

FESE response to the ESMA Consultation on CTPs and DRSPs

27th August 2024, Brussels

1. RTS on input and output data of CTPs

Q1. Do you agree with grounding the assessment framework of the quality of transmission protocols on the identified categories of technical criteria?

We agree with many parts of the assessment framework and the approach of grounding it in the identified list of criteria. We would underline that these criteria may compete with one another. For this reason, associating a weighting element could help to focus on those that are the most important for the context at hand. Against this background, we believe that performance, reliability and security are important categories which are a prerequisite for the CTP to serve market data users well. At the same time, we have certain objections regarding the details of the technical requirements.

- **Performance category:** As further developed in Q8, we believe that the start and end points for the measurement of latency are unclear and should be more clearly defined. We also recommend raising the time limits for pre-trade data to a minimum of 100ms, aligning with the transmission for post-trade data, as well as introducing the time requirements for both within confidence intervals (such as 95% or 98%). These confidence intervals are commonly used within the industry for KPIs / Service Level Agreements, therefore the KPIs, which are already available to trading venues, could be used for the CTP as well. Alternatively, instead of defining a static number today, such confidence intervals could be derived from the empirical distribution based on the data from the test runs with the CTP which would be the preferred option.
- **Reliability category:** We believe error detection at the CTP should be limited to a necessary technical minimum, i.e. format, fields, completeness, and timeliness, as the input data should be sent and verified already by data providers, i.e. APAs and Trading Venues. Technical checks should be implemented in the transport layer, where possible. No additional verification regarding the data content itself should be necessary anymore.
- **Security category:** We are convinced that, given the non-confidential nature of market data, encryption is not required and would mean a significant trade-off with other criteria such as additional latency. Physical security via dedicated leased lines can ensure the authenticity and integrity of the data without such trade-offs. Non-repudiation should not be required as a separate criterion either, as it is merely another aspect of authenticity, and is also ensured on a leased line.
- **Compatibility category:** We do not consider an open solution necessary for the input to the CTP, given the limited number of interfaces between the CTP and the data contributors, compared to the output side of the CTP (refer to Q7).

On a more general but important note, it should be clarified if the minimum requirements proposed by ESMA are targeted at a new common protocol, or as well at existing ones (see Art. 22a (5) of reviewed Regulation (EU) 2024/791). This article also states that the CTP may choose from existing feeds available in the market. However, most of the existing

feeds used in the industry are not based on open protocols, including the proposed ones by ESMA. Introducing new data feeds would take time, especially in case data providers would have to deliver data to multiple CTPs, such as the Bond CTP and the Equity CTP. In the interest of operational stability, the introduction of new technologies must not be rushed.

Finally, once a CTP is up and running, it would be sensible to avoid changing protocols and formats during the first tender phase, in order to avoid increasing costs or even disruptions.

Q2. Do you believe that additional categories of technical criteria should be considered for the definition of minimum requirements of the quality of transmission protocols?

No, we do not consider any other additional categories to be relevant.

Q3. Do you agree with the proposal of introducing a single set of requirements across the three asset classes (equity, bonds, derivatives), or do you believe that different requirements should be tailored for each asset class?

FESE sees value in having a single set of requirements as regards format and protocol across the three asset classes. Since many data contributors need to provide data for all asset classes to various CTPs, this approach would help streamline the process, contain the cost incurred by data providers and, in turn, significantly simplify the implementation complexity. Already today, trading venues use one and the same format and protocol for the data delivery of multiple asset classes. As regards the adherence to one single format across the three CTPs, see our response to Q12.

Q4. Do you consider that the proposed minimum requirements for the technical criteria related to performance are technically feasible, coherent with the objective of high quality data transmission to the CTP and in line with international standards? Please elaborate your response.

While the minimum requirements might seem achievable, **we do not believe that all the proposed minimum requirements would always be technically feasible for all participants. This is notably the case because many of them will depend on other variables that are not yet known at this stage** (e.g., protocol, location of CTP datacentres, etc.). Given that there may be exogenous factors which can impact performance, and which cannot be fully influenced by the data contributors, the threshold for the latency criterion could be ambitious at least for some data providers. Also, the KPIs for proprietary feeds often use much higher thresholds, albeit the approach to measure latency may be different.

In this context, and as a general remark, FESE members strongly recommend basing any threshold for performance (specifically for the criteria of latency, throughput, and connection setup time) on empirical values, e.g. by determination through test runs.

As further developed in Q8, some of our concrete proposals include:

- **Measuring latency from data contributor outbound (after conversion of fields to the appropriate format) to CTP inbound**, in order to obtain a common understanding of latency, since the start and end points for the measurement of latency are not entirely clear in the ESMA proposal.
- **Raising the time limit requirements for pre-trade to a minimum of 100ms, aligning with the post-trade data**, considering inter alia that: both sets of data are generally sent via the same feed and line; pre-trade data presents additional

latency challenges because it represents the largest proportion of the data feeds (often 95% pre-trade to 5% post-trade data); ESMA's proposals are well below what trading venues do "guarantee" to their commercial customers.

- **Expressing latency requirements through confidence intervals (such as 95% or 98%),** as these are commonly used in the industry for KPIs and Service Level Agreements. These could be determined, as mentioned above, from the empirical distributions obtained in the test runs.

Q5. Do you consider that the proposed minimum requirements for the technical criteria related to reliability are technically feasible, coherent with the objective of high-quality data transmission to the CTP and in line with international standards? Please elaborate your response.

For accuracy, latency and simplicity, we note that relying on detection and correction mechanisms already natively embedded in transport protocols (TCP/IP) is the best approach. These include mechanisms for valid error detection and recovery, amongst others. Furthermore, TCP/IP ensures that no data gets lost during transmission undetected. Therefore, to further simplify implementation while achieving the desired low latency, we recommend leveraging the technology that is already integrated into all network equipment rather than developing specific mechanisms, as long as the existing arrangements meet the same performance standards for reliability. Creating specific mechanisms when viable alternatives exist may not be efficient.

Q6. Do you consider that the proposed minimum requirements for the technical criteria related to security are technically feasible, coherent with the objective of high-quality data transmission to the CTP, and in line with international standards and other EU regulatory frameworks on information security (e.g. DORA)? Please elaborate your response.

FESE members wish to emphasise that encryption is not necessary given the non-confidential nature of market data. Encryption would significantly slow down the data feeds without any real advantages. Physical security in the form of leased lines rather than security on the protocol level can ensure authenticity, authorisation and integrity without causing the above latency issues.

Furthermore, we are convinced that non-repudiation is not required as a separate criterion, as it is merely another aspect of authenticity, thus it is also ensured on a leased line.

Q7. Do you consider that the proposed minimum requirements for the technical criteria related to compatibility are technically feasible, coherent with the objective of high quality data transmission to the CTP and in line with international standards? Please elaborate your response.

FESE members generally agree regarding promoting Open Solutions. However, we deem interoperability to be somewhat less important for the feed from the data provider to the CTP, as the number of parties involved is limited. We believe that this criterion is more important for the outbound feed towards end consumers. Furthermore, it is unclear to us if the minimum requirements would already apply to the existing data feeds the CTP would be able to choose according to Art 22a(5) of Regulation (EU) 2024/791, as in most cases FESE members use non-open standard protocols. If the minimum requirements were applicable to existing data feeds, the CTP would not be in the position to source data from multiple trading venues in the beginning.

Q8. Do you agree with the proposed definition of “transmission of data as close to real time as technically possible”? If not, please explain.

FESE members generally think that ESMA proposals might be achievable, **but we do not believe that all the proposed minimum requirements would always be technically feasible** for all participants and would caution on the strictness and the details as outlined below. We find the proposed definitions for pre- and post-trade data to be very ambitious and it is important to understand that no data provider can guarantee 100% the delivery of data for sufficiently low latency requirements all the time. Applied technology is complex, and during the distribution of data, unexpected behaviour may happen, such as network issues, which cannot be influenced by the data contributors and can cause further delays. This needs to be accounted for within regulatory requirements.

As acknowledged by ESMA, data latency may vary depending on the contributor’s processing at the data source (e.g., OTC data reported via an APA) plus its geographical distance from the CTP data centre. In this context, the varying technical capabilities of potential data contributors are an important factor to consider. **Ambitious minimum transmission requirements may deter smaller market operators from participating in the mechanism if enormous investments in IT infrastructure are required** to meet the respective 50 ms and 100 ms fix thresholds proposed by ESMA, which could be particularly challenging for smaller exchanges. Overall, an incomplete set of data providers would reduce the value that the CTP intends to provide to data users.

