whilst thee are averages, they are greatly in excess of any comparable maxima in the non-equities trading venues where competition and licencing is ubiquitous.

The reason for this important difference between exchanges and non-exchange venues likely lies in the levels of competition in both market segments. OTFs/MTFs operate in a highly competitive environment, where small increases in price can have a large impact on client demand for services. There is therefore a drive to keep prices low. By contrast, exchanges often operate in a more monopolistic environment (for products that are listed). This means that demand elasticity is significantly lower.

It follows that more competition for listed exchanges will lead to lower costs. We therefore champion MiFID2's provisions on Open Access to Market Infrastructures (article 35/36 MiFIR) and are looking forward to the expected benefits which Open Access for exchange traded derivatives will bring from the legislative application date of June 2020 onwards.
<ESMA_QUESTION_MDA_2>

Q3 : 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>
EVIA member trading venues charging policies for transparency required market data have remained the same since MiFID1, albeit that the advent of MiFID2/MiFIR required many further transparency disclosures. The new transparency related market data is new and is free of charge to those who have access to the platform.

Value added ('derived' data services, including real-time data that are not part of the MiFID2/MiFIR required transparency related market data and fall outside the scope of this consultation), have expanded over recent years in scope and format. These are offered to wholesale market participans and service providers and are subject to standardised rate cards. However, we would also note that these segments form only a relatively small proportion of any non-equity trading venue revenue and are offered in a competive environment which is consequent to open-access and open intellectual property which is in stark contrast to the consolidated vertical exchange sector.

<ESMA_QUESTION_MDA_3>

Q4 : 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>
EVIA offers three observations on other practices:

Firstly, in respect of any data required by market participants for pre- and post-trade transparency requirements across MiFID2/MiFIR, there are no trading venue practices that may directly or indirectly impact the price for market data because it is free to the members/participants of their trading venues as well as to APAs, related "middleware," nor post-trade FMIs for data provision related to MiFID2/MiFIR transparency requirements.

Secondly, in respect of any derived/value-added data services offered by EVIA member trading venues, firms report not holding out any complex market data polices for reasons directly related to the natures of the instruments and market structures involved.

i. Non-equity MTF/OTF operators generally operate a simple pricing structure consisting of three overarching functionalities: "View Only"; "Application licence or Enterprise"; and "Redistribution."
ii. These licences apply singularly to data sets across the negotiated terms and predefined factors and maturities that ascribe the locus of a great many ISIN instruments. Therefore, there is no "bundling".
iii. Non-equity MTF/OTF operators hold-out <u>market standard terms and conditions</u> which are clear and concise, all documents are published on firms' website. This is a very different set of structures to long standing RM equity exchanges who may frequently offer in excess of 200 data pricing structures across the exchange data.
iv. Data pricing fees policies are similar across competing trading venues thus allowing customers to easily and simply compare fee structures amongst competitors and market data vendors. Members have market standard terms of conditions which are clear and concise, all documents are either published or made available to clients on request or enquiry.

Thirdly we note that although '*derived data*' is not itself subject to Reasonable Commercial Basis ["RCB"] terms under MiFID2, all market data points and transaction prices originating from trading platforms are currently subject to offered compliantly by the MTF/OTF trading venue on an RCB to any customer wishing to build derived data and value-added products. Therefore, although non-MIFID (estimated/derived) data is not subject to RCB, we appreciate that this ESMA thematic work has resonance trading venues who will also have MiFID and RCB requirements.

We would advocate the articulation of the RCB to stipulate a "Cost-plus" approach to facilitate the very heterogeneous data types and their sets which ascribe the multidimensional and spread related derivatives markets, whilst still facilitating a simple and transparent mark-up or add-on.
<ESMA_QUESTION_MDA_4>

Q5 : 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>
Yes EVIA does concur that where value added data services are offered commercially, EVIA member trading venues do comply with the requirement of making available the information on an RCB.

Where provision by the OTF and MTF non-equity trading venues is for compliance to transparency rules for market pre-trade data and post-trade data, then RCB does not apply because it is offered without charge.
<ESMA_QUESTION_MDA_5>

Q6 : 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>
EVIA underscores the essentially point that any rule can mandate prices, structures and protocols for data, but it cannot control for quality.

Likely this would be an over-reach for any regulatory ambitions and the desired outcomes are better attained by competition and a supervisory regime setting out expectations and best practices.
<ESMA_QUESTION_MDA_6>

Q7 : 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>
It follows from our answer to Q6 above that if regulatory parameters cannot control for quality, then a regime seeking best practice and supervisory guidance is the cogent alternative. It should be noted that supervisory guidance of RCB information should not involve the application of a single pricing format for all asset classes as this could not work for the multiple parameters for non-equity and especially derivative markets.

