



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](http://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](http://www.esma.europa.eu) under the heading 'Legal notice'.



## Introduction

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

< ESMA\_COMMENT\_MIFID\_NET\_0 >

### **1. General**

The Federation of European Securities Exchanges (FESE) represents 35 exchanges in equities, bonds, derivatives and commodities through 20 Full Members from 29 countries, as well as 1 Affiliate Member and 1 Observer Member.

FESE is a keen defender of the Internal Market and many of its members have become multi-jurisdictional exchanges, providing market access across multiple investor communities. FESE represents public Regulated Markets. Regulated Markets provide both institutional and retail investors with transparent and neutral price-formation. Securities admitted to trading on our markets have to comply with stringent initial and ongoing disclosure requirements and accounting and auditing standards imposed by EU laws. At the end of 2015, FESE members had 9,201 companies listed on their markets, of which 6% are foreign companies contributing towards the European integration and providing broad and liquid access to Europe's capital markets. Many of our members also organise specialised markets that allow small and medium sized companies across Europe to access the capital markets; 1,299 companies were listed in these specialised markets/segments in equity, increasing choice for investors and issuers.

FESE is registered in the European Union Transparency Register with number 71488206456-23.

### **2. Views on the consolidated tape for non-equity**

In line with our views on equity data consolidation, we believe that any initiative must aim to achieve a meaningful market data consolidation in a multi-venue world. Meaningful and useful data consolidation, however, requires data of similar quality. If data differs in terms of quality and reliability, data consolidation will not be able to provide a reliable and usable stream of data. The real problem regarding sensible consolidation is the inferior quality and availability of OTC data after the introduction of MiFID I.

We consider that a competitive, multiple consolidator framework as proposed by the Commission is based on the spirit of competition promoted by MiFID I and is in line with technological improvements which have been experienced during the last years. We therefore fully support this approach.

We also note that MiFID II rightly recognises that it is too early to introduce a regime for consolidating non-equity data (new MiFID II Recital 118). We believe that the introduction of a consolidated tape regime in equity will help the industry to gain experience and to analyse whether there is the need for a consolidated tape and any accompanying measures for non-equity financial instruments. At present such a tape is not deemed necessary because of the way in which these other markets are structured.

< 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>

FESE strongly supports to allow specialisation of CTP offerings according to asset class. We consider this to be a sensible approach, as the proposal of CTPs per asset class has the following advantages:

- It allows for a practicable and sensible data aggregation into manageable CTPs;
- It focuses as well on market data user needs;
- It should encourage potential consolidators to step forward;
- It considers rules how to define the scope of instruments and data sources to be aggregated within a Tape.

FESE does not see any need for the level of specialisation to be either more or less granular. |

<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>

Although FESE agrees that flexibility in the scope of venues and APAs can help make the establishment of CTPs more practicable, the flexibility proposed by ESMA may go too far.

This is because if the CTPs are not required to collect data from almost all venues and APAs, then the service will in reality be no different from vendor offerings currently on the market. Vendors make decisions on which markets to cover based on client demand, which in turn is driven by the same criteria as that suggested by ESMA for CTPs, i.e. number and volume of transactions.

Should ESMA maintain its proposal for partial consolidated tapes based on thresholds, we believe the framework should specify that the meeting of only one of either of the two thresholds should trigger inclusion of the trading venue or APA in the non-equity consolidated tapes. |<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>

FESE agrees in adapting thresholds by asset classes, especially for instruments which are heavily traded on an OTC basis in order to avoid excluding lit venues from the non-equity consolidated tapes |

<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>

APAs and trading venues should not be in charge of performing the calculations as they will not have a complete picture of the market. In contrast to ESMA which lies at the centre of MiFID II's reporting system, individual trading venues and APAs will not have access to pan-European consolidated reporting data.



ESMA will have the consolidated view of the market and should be in charge of performing the calculations and maintaining a list of data sources which need to be included in the non-equities tapes.

In order to properly calculate the percentage of the volume/amount of trades reported by a trading venue or APA in relation to the total volume/amount reported in the European Union over the same period on all trading venues and OTC in the relevant non-equity class, two quantitative and one qualitative characteristic factors are essential. The qualitative factor being the correct classification of every financial instrument traded on a trading venue or OTC. This needs to be consistent across the European Union to be able to ensure that reported trades of a financial instrument are always attributed to the same asset class. In terms of quantitative characteristics, the calculating entity needs to have the total volume/amount of trades reported in the Union available as well as the volume/amount of the trading venue or APA in question.

ESMA will be the only entity, which has both quantitative characteristics available and is maintaining the Financial Instruments Reference Data System (FIRDS) that stores the classification for every financial instrument traded in the Union. Therefore, we deem it most feasible that ESMA is performing the calculations to decide which trading venues and APAs have to be included in the consolidated non-equity tape.

Should ESMA maintain its preference for partial consolidated tapes, we believe it should then be tasked with producing and updating on quarterly basis a list of all the trading venues and APAs which are re-quired to be included in the respective non-equity consolidated tapes. |

<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>

|TYPE YOUR TEXT HERE |

<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>

|TYPE YOUR TEXT HERE |

<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>

|TYPE YOUR TEXT HERE |

<ESMA\_QUESTION\_MIFID\_NET\_7>