As pointed out in our answers to Q1 and Q4, FESE members find the proposed definitions for pre- and post-trade data to be very ambitious. In a context, where it is difficult to know their feasibility because they will also ultimately depend on other variables that are not yet known at this stage (e.g., protocol, location of CTP datacentres, etc.).

In this context, FESE suggests:

- The current start and end points of the latency measurement are unclear, and we believe they should be more clearly defined along these lines:
 - **The starting point for latency measurement should be defined as the outbound point of pre- and post-trade data messages at data providers.**
 - **The arrival point for latency measurement should be defined as the entry point of the message to the CTP consolidation network.**
- **Raising the transmission of pre-trade data to a minimum of 100ms for all data contributors, aligning it with the post-trade requirements.** Taking note that pre-trade data represents the largest proportion of the data feeds (often 95% pre-trade to 5% post-trade data) and therefore usually presents greater challenges in terms of latency for transmission, we find it questionable how trading venues should be able to send those data more swiftly than post-trade data. Usually, both sets of data are sent via the same feed and line, and hence with the same latency. In addition, the proposal by ESMA is well below what trading venues do “guarantee” to their commercial customers.
- **Not defining static time requirements only, but introducing time requirements within confidence intervals (such as 95% or 98%).** This would entail applying to both pre-trade and post-trade data time limits requirements similar to the KPIs applied today by data providers. This information may be obtained from the trading venues and APAs alike, who apply Service Levels to their commercial services, and could be used for the CTP as well. Alternatively, it could be sensible to determine the thresholds empirically before the start of the CTP through test runs and add a confidence level based on such an empirical distribution.

➤ CTP’s output dissemination

While we acknowledge that ESMA's mandate covers only the "real-time" transmission of data by data providers and not its dissemination by the CTP, **FESE would like to stress the importance of allowing sufficient time for the CTP to properly sequence incoming best bids and ask prices.** The CTP should wait for the slowest contributor before sequencing the data and deriving the EBBO. This would help avoid introducing systemic errors when aggregating caused by geographically induced latency lags and finally improve the overall data quality of the CTP. Not requiring the sequencing/sorting of messages according to the timestamp would convey a fallacious representation of the BBO reality across European markets since: (i) the quality of the data will be highly dependent on the latency variability introduced by the network and geographical distances; (ii) it will provide a view of the EBBO as perceived from the location of the CTP data centres; and (iii) it will create an unfair competitive advantage for data contributors located closer to the CTP data centres, as their BBO will reach the CTP first, with a greater chance of setting the EBBO. This is because, in contrast to the US, where trading venues are located within a 65 km triangle, European data contributors are very geographically dispersed, with the average and median distances between the five main trading data centres being 1300 km.

Furthermore, we fully concur with ESMA that the publication delay of the EBBO makes the CTP unsuitable for trading (par. 44). We would appreciate it if this could be explicitly stated in the RTS and measures were set to ensure that the prohibition on using the EBBO directly for reference prices waiver is not circumvented.

➤ Conditions for APAs

We also wish to note the lack of distinction between large OTC contributors/APAs and smaller entities. Smaller APAs often use Web-GUIs for investment firms to enter their OTC trades, and thus do not use an automated interface. This data, mainly post-trade information, can never meet the specified latency requirements. Therefore, we suggest establishing a distinction similar to current RTS 13 (25), allowing smaller investment firms/APAs to still operate within the new regulatory standards. ESMA should set threshold values to define a small investment firm dealing OTC using threshold values, e.g., number of trades per day (e.g., 100). These small investment firms could use less precise timestamps than other (bigger) investment firms.

- **Proposed wording:** APAs should publish information on transactions, including the relevant time stamps, such as the time when transactions were executed and the time transactions were reported. Furthermore, the granularity of the timestamps should reflect the nature of the trading system on which the transaction was executed. A greater granularity should be provided when publishing information on transactions executed in electronic systems than on transactions executed in non-electronic systems.

Q9. Should ESMA consider specific rules for real-time transmission of transactions subject to deferred publication?

The transmission in real-time should be the same as for the publication of deferred transactions: i.e., the trading venue, or the APA, should transmit the transactions to the CTP after the application of the relevant deferrals, if applied. In case the trading venue would abstain from deferring data for additional transparency, this should be possible as well. Deferrals should be considered as maximum deferrals.

Q10. Do you agree with the baseline proposal of adopting JSON as standards and format of data to be transmitted to the CTPs, or do you prefer alternative proposals? Please justify

your answer and, if needed, provide additional advantages and disadvantages related to each proposal.

We would like to comment on two of the criteria considered for the selection of the format which we do not deem as critical:

- **Human-readability:** This is not essential for submitting data to the CTP. Both data contributors and the CTP have competent IT staff capable of handling any protocol and format once agreed. The real-time data feed is expected to transmit compressed, voluminous data sets in low latency mode. Human readability is only required at the end of the chain when humans consume the data on a display service.
- **ISO 20022 compliance:** ISO 20022 is a verbose XML-based data format, which may not be suitable for high volume/low latency data transmission. It is not widely accepted in the trading and market data space, being primarily used for securities post-trade (C&S) and payment services.

These aspects contributed to JSON scoring higher, but they are not necessarily the most important factors. JSON is not yet widely accepted for market data dissemination by the industry. **We therefore discourage the use of JSON. In any case, FESE would suggest leveraging existing formats and protocols.** Additionally, we encourage using a binary data format to reduce latency issues. Should a specific data format be prescribed for data contribution, data providers would require sufficient time for the development of a new data feed. Usually, this may take up to 12-18 months, depending on the complexity and the time needed to test with the recipient.

Importantly, we would underline that more attention should be allocated to the grammar (i.e. how the information is described) and structure (i.e. how information is expected to be sequenced and/or split within subsequent related messages) of the protocol than to the language itself, including defining whether standards in this respect should be the same or distinct depending on asset classes. In short, regardless of the protocol used, it is key for the data providers that there is a stable and well-defined grammar and structure of the protocol. For example, the message could have a binary key-value structure, where an integer field ID is followed by the binary representation of the corresponding value. In this case, new fields can be introduced by adding a key-value pair. This would also allow for the omission of empty values, thus reducing the overall data volume.

As a final comment, although not directly related to the question of this consultation, FESE Members note that ESMA is considering the use of JSON format for reporting in a number of areas (i.e. RTS3, RTS21, RTS23). It is critical that any approach ESMA decides to take in relation to reporting formats must be holistic and seek to progressively extend to all areas and reporting layers; otherwise, it will not produce benefits and instead will lead to additional complexity and unnecessary costs. Fundamentally, any evolution towards the JSON format must, as a prerequisite, receive full endorsement from all NCAs and a commitment that they will also adjust their practices and requirements in favour of this new unique format.

Q11. Do you believe that the proposed standards and formats (baseline and any alternatives) are coherent with other CTP requirements (transmission protocols, real time transmission and presentation of output data)? Please justify your answer.

Please refer to question 10.

Q12. Do you find more suitable to prescribe one single format across the 3 CTPs (equity, derivatives, bonds) or to prescribe distinct formats according for different asset classes?

FESE agrees with ESMA's proposal to require a single data format across all asset classes. This approach is the most consistent and cost-efficient, considering that many data contributors need to provide data for all asset classes. It would also facilitate operational readiness for both data providers and CTPs, reducing potential uncertainty. The same data format must be maintained for at least the entire duration of the tender.

However, we note that given the tight schedule for data contributors to be ready to provide their data to the various CTPs, adapting to a new protocol in time will present challenges, which may be more or less significant depending on the format chosen. The adaptation would, in any case, imply substantial costs for data contributors, which may also differ depending on the final format selected. This could also delay the availability of the full EU market's scope in the CTP outbound data.

In this context, **considering the tight schedule for the CTP to start operations, the currently applied formats and protocols of data providers today may need to be considered for the submission of data to the CTP in the first place.** Article 22a(5) of Regulation (EU) 2024/791 refers to such a scenario. While we acknowledge that a review of RTS 1 and 2 is ongoing, these regulations were revised relatively recently, and ESMA and the industry devoted significant efforts to adapt to them. For instance, given RTS 1 and 2 already prescribe a very detailed data standard (without prescribing a specific format), the industry has adopted the standardised trade flag model MMT widely and as there are feed handlers in place at many market participants (e.g. market data vendors, trading or market data access facilitators). Therefore, we feel current standards are sufficient to reduce the costs of delivering data to any CTP on the contributors' side while still enabling CTPs to connect to each data contributor in a reasonable time frame.