It is even more important to empower choice and the impact of data purchasers being able to shop around. This requires a dismantling of existing barriers in market structures, most especially the remaining barriers to Open Access to post-trade Financial Market Infrastructures.

EVIA therefore would champion MiFID2's provisions on Open Access to Market Infrastructures (article 35/36 MiFIR) and are looking forward to the expected benefits which Open Access for exchange traded derivatives will bring from the legislative application date of June 2020 onwards.

We note also that the value-added data services offered by member trading venues have market data pricing rate cards and a three-level non-complex tier structure as described above. Terms and conditions set out in concise, clear standard market formats, and published on respective and third-party websites in order to facilitate comparisons.
<ESMA_QUESTION_MDA_7>

Q8 : 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>
EVIA does support the framework of transparency plus to articulate and restart an RCB approach for the reasons set out in the answers to Q6 And Q7 above.

Conversely, we have little or no faith in the LRIC+ model which is based on concepts such as a revenue cap for which we do not foresee any utility in the markets beyond cash equities. We are therefore concerned about any possible side effects of introducing equity market solutions to fixed income markets.
<ESMA_QUESTION_MDA_8>

Q9 : 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>
EVIA does not support a regulatory perimeter to introduce revenue cap as this cannot achieve the desired outcomes such as extensibility, simplicity nor could it promote a competitive market.

We would rather advocate a cost-plus framework as an articulation of an RCB.
<ESMA_QUESTION_MDA_9>

Q10 : Did data disaggregation result in lower costs for market data for data users? If not, please explain why?

<ESMA_QUESTION_MDA_10>
EVIA understands that the bundling of data by Regulated Markets (RMs) has been wholly disadvantageous to the wider stakeholder community and support the intent of MiFID2 to require disaggregation. Where members need to purchase data from RMs we have witnessed neither any effective disaggregation, nor any resulting lower costs.

We observe the reason for the absence of expected outcomes to reside firmly in the market structure; the absence of Open Access to Financial Market Infrastructures Is creates trading monopolies whose value is extracted via the licencing of data rights. In particular, these licensing requirements are bundled and conjoined to membership requirements, which has exacerbated to economic requirement to pass on these high costs. Whilst the Oxera report cites data fees as a part of "recovering costs" we observe recent media reports ("Why the good times are unlikely to last for exchange groups" FT 13Aug2019) setting out that over the past decade, the Dow Jones Global Exchanges index has produced total returns of 163%, more than double the 79% return for the MSCI World Banks index.

We therefore champion MiFID2's provisions on Open Access to Market Infrastructures (article 35/36 MiFIR) and are looking forward to the expected benefits which Open Access for exchange traded derivatives will bring from the legislative application date of June 2020 onwards.
<ESMA_QUESTION_MDA_10>

Q11 : Why has there been only little demand in disaggregated data?

<ESMA_QUESTION_MDA_11>
EVIA understands the demand in disaggregated data has been subdued by the friction in the available market structures. This stretches from the bundling of data licences with exchange membership to the outsourcing of data distribution and invoicing to the major quote vendors, middle-wares and IT services companies.
<ESMA_QUESTION_MDA_11>

Q12 : 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>
EVIA member trading venues do comply with the requirements to make available data free of charge after publication and have done so since MiFID2/MiFIR came into force. We are aware that APAs have not complied with this but now either do so or are currently under the process of facilitating this.

We would reiterate earlier comments that the requirements under MiFID2/MiFIR do not comprise either quality nor ease of data access which are the core requirements for the stakeholder market participant community.
<ESMA_QUESTION_MDA_12>

Q13 : 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>
As far as the EVIA trading venues are concerned, we do not consider it necessary to provide further supervisory guidance on this area because the relevant MiFID2/MiFIR transparency data is already provided to market participants.

In general, however we do see value to include further clarification to the level2 RTS concerning the provision of a CTP outside of equity markets. On this topic there are substantial market differences and therefore CTP framework design topics which we note to be outside the scope of this current consultation but would commence with questions around target utility and as to whether pre-trade or post-trade transparency is more appropriate.

This CTP framework design first requires further sequencing issues including underlying market design implementation, most especially the complete implementation of ISO UPIs under a more granular CFI framework.
<ESMA_QUESTION_MDA_13>

Q14 : 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>
As operators of non-equity trading venues we will restrict any specific comments away from the equity market focus of this section of the CP, however in general we do agree with the reasons identified by ESMA and remain deeply concerned around the absence of demonstrated scope and governance that ESMA may deploy to create quasi oligopoly private sector utilities.
<ESMA_QUESTION_MDA_14>

Q15 : 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>
EVIA understands that the further elements to hinder the establishment of an equity CT are related to the restricted licencing IP rights around the exchange listed instruments and their settlement prices, together with the absence of open access to the post-trade FMIs where owned and operated as a vertically integrated infrastructure.
<ESMA_QUESTION_MDA_15>

Q16 : Please explain what CTP would best meet the needs of users and the market?