Q13. Do you support the proposals on core and regulatory data? In particular, are there other relevant fields to be added to the regulatory data? Furthermore, would you propose the inclusion of supplementary fields for input core market data beyond those intended for dissemination by the CTP?

FESE is concerned about the proposals regarding core market data. We believe it is crucial for the bond CTP to receive the data required to operate effectively. However, **requesting the full set of market data, including all post-trade transparency requirements under RTS 2, would exceed the data necessary for the CTP to be operational.** This would unnecessarily increase costs across the value chain. Delivery costs for contributing trading venues and the CTP itself will increase, especially due to the mandatory data delivery to the CTP. Furthermore, as well the bond CTP's production costs will be inflated, and all these extra costs will ultimately be passed on to the data users.

The same logic applies to the equity CTP (and RTS 1) if all pre-trade and post-trade transparency requirements were mandated. Noting paragraph 285 in ESMA's CP on RTS 1, however, we explicitly appreciate the clarification that for shares and ETFs only the first bid and offer are being requested as outlined in L1. It is vital to ensure that the data requested from providers for the consolidated tape aligns with the agreed perimeter on pre-trade data (anonymized real-time pre-trade EBBO). Data providers should not be requested to provide more data than what is needed. In particular, the depth of book should correspond to the level of depth that the CTP needs to provide to the end customer.

However, **FESE members see merit in adding selected further data fields for APA data to the input data:** alert flags, in case of unclear data quality of a transaction, cancel, amend, confirm on a similar note. As regards CTP output data, we consider the additional input data by APAs to be relevant, as well as the timestamps for data reception and data dissemination by the CTP should be added compared to what has been defined on L1. This is important to inform the market about unclear data quality of OTC data while not holding back any information. As trading venues apply market surveillance and provide market

data based on hard-coded systems and strict rules, there are no similar data fields in the case of exchange data to be expected.

On a related note, FESE Members are concerned about the risk of potential frequent requests for adaptations initiated by the Expert Stakeholder Group for changes to RTS 2 (and RTS 1) data. Such changes are costly for the entire industry, impacting not only exchanges' data feeds but also their internal systems as well as external stakeholders, including direct customers and market data vendors. Therefore, **we propose that any changes to the input/output data content for the CTP be incorporated into the actual CTP RTS.** FESE members do not support an automatic link to RTS 1 and 2, as separate, clear, and targeted regulatory requirements within one and the same document will make it easier for industry participants to apply new regulations and will reduce unnecessary burdens on the industry. Furthermore, any requirements to change exchanges' data feeds should also be planned well in advance, e.g., with a minimum lead time of one year, since budgeting, design, implementation and testing are of essence.

Regarding regulatory data, **we urge that requests for the exchanges' internal operating data be kept as limited as possible**, as indeed, these data are internal data of trading venues usually not shared with the public, and we do lack the relevant evidence of its necessity to be included in the CT.

In addition, we would like to make some remarks regarding some specific items listed in the consultation paper:

- We believe that the concept of “system trading status” is overly precise and does not cover all cases. We suggest maintaining some degree of flexibility to ensure that the approach taken is appropriate considering the specific market organisation of certain data providers.
- Similarly, the same instrument can be traded in several currencies within the same system/MIC, yet it may have different statuses, meaning that one currency could be halted while trading continues in another.
- Defining the “type of trading system” flag (paragraph 78) would mean redefining an existing and widely used flag in the industry. It should be in accordance with FIX MMT (Level 1 Market Mechanism). We would see value in maintaining the existing standards widely applied in the industry, rather than implementing a new standard at the site. MMT is protocol agnostic and hence suitable for any protocol finally chosen for the CTP. We stand ready in case further information is required in this respect.

Q14. Do you support the proposal of machine-readable and human-readable formats outlined in this section?

We wonder whether requiring the CTP to disseminate the data in (i) the same format prescribed for input data, (ii) in CSV and (iii) in a GUI, would be an unnecessary overhead of interfaces and protocols for the CT. We believe it would suffice to have one machine-readable format and a GUI to meet the objectives outlined in the L1 text. Furthermore, point (i) would not be suitable in case the initial data contribution would be based on the existing data feeds as referred to in Art 22a(5) of MiFIR, as there would be no single format.

Q15. Do you agree with the proposal of data quality measures and enforcement standards for input data?

FESE does not fully agree with the proposal of data quality and enforcement standards for input data. **FESE members would not see a need for the CTP to identify potentially**

erroneous trades, as the data quality in this regard should already be insured by the data provider, i.e., trading venues, who apply trading surveillance and produce data in a highly standardised way, resulting in correct and trustworthy data already, or APA's who indeed are requested to ensure identification of erroneous trades in the first place and take care of it.

For the avoidance of doubt, the definition of data quality measures and enforcement standards should further exclude cases resulting from market abuse, focusing exclusively on issues related to the performance of the data contributor.

It will also be important to categorise the requirements based on whether they can be fully automated to achieve optimal latency, or whether they will require manual processing with different latency constraints. From the perspective of data providers, all quality issues arising from technical interactions between systems can and should be addressed within the transport protocol. For instance, features such as "confirmation of receipt" and potential "re-sending" in case of lost connections can be ensured through embedded TCP layer functionalities. This approach guarantees minimal latency for issue resolution.

However, "error flaggings", as defined in paragraph 96 of the consultation paper, cannot be embedded in TCP layer functionalities. These types of "functional" data quality issues, such as bad message format or invalid fields, inherently require further analysis. Potential software correction will take time to be analysed and processed (likely involving manual assessment). Checks for completeness, message format adherence and timeliness can also not be performed within the transport layer. However, it should be acknowledged that the CTP has to perform these (minimal) checks in order to fulfil its duties.

Additionally, if ESMA is trying to emulate the mechanisms used by APAs, we wish to note that while error detection by APAs is automatic, correction is not. An adjusted definition of the rejection message and a well-calibrated "re-submission" mechanism must be defined and implemented across asset classes. We anticipate that the primary cause of rejection will stem from potential inconsistencies between data providers and CTP referential data. Hence, the alignment of referential elements should be embedded in the systems to prevent such inconsistencies at the source.

➤ Identification of erroneous trades

However, we wish to underline that **the CTP cannot be expected to enhance the quality of data provided in terms of specific content**. In this context, we would like to draw ESMA's attention to the provisions regarding the 'identification of erroneous trade' and associated methods and arrangements. Identification of erroneous trades is already performed at the execution venue/matching engine and is one of its many core functions. As already mentioned, exchanges apply trading surveillance and produce data in a highly standardised way, and APAs are already requested to ensure the identification of erroneous trades in the first place. In other words, data contributors, such as exchanges and APAs, already have systems and controls in place to ensure high-quality data resulting in correct and trustworthy data.

Taking into consideration the very high data volume involved in the transmission of market data, implementing an advanced correction mechanism that requires an additional line capable of transmitting information on errors would be disproportionate. It would place a burden both on the CTP and data contributors, as substantial resources would have to be allocated to supervise the error correction, whereas the impact of these efforts would most likely be minimal. Since the publication of market data is generally separated from the trading system, the correction process would take time and involve different units.

The foreseen cooperation arrangements between the CTP and the data contributors, along with the effective enforcement standards, should hence be focused solely on technical issues in the context of data delivery and quality.

Q16. Do you agree with the proposal of data quality measures for output data?

FESE supports ESMA's proposal as outlined in Art. 10(1), (2), (3), (7), and (10) of the draft RTS on input and output data of CTPs.

As regards Art. 10(5)(a)-(d), we would like to reject this proposal, as trading venues and APAs are already ensuring - as far as possible - that data is correct, both as regards price and volume. While data from exchanges is fully correct and trustworthy when disseminated, APAs already flag suspicious data accordingly, which could be passed on by the CTP.

As regards Art. 10(6), we recommend, in line with industry practices, that in case of perceived erroneous data, the CTP still publishes the data but with an alert flag. This would allow data users to know that they have to treat that data with caution, while not delaying information, which may be perceived as erroneous when it is not. This is common practice in the industry, especially by APAs under MiFIR/MiFID II.

As regards Art 10(8), we would like to point out, in line with our earlier comments, that checking for timeliness should not be too strict. It should be taken into account that data providers have no full control once the data leaves its premises.

As regards Art 10(9), we would consider this task to be covered by the APA when and if necessary. We do not consider this a necessity for exchanges' data.

A prerequisite for a truly valuable CT is the delivery of a high-quality and reliable consolidated view of the market. To achieve this, it is crucial that the CTPs have sound and thorough procedures to prevent erroneous interferences with data quality and can operate with the utmost levels of robustness and continuity. The CTP should have solid mechanisms in place to ensure it does not introduce its own mistakes and errors in the output data.

2. RTS on the revenue distribution scheme of CTPs

Q17. On the basis of the issue presented in the above paragraph, what do you think is the right approach to identify a trading venue and group? How could a trading venue and a group be identified? How should the links with investment firms be determined?

We believe that the criteria should be computed using the segment MIC, as many SME markets are operated under a segment MIC. If a segment MIC is not available on the contributing side, an operating MIC should be used. The CT could store a mapping table which contains the list of MICs and the respective type of MIC (segment or operating MIC).

Q18. Do you agree with the above assessment? If not, please explain.

FESE believes it is crucial to properly define what operations are eligible under the concept of 'initial admission to trading' to duly recognise the valuable operations that primary markets undertake to finance the EU economy, aligning with the objectives of the Level 1 text. **We would suggest ESMA includes a new Article under the RTS on the revenue distribution scheme specifying the elements described below.**

FESE strongly recommends that the following operations be considered as eligible:

- **IPOs, private placements and direct listings:** These should all be initiated by an issuer request and have a new ISIN available as criteria.
- **M&A (including mergers, reverse mergers), spin-offs, and business combinations (de-spacing):** These should have a new ISIN available, as no issuer request is available for such corporate actions in RTS 23.
- **Cross-listings and dual listings:** These should all be initiated by an issuer request and have a new ISIN available. We wish to note that the new ‘venue of first admission to trading’ field in RTS 23 should not exclude these operations. Cross-listings and dual-listings constitute valuable operations of primary markets for capital-raising and increased liquidity and transparency in EU markets.
- **Capital increases:** An issuer’s request would be necessary as a criterion, which would require an additional field in ESMA RTS 23 for identification; there is no new ISIN. The subsequent capital increases following the listing play a central role in financing the real economy, with raised capital volumes often surpassing those from the initial listing, these operations are therefore fully aligned with the objectives of the Level 1 text.

Two additional overarching conditions shall also apply to all of the above:

- The sole ‘admission to trading’ operations undertaken by secondary trading venues should be excluded. These operations solely entail importing companies previously admitted to other markets onto their trading systems. Consequently, these operations are purely technical and do not contribute to the financing of these corporations.
- Only volumes traded/reported in the EU should qualify for revenue share (i.e. no UK/US trading to be included).

Lastly, it would be important for the RTS to foresee ESMA and the CTP’s ability to practically identify the eligible operations (i.e. type of operation and compliance with the conditions), and their corresponding trading volume. To that end, **we propose to add the relevant flags to allow this possibility in the data referential reports made to ESMA under RTS 23, where not yet available.** Subsequently, these flags should be incorporated into the FIRDS for the CTP to effectively identify them. Our response to Q66 and Q68 of the parallel ESMA consultation paper on the amendments to RTS 23 also elaborates on these aspects.

Q19. For the identification of the venue of first admission to trading, do you prefer option (A) use of FIRDS, option (B) the CTP collects the relevant information itself? Please explain and provide any alternative option you consider more appropriate.

FESE prefers option (A) use of FIRDS for the identification of the venue of first admission to trading. FESE recommends that the relevant flags/fields to identify the venue of first admission to trading and the eligible operations are included in the data referential reports made to ESMA under RTS 23, where not yet available. Subsequently, these flags should be incorporated into the FIRDS for the CTP to effectively identify them. This would streamline the process, leveraging an existing procedure like the FIRDS rather than implementing a new one from scratch.

Please read our response to Q18 above, as well as to Q66 and Q68 of the parallel ESMA consultation paper on the amendments to RTS 23, for further details.

Regarding the identification of the venue of first admission to trading, we wish to reiterate the importance of clarifying in the RTS that the new field proposed in RTS 23 does not exclude cross-listings and dual-listings from qualifying for this criterion, as long as they are requested by the issuer and have a new ISIN. Cross-listings and dual-listings constitute

valuable operations of primary markets for capital-raising and increased liquidity and transparency in EU markets, aligning with Level 1 objectives.

Q20. Do you agree that a flag indicating that the transaction was subject to an LIS waiver should be information to be sent to (but not published by) the CTP? If not, please explain.

Yes, the information should be transmitted or retrieved by the CTP via adequate flagging in post-trade transaction reports.

In addition, we believe it is critical to display this information in the CTP's post-trade data feeds, in order to provide sufficient granularity on liquidity across European markets.

Q21. Could the determination of the pre-trade volume be done differently by the CTP (e.g. proxy this volume with the pre-trade data received) but at the same time sufficiently accurately? If yes, please explain.

Yes, we propose that the flag under RTS 1 should be further detailed and include a dedicated flag for transactions that have been subject to the LIS waiver. There is no reason not to inform market participants about such a flag: the existence of the exemption from pre-trade transparency requirements under the LIS waiver already protects the corresponding orders from having a market impact, and transactions executed under this waiver can also benefit from deferred publication. In parallel, market participants should have the means to monitor the type of trading activity occurring on EU markets, including via the accurate identification of pre-trade transparency waivers used.

Q22. Do you agree that the methodology to distribute the revenues should require the conversion of the values into percentages? If not, please explain.

Yes.

Q23. Do you agree with the transactions to include and exclude for the determination of the volume for criteria #1 and #2? If not, please explain.

No, FESE does not fully agree with the transactions to include and exclude for determining the volumes in criteria #1 and #2, and we suggest changes in this respect.

Please read our response to Q18: In addition to clarifying which transactions should be included or excluded from the criteria, FESE also recommends specifying the operations eligible for the initial admission to trading criterion, adding the relevant flags/fields under RTS 23, where not yet available. These operations would encompass IPOs, private placements, direct listings, cross/dual-listings, capital increases, and M&A/spin-offs/business combinations.

FESE wishes to express its agreement with Art. 4(b) of the RTS regarding the criteria to exclude from the pre-trade transparent trading volume, i.e. transactions flagged as PRIC, RFPT, NLIQ, OILQ and NTLIS (in addition to NPFT and CONT). **Only transactions that "have been included on a trading system that provides pre-trade transparency" should be counted, with exclusions also covering all transactions executed under RP, NT, and LIS waivers.** This distinction is essential to appropriately recognise and reward those venues that contribute to price formation through pre-trade transparency.

In addition, we consider that the below should also be excluded from criterion 3 computation, in contrast to ESMA's proposal:

- BENC and PORT transactions, as these are not pre-trade transparent.

- SIZE and ILQD transactions, as these are not executed on a trading venue.
- TNCP & RPRI transactions (not mentioned in the CP), as these are not executed on a venue.

Q24. What would be your view on the frequency of redistribution? Which issues do you foresee in the redistribution process? How could those issues be solved? Please explain.

Even with a moderate frequency (for instance annually), the CTP would, in theory, be able to suspend remuneration for venues in breach of requirements by subtracting their no longer eligible volumes from the calculation of their share of redistributable volumes.

As a general rule, we would underline that the frequency and manner of redistribution should adequately account for the need for data providers to have sufficient visibility of incoming revenues, or lack thereof, for general budgeting needs. In this sense, it would be a good practice for the CTP to publish its quarterly financial statements at the end of each quarter, detailing the revenue pool available for distribution generated during that quarter. There could even be merit in considering quarterly partial payments by the CTP, with a final payment annually, as it is currently the standard in the industry, albeit on a monthly basis. We would consider this as a possible endeavour in the second year of operations.

Q25. Do you agree with the proposed timeline for the update of the list of data contributors and the identified issues? How could the issues be solved? Please explain.

Given the dynamism and the rapidly evolving nature of European capital markets, we feel that the proposed timeline of 5 years for updating the list of data contributors is too long. We would advise a yearly update.

Q26. What would be your view on the issues for the first year of operations of the CTP? How could those issues be solved? Please explain.

We believe that the main critical point to reduce issues for the first year of operations of the CTP (as well as for data providers) is to make sure the various parameters of the contributions are sufficiently clear well ahead of the launch of operations.

We believe it would be extremely challenging for both the CTP and the data contributors to (i) develop and test the data feeds in the protocol chosen by ESMA for the reception of data by the CTP if this were to be changed; (ii) establish and test the connections; (iii) implement and test the methods foreseen for error corrections; and (iv) for the CTP to process the data from 100% of the data sources in the first year of CT operation. Therefore, we would advise allowing sufficient time during the first year to carry out all these technical tasks. This will enable both the industry and the CTP to ensure connectivity and data testing with the numerous data contributors work smoothly and effectively, in order to avoid connectivity problems, errors and bad data that could ultimately undermine the CT's reputation in this first year of operation. We would be very surprised to see any large market data vendor trying to connect to so many data sources all at once within such a tight timeline.