<ESMA_QUESTION_MDA_16>
EVIA understands that a better set of stakeholder outcomes from observing the type of transparency hoped from a CTP requires a level 1 change to the MiFID2 regulation in order to provide for the flexibility of model, together with the changes in available technologies available. The first and fundamental component of such a high-level change would be to restate the use-case, the intended beneficiaries and the outcomes sought as a public policy objective, notably those current targeted outcomes from the Capital Markets Union project.
A public policy CMU outcome would not necessarily be a wholesale markets tool but restricted for retail benefits. Indeed, from the example of the consolidated tape operating across a small number of equity exchanges in the United States it seems that such tape is of most use for retail, and irrelevant to the wholesale and professional market on whom the end customers rely and by whom the high priced and low latency data feeds are purchased.

There are further use case objectives that would need to be specified such as the role of a CTP in fulfilling “Best Execution requirements” which requires data quality rather than aggregations; and further specifications around the deployment of dedicated API technology which would likely differ in design and delivery from the competing suites of such protocols in daily use currently but none of which would offer a solution to a European “*Best-Bid-and-Offer*” interface.

One point of evidence we would offer is the experience of Refinitiv who built and offered a aggregated composite service under MiFID1. Since MiFID1 did not impose commercial framework, this permitted venues to charge premium fees for the data they send to aggregation. Consequently, this service had to pass on the sum of fees charged by all individual venues, which made it expensive. The combined cost of exchange data was a factor in the limited demand from customers for this service. At issue here is the reliance by consumers upon the wholesale intermediation services, who themselves have no requirement for a CTP.

EVIA makes the following additional observations:

- The CTP in its current form as prescribed in MiFID2 is not fit for purpose, amongst others, due to the reason that most market participants who require this data; to either validate prices, or to access to stock prices, find such data as already freely available via quote vendors
- If the regulatory objective is to promote a CTP in order to consolidate post-trade data from trading venues and offer the functionality to consume this data from various sources such as RMs, MTFs, APAs, Third Countries ECNs, then the CTP enters and disrupts the data environment or are treated as any other commercial utility but without the ability to shop-around. This disruption would likely create unintended and unforeseeable consequences around the supply, demand and geography of the trading and data provision.
- Comparing experience of US v EU CTP
    - the US CTP system mandates venues to provide data rather than under the EU current voluntary regime
    - US CTP give back get a revenue stream to the eight contributing trading venues as an endpoint residual
    - CTP Equity model is preferable if the CTP bears the cost of its structure, sells the data on RCB, revenues are shared who are contributors
- To establish a CTP on:
    - Completed trades only is feasible in theory but information transport, quality and timing may be salient and unresolvable issues to create an economic product
    - Pre-trade order book – complicated to make these fungible in real time, and making aggregated depth of book stacks public would be a major disruptor to current market structures
    - Real order book – removing high frequency and non-price forming trades would make the process solution even more complicated.
    - It follows therefore that, if a user case/purpose for a CTP could be found, data quality should be improved first through improved industry standards on uniformity of templates. (A tape will not solve data quality issues, but if data quality issues are solved this would remove at least one obstacle to achieving a tape).

<ESMA_QUESTION_MDA_16>

Q17 : 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>
EVIA has not answered this question.
<ESMA_QUESTION_MDA_17>

Q18 : 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>
EVIA would restrict its specific comments to non-equity market technical details but notes conformity across its members for the provision of post-trade data to be provided on a timely basis.
<ESMA_QUESTION_MDA_18>

Q19 : 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>
EVIA would restrict its specific comments to non-equity market technical details but reiterates the earlier comment that whilst structure and rules are important in the sequencing to attain better data quality, they do not in themselves define affect the quality of data offerings, which are better driven by supply side economics together with supervisory tools.
<ESMA_QUESTION_MDA_19>

Q20 : 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>
EVIA would restrict its specific comments to non-equity market technical details but reiterates the earlier comment that in our opinion it would indeed very challenging to consolidate data in a real-time data feed for non-equity markets.
<ESMA_QUESTION_MDA_20>

Q21 : What are the risks of not having a CTP and the benefits of having one?

<ESMA_QUESTION_MDA_21>
This depends on whether a purpose/use-case for the CTP can be identified correctly, for the relevant stakeholders who would not necessarily be the large scale asset and liability management firms across the EU who require wholesale execution and market size discovery ["liquidity"] above that of pricing. In non-equity markets we would underscore the complete absence of retail participation together with the conjoined absence of any CTP

We would however believe that where financial instruments compromise HQLA and are currently or prospectively to be used as collateral, so the implementation of initial and variation margining will create a more public policy requirement for some form of consolidated price tape in respect of those assets and in related Repo markets.