Q27. Do you agree with ESMA preferred proposal to set the weights of the revenue redistribution scheme to 4.5, 4.0 and 1.5 for the small trading venue criterion, the young instruments criterion and the transparent instruments criterion, respectively? If not, please explain.

As a general remark, FESE wishes to highlight the importance of criteria #1 and #2 relative to criterion #3, on the basis of the MIFIR Level 1 text. It will be important that the revenue-distribution scheme encourages small trading venues to opt-in, while rewarding trading venues for their initial admissions to trading in their primary markets, which require substantial investments, as ESMA correctly pointed out in the consultation. In case smaller venues would not decide to join the CTP, the revenue should be shared amongst the remaining venues. In case additional trading venues would opt-in over time, there should be room for the CTP to adapt their pricing, if necessary.

Furthermore, FESE would like to suggest, that ESMA conducts a review of the weights after an initial period of 12 or 18 months, following the receipt of data from the CTP, the idea being to assess whether adverse consequences have materialised. The calibration can be done using a model that considers the sensitivities of the different stakeholders to changes in the weights. After the initial period of 12 or 18 months, there should be enough data to build such a model.

On a related note, we wish to underline that **for the whole economic model to function effectively, a dedicated RCB framework for the CT should be further defined.** Please refer to the dedicated subsection in our response to Q30 for an overview of our concerns and specific proposals in this area.

Q28. Would you consider appropriate that the weight (percentages) sum to 10 (100%)? If not, please explain and provide your alternative proposal for the weights (percentages).

Yes. However, we would like to suggest a review of such weights after the initial period of 12 or 18 months.

Q29. Do you agree with the proposed (i) frequency of the determination of the weights (ii) timing of determination of the weights (iii) timing of application of the weights? If not, please explain.

Yes, we generally agree. However, there may be merit in considering if this frequency could be reduced in the second or third year of operations, with part of the revenues being shared on a quarterly basis, and a final accounting taking place annually. This would acknowledge the need to fund operations of smaller trading venues, where costs are incurred during the year too.

Q30. Do you agree with the proposed text? Have you identified any missing points or issues?

➤ CTP value-added services

FESE is concerned that the draft RTS does not explicitly restrict the provision of value-added services by the CTP. Please refer to the note attached to our response for a more extensive overview of FESE's concerns and proposed solutions in this regard.

We believe that the primary objective of the CTP should remain the provision of a pan-EU consolidated view of market data. This informational purpose is the sole reason data contributors are requested by regulation to provide their data to the CTP. **From a competition standpoint, both the CTP and its customers should refrain from offering value-added services in order to not interfere in downstream markets.**

However, the draft RTS has not clarified the permissible use cases for the CTP and appears to leave open the possibility of providing value-added services. If this were to be the case, appropriate measures must be taken to address issues that would disadvantage market

data vendors and data providers alike. While we elaborate on these measures further in the attached note, they broadly include:

1. **The CTP must establish a separate legal entity operating on an arms-length basis** for providing such value-added services to prevent further distortion with market data vendors. Strict supervisory measures must be enforced to ensure the new entity does not benefit from its association with the CTP (e.g., robust conflict of interest provisions). This is a model supported in the UK by the FCA as well.
2. **The CTP (or its separate legal entity) and other data vendors providing value-added services should be subject to additional licensing agreements with each data contributor.** This would help mitigate (though not eliminate) the unfair impact on the industry, prompted by the pan-European CTP's lower fees due to its privileged, subsidised access to data from data providers.
3. **At a minimum, the CTP must redistribute to data providers a fair share of the revenues generated from licensing data to data vendors** and any other data users, including the CTPs own separate legal entity, when using CTP data for offering any other services and including value-added services. In case of no separation of such legal entities, data providers should be eligible for a fair revenue share from the CTP's value-added services.

In any case, **we urge a thorough assessment of market impacts before permitting the offering of value-added services.** If these are ultimately not restricted in Level 2, any intention by the CTP to offer value-added services should be clearly stated upfront in the application without a possibility to change this during the term. This should include details on how the applicants plan to address the derived competition issues (e.g., specifying governance policies and controls, licensing structure, and compensation for data providers). The provision of value-added services should not be viewed positively in the selection process. Conversely, **the absence of clear and meaningful measures for conflict of interest avoidance from an applicant intending to provide such value-added services should be viewed negatively** due to the risk of distorting competition forces and affecting the overall market.

➤ Additional competition issues in already authorised applicants

The same should apply to existing companies intending to add the CTP status to their authorisation, as originally foreseen under the DRSP regime. However, while under the DRSP regime the CTP status to be obtained was regulated differently (i.e. no special treatment of the CTP through mandatory data contribution), this is no longer the case, resulting in a completely different situation under competition issues.

The competition issues and conflicts of interest arising from an existing authorised business adding CTP status would be more prominent compared to other types of applicants. We doubt that any conflicts of interest policy would be sufficient to address the potential issues. A separate legal entity operating on a strict arm's-length basis will certainly be required, but any loopholes in governance could place such an authorised participant in a significantly advantageous position with subsidised access to data from data providers. This is even more pronounced in the area of value-added services, especially if the applicant already provides them.

➤ The need for a dedicated RCB framework for a CTP

A dedicated RCB framework should be defined for the CTP. The CTP will receive underlying core market data and regulatory data for free from data contributors while substantial costs are being incurred by those data providers for the production and delivery of such data. Hence, applying the same RCB framework to the CTP as the one applicable to other

data providers would create a situation in which the CTP could price its products based on incomplete costs, disregarding the production and dissemination costs incurred by data providers/contributors. This would lead to a distortive situation between the CTP and other data distributors and to a disproportionately low pool of revenues to be shared back from the CTP to data contributors. Even the most elaborate and detailed revenue share scheme will not be able to correct this conceptual flaw of the economic model, meaning no meaningful revenue will be redistributed to European local primary and SME Growth markets.

We are therefore calling on ESMA and NCAs to reflect on a construct whereby underlying costs incurred by data providers for the production and transmission of data are taken into account when applying RCB to the CTP.

Concretely, one approach could be to clarify that the costs to be taken into consideration by the CTP in the RCB will include a portion of the underlying costs incurred by data providers for the production and transmission of core market data and regulatory data. Allocating a defined proportion of the data contributors' costs would allow for a more subtle consideration of the landscape and the CT's lifecycle, bearing in mind that the CT is unlikely to capture all potential client demand from day one and that the shift from feeds to CT usage is likely to be progressive. Thus, it would make sense to define various progressive ratios of data providers' costs starting at a relatively low percentage for year 1, which would be gradually increased in year 2 and again in year 3. This method could provide a more balanced approach overall that will also enable a successful launch and uptake of the CT.

Such an approach would, in our view, constitute a balanced framework, unless the perimeter of the CT scope evolves in the future; in that case, the percentage of data providers' costs to be taken into account by the CT should be reviewed.

➤ Long-term perspective on the CT

The CT aims to provide an easy-to-access set of data to enhance the attractiveness of EU markets. However, in the medium to longer run, without a fair economic model, the CT risks actually eroding the abilities of the most important data contributors, i.e., the operators of trading venues who are supporting EU firms in raising capital, supporting equal access to all investors via multilateral trading facilities, and comprehensive and timely information via pre-trade and post-trade transparency.

From the outset, the CT will offer a price that will not even reflect the actual costs incurred by data providers for the production and transmission of data if there is no change to the RCB framework for the CTP. The CT also risks accelerating the attrition of trading volumes executed on pre-trade transparent markets, as it will provide a benchmark price against which less sophisticated investors will execute their trades, either in dark pools or through systematic internalisers. This situation is also illustrated by the precedent in the US where there is no longer retail flow on lit and multilateral venues, and where there is a shift towards an fx-isation of the equity market structure (i.e. turning increasingly to dark bilateral trading).

Q31. Do you agree with ESMA's proposal on the criteria for a potential suspension of redistribution in case of serious and repeated breach by the CTP? If not, which alternative or/and additional criteria would you consider relevant?

No, FESE does not agree with ESMA's proposal regarding the criteria for potential suspension of redistribution in cases of serious and repeated breaches by the CTP.

➤ Concerns about the definition of breach

FESE is concerned about the overly strict definition of a breach by ESMA.

We believe that especially **the timeliness criterion #1, which applies if more than 3 transactions are affected, is much too strict** and the definition of “as close to real time as possible” is also too narrow, as stated before in our answers to Q1, Q4 and Q8. Firstly, the criterion of only 3 messages is much too narrow, considering the billions of messages the CTP will receive. Secondly, there may be reasons why the data contributor is not the primary cause of a delay or loss of connection to the CTP. Finally, the industry usually works with confidence intervals when disseminating data, which should be considered here as well.

In our view, the best approach to overcome these challenges would be to adapt the definition of “as close to real-time as possible” to existing KPIs of proprietary commercial data feeds of data providers (available on request by ESMA) or alternatively, empirical values that reflect the different factors resulting in latency. **A test run could be set up with the CTP to determine realistic thresholds**, which still would require adequate intervals to be applied.

In addition, it is important to bear in mind that suspension should only be effective when considering “actual” erroneous data, hence the references in Art. 7(2)(b) to transactions containing “potentially” erroneous data is not appropriate.

➤ New definition of breach

In conclusion, we regard the criteria for a breach as proposed in Article 7(2) of the RTS as very strict. The proposed definition could lead to a very large number of “assumed breaches”, also placing an unnecessary burden on the CTP. Hence, we would appreciate a **clarification in the draft RTS** as follows:

- Significant breach by the data provider must be:
 - Clearly evidenced by the CTP to the data provider to enable the data provider to conduct a targeted and effective analysis of the potential issue at hand. Efforts need to be taken on both sides.
 - Clearly under the data provider’s control and responsibility and not under the control of a third party, such as the network provider or the CTP itself.
- Potential technical outages at the data provider that affect the data provider’s proprietary systems and/or data feeds should not be considered as breaches. If data would be available after such a technical outage, that data could be re-delivered to the CTP once the systems are operationally again in a position to do so.
- A significant breach may occur in case the data delivery by data providers corresponds to:
 - Late data submissions for **more than 6 consecutive working days**;
 - Incomplete data submissions for **more than 6 consecutive working days**; or
 - Incorrect format of the data submissions compared to the feed specifications originally agreed upon by the parties.
- The end of the breach should be reassessed on a weekly basis to avoid excessively penalising data contributors for a short-term breach in the requirements.

➤ Concerns and suggestions regarding the process

However, we also have concerns about the broader approach foreseen by ESMA. We believe it is possible to draw a parallel with the gradual approaches currently in place when issues related to reporting or data transmission arise: if an issue is observed, the immediate first step is notification, followed by communication regarding the elements that need improvement, which then leads to the implementation of corrections. It is important to have a realistic understanding that one isolated issue or a series of technical issues does not constitute a breach, let alone lead to the actual suspension of remuneration. Instead, dialogue should be prioritized to alert and agree on how the necessary corrections can be made, and within an agreed time frame. This dialogue and pragmatic approach will be essential, especially in the early stages of creating the CTP to achieve the desired goals, to adequately account for the initial difficulties that may arise and to recognise that the focus should be instead on how these issues can be effectively corrected. FESE also believes that ESMA should be involved in the procedure of suspension to validate the decision by the CTP (explained in Q35).

As a result, FESE suggests that the following process be integrated into Articles 7 and 8 of the draft RTS:

- **Review Committee Formation:** It is essential to constitute a Review Committee to review quality issues when they arise so that it is possible to have a practical discussion on how to resolve them. For the CTP, the Review Committee should consist of representatives from the CTP and ESMA, as well as from the data contributor with whom an issue has been detected. Its role should consist of thoroughly assessing and discussing the issue, exploring relevant mitigations and solutions, and providing a minimum three-week timeframe for the data contributor to demonstrate non-breach. If required, the Committee should also define an appropriate timeframe for resolution, with a minimum of three weeks. Any penalties or suspension of remuneration should only be determined by ESMA after the data contributor has failed to correct the issue within the specified timeframe. To this end, the wording of Article 7.2 of the draft RTS should be amended to remove the phrase “in particular.”
- **Penalties and Suspension Calculation:** FESE suggests that penalties or suspension calculations should be based on the below:
 - The CTP would maintain records of erroneous feeds (assessed against timeliness, quality, format, and substance of data standards) transmitted by data providers.
 - The volumes corresponding to the erroneous feeds from Provider A (Volumes A) should be covered by an extra weight according to the scale of the breach:
 - A weight of 1 if Provider A transmitted 20 to 50 erroneous feeds during a calendar year.
 - A weight of 1.1 for 51 to 150 breaches.
 - A weight of 1.5 for 151 to 500 breaches.
 - Etc.
 - The yearly volumes from Contributor A, computed for the purpose of the revenue distribution under each of the three distribution criteria, should subtract the weighted erroneous volumes (Volumes A).
- **Recourse to ESMA:** In addition, FESE believes that draft Article 8 should include a provision allowing the data contributor subject to the above penalties and suspension to seek recourse from ESMA.

➤ Measures for the rest of data contributors

Even if the Level 1 text does not provide specific provisions in this regard, FESE Members believe that, in addition to the direct incentives offered to data contributors eligible for the revenue distribution scheme to contribute to the CTP with the required data quality, the rest of data contributors should also be incentivised to do so. This can be achieved through (i) leveraging the same data quality verification mechanism that the CTP will use for data provided by contributors eligible for the revenue distribution scheme, and (ii) implementing an ad hoc sanctions regime for cases of repeated breaches. This approach is critical to ensuring the accuracy of the CTP data, including that transmitted by contributors outside the distribution scheme.

Q32. Do you agree with ESMA's proposal on the procedure for the suspension and the resumption of redistribution? If not, which alternative approach would you consider suitable?

FESE members regard the criteria for a breach as proposed in Article 7(2) of the RTS as too strict. It would also place a burden on the CTP, as the proposed definition of a breach could lead to a very large number of "assumed breaches". A breach should be presumed in the event the data contributor does not comply with data quality for more than 6 consecutive days. The end of the breach should be reassessed on a weekly basis to avoid excessively penalising data contributors for a short-term breach in the requirements.

Please refer to Q31 for an extended description of our concerns regarding the proposed definition of breach and procedures, where we also further elaborate on specific proposals related to both.

Q33. Do you agree with ESMA's proposal on the timing of the procedure for the suspension and the resumption of redistribution? If not, which alternative approach would you consider suitable?

Please see Q31.

Q34. Do you agree with ESMA's proposal regarding a one-week timeframe for data contributors to furnish evidence of non-breaches? If you disagree, could you suggest an alternative approach that you find appropriate?

No, FESE does not agree with ESMA's proposal. FESE also believes that the timeframe approach, whereby data providers should provide evidence of no breach for the CTP to re-assess its decision, is not the right approach. The main focus should be dialogue prior to suspension and a pragmatic approach to the correction of small issues. At the very least, we believe these timing windows should be 3 weeks each.

Please also see the comments in Q31.

Q35. Do you agree with ESMA's expectation on the notification to be made by the CTP to the competent authority of the data contributor once a suspension has been triggered?

Yes, FESE partially agrees with ESMA's expectation on the notification to be made by the CTP to the competent authority of the data contributor once a suspension has been triggered, and that Article 22a(8) is sufficient. However, we suggest introducing a mechanism based on dialogue prior to any effective suspension, with ESMA involved in the procedure. We would suggest that ESMA is consulted to confirm any potential suspension

procedure if the initial steps based on dialogue and correction of issues have been effective, in addition to what Article 22a provides via a dedicated provision in the RTS.

Q36. Do you agree with ESMA's proposal on the approach to the retained revenue? In your view, which rate should apply to compound the interest on retained revenue?

3. RTS on the synchronisation of business clocks

Q37. Do you agree with the proposed approach on synchronisation to reference time? If not, please explain.

Yes.

Q38. Do you support a timestamp granularity of 0.1 microseconds for operators of trading venues whose gateway-to-gateway latency is smaller than 1 millisecond? If not, please explain. Would you argue for an even smaller granularity? If yes, please explain.

No, FESE does not support a timestamp granularity of 0.1 microseconds for operators of trading venues whose gateway-to-gateway latency is less than 1 millisecond. We believe that a timestamp granularity of 1 microsecond is the right level for this type of traffic.

We recognise that an issue might arise on how to distinguish between two events happening within the same microsecond on the same instrument in the same trading venue. Albeit this is an extreme scenario, trading venues have the technological capabilities to overcome this by, for example, establishing a sequencing policy (it can take the form of a sequence rank identification, which is not necessarily a timestamp precision). However, it should be noted that such an issue could arise with any timestamp granularity.

FESE believes that 1-millisecond granularity is the right balance for the business needs of market participants, while timing issues, such as the one described above, can be tackled individually by the different trading venues without overcomplicating the IT requirements of the CT provider.

Q39. Do you support the proposed approach on the level of accuracy for trading venue members, participants or users? If not, please explain.

No.