In our opinion these would be better constructed in the pre-trade environment, and therefore reinforce our comments concerning the need for high level revisions to the MiFID recitals and objectives.
<ESMA_QUESTION_MDA_21>

Q22 : 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>
EVIA would restrict its specific comments to non-equity market technical details. We would however underscore and support the objective of improvements of data quality through industry standards and templates such as the FIX protocol which is only one example of a number of standards that may be relevant as multiple more complex standards are required for non-equity markets.

An industry led, bottom up approach is likely more tailored and reflexive than a centralised approach from ESMA.
<ESMA_QUESTION_MDA_22>

Q23 : 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>
In respect of non-equity markets, EVIA would like to raise the problems with derivatives and their associated packages, specifically the unsuitability of ISINs as product identifiers and cross-border perimeters to third countries wherein many packages involve a cash or swapped leg denominated in USD and traded outside the EU.

Any transaction of multiple legs, especially those involving fixed term or horizon derivatives but traded as a single priced package will find difficulty in breaking down components into shapes suitable for a CTP report.
<ESMA_QUESTION_MDA_23>

Q24 : 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>
EVIA has not answered this question.
<ESMA_QUESTION_MDA_24>

Q25 : 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>
Provided that a user case be found, EVIA reiterates the points made in A23 concerning packages and third countries and could not see how any framework criteria to determine the price that CTPs should pay to TVs and APAs for the data could work in theory nor in practice.

We would commend the simplest and most straightforward solution, and again reiterate the point that without any use-case, such then such theoretical debate can only remain abstract. The United States example of a two-tier outcome would prevail.

<ESMA_QUESTION_MDA_25>

Q26 : 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>
If usage needs to be made mandatory in order to get to a business case for a CTP, then this would signal there is no appetite in the market for a CTP and –in that case-we would strongly suggest not to pursue a CTP as a policy objective.
<ESMA_QUESTION_MDA_26>

Q27 : Would mandatory consumption impact other rules in MiFID II and if yes, how?

<ESMA_QUESTION_MDA_27>
It would, at a minimum, require a total rewrite of the Best Execution requirements, and negate the current weight awarded to quality/certainty of execution.
<ESMA_QUESTION_MDA_27>

Q28 : 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>
EVIA would restrict its specific comments to non-equity market frameworks. Given the pluriformity of that asset class, CTPs focussing on specific elements of that market might make sense.
<ESMA_QUESTION_MDA_28>

Q29 : 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>
EVIA would suggest that the use-case for any CTP would need to be better understood before any technical detail and definition such as "real-time" could be expounded. Clearly for non-equities markets the status of deferrals and waivers for many transactions may predicate that for this market 'real time' is less relevant as a concept.
<ESMA_QUESTION_MDA_29>

Q30 : Are there any measures (either technical or regulatory) that can be taken in order to mitigate the latency impacts?

<ESMA_QUESTION_MDA_30>
EVIA would restrict its specific comments to non-equity market technical details which in respect of latency impacts may solely be relevant to spot FX. We note that for truly global markets such as liquid FX derivatives, the co-location impacts are material and lead to discrete pools of activities on commonly adopted nodes. This example serves to illustrate than any

opinions which ESMA adopts in respect of CTPs needs to fit into international standards currently not developed by IOSCO.
<ESMA_QUESTION_MDA_30>

Q31 : 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>
Whilst EVIA strongly supports single standard sets and golden data sources, any move to anoint an exclusive basis to markets infrastructure would likely create reverse incentives and outcomes by the absence of competition.
<ESMA_QUESTION_MDA_31>

Q32 : Should the contract duration of an appointed CTP be limited? If yes, to how many years?

<ESMA_QUESTION_MDA_32>
EVIA would not endorse a limited appointment but would urge open access and open competition to deliver best practice and service levels.
<ESMA_QUESTION_MDA_32>

Q33 : 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>
EVIA has no opinion on commercial specific matters but notes that any such should relate to a use-case, service level disclosures and a competitive framework.
<ESMA_QUESTION_MDA_33>

Q34 : 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>
EVIA does wholeheartedly agree that is a necessity for contributing venues to have a commercial incentive to send their data to the tape. Therefore, an allocation key for distributing (part of) the revenues to contributing venues is important. If needed, the allocation key could also be linked to the quality of the data provided, which could give market participants extra reasons to cooperate to improve data quality.
<ESMA_QUESTION_MDA_34>

Q35 : 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>

EVIA understands that the use-case for any CTP would need to mirror the effectiveness of the global wholesale markets and therefore any CTP should be able to encompass relevant third-country information
<ESMA_QUESTION_MDA_35>

Q36 : 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>
EVIA has not answered this question.
<ESMA_QUESTION_MDA_36>