Q40. Do you agree with the proposed approach on traceability to UTC? If not, please explain.

Yes.

Q41. Do you agree with the proposed accuracy levels for APAs, SIs, DPEs and CTPs? If not, please explain.

Our comments regarding Q8 regarding APAs also apply to this question. The specified maximum divergence from synchronised UTC timestamps for APAs can only apply to APAs/investment firms using automated interfaces. Any transparency data entered via a

Web-GUI must be treated differently due to the involvement of manual processes, where meeting current standards for publishing equity post-trade data within one minute (and non-equity within five minutes) is nearly impossible.

In addition, while clock synchronisation is already available under the current MIFIR/MIFID II, FESE also welcomes the synchronisation of clock requirements for the CTPs, in addition to trading venues, their members, SIs, designated publication entities, and APAs. We concur that this represents a crucial advancement in data quality, streamlining market data consolidation by facilitating better sequencing of data received from different entities.

SI requirements should be aligned with those applicable to trading venues, as de facto they functionally conduct very similar businesses. SIs are not bespoke platforms operated by small players for sporadic trading; they are operated by global investment banks and HFT firms that trade algorithmically and on their own account against client flow. Therefore, it is important to ensure the highest possible level of accuracy for SIs.

Q42. Do you think that more stringent requirements should be set for SIs compared to DPEs considering they have pre-trade transparency obligations? If not, please explain.

SI requirements should be aligned with those applicable to trading venues, as de facto they conduct functionally the same business. SIs are not bespoke platforms operated by small players for sporadic trading. They are operated by global investment banks and HFT trading algorithmically and their own account against client flow. Systematic internalisers account for 13% of the average value traded in European equities in June 2024 (source: BigXYT).

4. RTS/ITS on the authorisation and organisational requirements for DRSPs

Q43. Do you agree with the approach proposed by ESMA?

Q44. Do you agree to include new authorisation provisions on ownership structure and internal controls for APAs and ARMs?

Q45. Do you have any further comments or suggestions on the draft RTS? Please elaborate your answer.

Q46. Do you agree with the approach proposed by ESMA?

We support the objective of aligning the CTP authorisation with that of other financial service providers regulated in the EU. We believe that there is merit in aligning the information on ownership in Article 2 of the draft RTS with that applicable to service providers in the EU. Article 2 of the draft RTS requires the disclosure of shareholders holding more than 5% of capital or voting rights of the CTP candidates, whilst this threshold is set at 10% for investment firms seeking authorisation in the EU. The CTP regime should be aligned with that of investment firms in this area.

Q47. Do you foresee specific conflicts of interests that may arise between (i) CTP and data contributors and (ii) CTP and clients and users?

Regarding governance structure, it will be important to ensure that the CTPs adhere to arm's length principles, comply with EU competition regulations, and apply strict conflict of interest (Col) policies. This includes avoiding Cols and, where not possible, maintaining a comprehensive Col overview (inventory) and policy, along with applying adequate mitigating actions.

As for the conflicts of interest within the CTP applicant, we wish to underline the importance of establishing robust conflict of interest provisions, including establishing a separate legal entity operating on an arms-length basis, if the two scenarios below were allowed:

- (i) If value-added services are permitted, a separate legal entity operating on an arm's-length basis would be necessary for their provision in order to prevent further distortion with market data vendors. This is a model supported in the UK by the FCA as well. The acquisition of data by this entity should be on the same terms as those applied to any other independent entity in the market.
- (ii) If an existing authorised company intended to add the CTP status to their authorisation. We understand that a framework similar to the originally foreseen under the DRSP regime, where adding such status was regulated, would not apply to the CTP. There is the risk that any loopholes in governance could place such an authorised participant in a significantly advantageous position with subsidised access to data from data providers. Therefore, the need for the CTP to be run on an arm's length basis in a separate legal entity. If such an authorised company also already provided value-added services, the risks are even more substantial.

It will certainly entail strict supervisory measures and robust conflict of interest policies to prevent competition and conflicts of interest issues from emerging. Therefore, we suggest that L2 restrict such scenarios or, if allowed, clarify that establishing a separate legal entity operating on an arm's-length basis is necessary. Regarding value-added services in particular, if CTP applicants intend to offer them, they should clearly state this upfront in the application without the possibility of changing it during the term. Their application should also include details on how they plan to address the resulting competition issues.

Please refer to our response to Q30, and our attached note, for a description of the potential competition issues that we foresee between the CTP and data contributors as well as market data vendors, particularly in case the CTP is allowed to provide value-added services.

Q48. What other elements, if any, should be included in the RTS on authorisation of CTPs?

The draft RTS on CTP authorisation already reflects many of the necessary governance requirements. However, we believe that Article 7 could further reinforce the adherence of the CTP to arm's-length principles, which are crucial for mitigating potential conflicts of interest. See also the response to the question above.

The amendment of Article 10 on market data fees and licensing models should not only refer to the RTS on RCB, which extensively covers the licensing policies of the CTP towards users, but also include a dedicated section on the need for the CTP to put in place and provide ESMA with information on their licensing models vis-à-vis data contributors. Licensing policies should notably: (i) for licensing between the CTP and end clients, specify the authorisations regarding uses allocated to users and (ii) for licensing between the CTP

and data providers, allow the CTP to use the data transmitted by data provider for the purpose of providing a CT.

Q49. Do you have any further comments or suggestions on the draft RTS? Please elaborate your answer.

5. Criteria to assess CTP applicants

Q50. How would you define retail investors, academics and civil society organisations for the purpose of the CTP?

FESE considers that for the provision of free-of-charge data by the CTP, certain minimum requirements must apply. Requesting parties should provide evidence of their eligibility for free data access. Additionally, they must confirm their intention to use the data solely as a member of the eligible group and not disseminate the CTP data into the market. Otherwise, the intention of Article 27h (1)(b) MiFIR would be undermined, creating a mechanism for other market participants to access CTP data free of charge without being part of the defined groups. This would lead to unintended negative side effects for the CTP and its profitability.

As regards the respective definitions, FESE suggests the following:

- **Retail investors** should be individuals whose professional activities are not subject to authorisation or supervision by any financial authority, or individuals whose investment activities are carried out on a personal basis (e.g. not on behalf of others).
- **Academics** should be lecturers, professors, students, or PhD candidates affiliated with an European university, using such data in their research, studies, and their day-to-day academic work, and who are not engaged in the business of market data, data redistribution or similar, or providing financial services, and who are using the data solely within their organisation for their own concerns, without passing them on to any third party.
- **Civil Society** should be European NGOs, CSOs and non-profit organisations that have an organised structure or activity, and are typically registered entities and groups, but are active outside of political solicitation, and neither they nor their members are engaged in the business of market data, data redistribution or similar, or providing financial services, and who are using the data solely within their organisation for their own concerns, without passing them on to any third party.

It is common practice for those who belong to a privileged group, such as the ones mentioned above who receive data for free, to sign a contract with the data provider—in this case, the CTP—, which clarifies the rights and duties between the parties for their mutual benefit and for clarity purposes. We strongly recommend that this practice be applied to the CTP as well.

Q51. What are in your view the most important elements that should be taken into account when defining the governance structure of the CTP?

FESE welcomes ESMA's acknowledgement of the relevance of organisational requirements and CTP governance, considering them as selection and award criteria, respectively. The

organisational requirements and CTP governance are closely linked and both must be adequate, neutral, and fair at all times.

Regarding governance structure, it will be important to ensure that the CTPs adhere to arm's length principles, comply with EU competition regulations, and apply strict conflict of interest (Col) policies. This includes avoiding Cols and, where not possible, maintaining a comprehensive Col overview (inventory) and policy, along with applying adequate mitigating actions.

CTPs should provide comprehensive information on their operations and organisational charts. This should include human, technical and legal resources (both internal and external), information on compliance policies and processes, and the name of the person responsible.

They should also provide information on their governance policies, including details about committees, and the suitability of the management (per person), also encompassing Cols. Additionally, information on the independence of governing bodies should be included.

The CTP should also be responsible for outsourced tasks and implement adequate controls and processes to ensure smooth operations on an ongoing basis. The management of the CTP should also be adequate for running its operations effectively.

Many of the above-mentioned governance requirements are already included in the draft RTS on authorisation. In this context, FESE agrees with ESMA's view that the CTP applicant should provide the necessary information at the time of application to ensure it complies with these requirements. One aspect that may be further reinforced in the draft RTS is the adherence of the CTP to arm's length principles, which is critical to mitigate potential conflicts of interest. See the response to Q47-48.

Q52. Should the CTP include representation of other stakeholders within their governance structure?

FESE fully supports the establishment of an independent stakeholder committee by the CTP, which should be composed of representatives of data users, data contributors, data vendors, buy and sell side representatives, as well as academia and retail investor groups from across the EU. The stakeholders should be consulted by the CTP, and stakeholders should provide advice to the CTP, especially in stakeholder-relevant matters.

Q53. Do you agree with the proposed approach on the assessment of necessity of joint application?

We acknowledge the presence of several consortia who have announced that they will apply as CT applicants, aiming to pursue the opportunities associated with the tender. Regarding this matter, FESE would like to direct attention to the responses submitted by these CTP applicants to the consultation.

Q54. Which minimum requirements on identifying and addressing potential conflicts of interest would you consider relevant?

Conflicts of interest may indeed arise in many potential set-ups, and not only in joint applications. Therefore, it is critical for ESMA to identify all of these conflicts ex-ante and

to assess applicants in light of the measures they intend to put in place to prevent and/or manage those.

Q55. To score the applicants on their development expenditure and operating costs, ESMA intends to look at the costs the applicant will need to cover on an annual basis. Do you agree with this approach? If not, which alternative approach would you deem more appropriate?

No, FESE does not fully agree with this approach.

As a general comment, FESE concurs with ESMA on the need to assess criterion (g) in conjunction with other criteria. The total expenditure and ongoing costs for operating the CTP are strongly linked to the overall quality of the CTP configuration. The CP refers to the governance requirements [criterion (b)], but this relates to other criteria as well. This reinforces the need to avoid viewing criterion (g) in isolation.

In our opinion, the primary focus of any CTP applicant must be to deliver a successful solution. This requires a robust technical setup, and the total expenditure will increase depending on the quality of this setup, as well as regulatory requirements (e.g., DORA), data volumes to process, and additional requirements for the provision of data by the CTP. Ultimately, only a well-constructed CTP will be able to provide reliable services to the CMU. We therefore strongly recommend that these elements, encompassed by different 'selection' and 'award' criteria, are taken into account to put criterion (g) into perspective in the second phase of the competitive procedure.

On a related note, we noted that Article 27(da)(2) does not mention the 'revenue share for contributors', but we would encourage ESMA to examine and factor in related provisions when selecting the CTP provider. This becomes even more critical in the potential event of a race to the bottom in the level of fees among CT bidders, which could lead to insufficient funding for the CT operator and no revenue allocation to data contributors, worsening their already significant revenue loss. Therefore, it is essential to consider the amount of revenue available for the revenue-sharing scheme after deducting operating costs and a reasonable margin. Insufficient revenue for these purposes should be considered a drawback for any bid. To ensure a sufficient revenue share, we propose integrating revenue distribution as a key component of the cost.

Q56. The simplicity of the fee structure and licensing models can be scored by taking into account the number of tiers, fee types and licensing models. Does this accurately reflect simplicity? If not, would you propose a different approach to assess simplicity? Please elaborate.

FESE cautions against prioritising criterion (h) as a decisive 'award' factor. This could notably trigger a race to the bottom in the level of fees among CT bidders, potentially resulting in insufficient funding for the CTP, reduced investment in the quality and robustness of the required infrastructure, and ultimately, no revenues being allocated to data contributors. That being said, FESE hopes that ESMA's proposed two-fold assessment will prevent such a scenario. Similarly to criterion (g) [see response to Q55], FESE welcomes ESMA's consideration of criterion (h) in conjunction with other criteria.

Expanding on the above, **we would be particularly concerned if the actual 'level of fees' were considered a decisive element within this criterion:**

- The revenues generated, based on costs and considering the fees charged by the CTP to data users, should ensure sufficient funds for the state-of-the-art operation of the CT. It should be noted that a group of data users will already have free access to data. The CTP must have the capability to make necessary investments

for reliable operation and long-term success of the CT, to the ultimate benefit of its customers. Additionally, expenditures are expected to increase in the future.

- Setting fees too low could prevent fair compensation to data contributors, exacerbating their already significant revenue losses and jeopardising the businesses of smaller markets that depend on their revenues from the trading of market data.
- Furthermore, it should be noted that, unlike the US CT, consumption of the equity CT will not be mandatory under the proposed Regulation, which may introduce revenue volatility and unpredictability for the CTP's revenue overall.
- Article 52(15)(iii)(e) appears to suggest that the CTP should provide core data in both consolidated and unconsolidated formats, which contradicts the original purpose of offering pan-EU consolidated data. Generally, core data should only be available in consolidated form to ensure adequate funding. To prevent unfair competition and negative impacts, any unconsolidated core data (e.g., per-venue unconsolidated data, which could directly substitute proprietary exchange data) should be priced according to each venue's price list. Revenue generated from such unconsolidated data should be allocated solely to the affected venue, minus a certain share for the CTP.

Q57. The approach proposed for the assessment of the ability of CTP applicants to process data is grounded on the assessment of the technological infrastructure in ensuring scalability, low-latency, accuracy and security throughout the data lifecycle. Do you agree with this approach, or would you consider additional elements to be assessed?

FESE supports ESMA's view that criterion (c) is instrumental in assessing the suitability of applicants' technological infrastructure to comply with the requirements for data reception, consolidation, and dissemination. We note ESMA's suggestion to evaluate this criterion on the 'ability to process data' more holistically and consider it an 'award' rather than a 'selection' or 'exclusion' criterion. In our view, this is a core criterion; without which there will be no tape, and it would deserve to be considered an 'exclusion' criterion.

In any case, we hope this criterion will be given sufficient weight in the second phase of the competitive procedure. For the success of the CT project, a primary strength of the selected CTPs must lie in their technical setup and skilful handling and processing of large amounts of data for consolidation and dissemination, while consistently adhering to the highest industry standards.

Q58. Which is the minimum speed of dissemination you would consider appropriate for the CTP? Please distinguish between asset classes (and for the case of the equity CTP, between pre- and post-trade date).

FESE fully concurs with ESMA on the significance of assessing this criterion in conjunction with data quality considerations. It will be important to allow sufficient time for the CTP to properly sequence incoming best bids and ask prices. In particular, the CTP should wait for the slowest contributor before sequencing the data and deriving the EBBO. Any indication from the applicants that this will be the approach followed should receive greater weight. This would help avoid misinformation caused by latency lags and improve the overall data quality of the CTP. Please refer to our response to Q8 for further details on BBO sequencing.

Furthermore, as many details regarding the CTP, such as the location of the CTP data centre, remain unclear and will likely stay unclear for some time, FESE is concerned about defining a strict latency requirement now, as proposed by ESMA, in the area of

milliseconds. Such a requirement may not be achievable and certainly not 100% of the time. Please also see our comments on Q8. As pointed out there, latency and relevant confidence intervals could be derived from the empirical distribution based on data from test runs with the CTP once it has started testing with data providers. Until then, the KPIs already available from trading venues for their commercial feeds could be used if needed.

Q59. The proposed approach to data quality would reward additional commitments and measures that CTP applicants intend to put in place. Do you agree with this approach? What additional commitments and measures would you consider appropriate?

Minimum requirements are sufficiently high. It does not seem necessary to implement a mechanism that would encourage CTP applicants to put in place additional commitments.

FESE considers that data quality is highly important. However, regarding checks on submitted data, we do not believe the CTP is in a position to improve data quality as it pertains to content. This is the responsibility of the submitting party, i.e., the trading venue or the investment firm via the APA (which already checks for data quality). In this respect, we refer to our answer in Q15, which solely focuses on technical validations for submitted data. However, data quality could be enhanced by the CTP by providing correctly sequenced data, both on post-trade and the EBBO. Proper sequencing is especially recommended for the latter to avoid systematically incorrect data.

Q60. The proposed approach to modern interface and connectivity is grounded on the assessment of the interface technology in terms of reliability, scalability, low latency and security. Do you agree with this approach, or would you consider additional elements to be assessed?

We support ESMA's categorisation of criterion (j) as a 'selection' criterion. The technologies selected by the CTP for data provision must be robust enough for efficient data processing and flexible enough to cater to the needs of data consumers, including both professional and non-professional users.

Q61. Do you agree with the proposed approach to record keeping, based on the provision of document supporting intended compliance?

Q62. The proposed approach to resilience, business continuity and cyber risks is grounded in assessing mandatory DORA requirements applicable to CTPs as a first step (selection criterion), to then reward additional commitments and measures CTPs applicants intended to put in place to mitigate and address outages and cyber-risk. Do you agree with this approach? What additional commitments and measures would you consider appropriate?

On a side note, we also suggest that the potential additional commitments and measures the CTP puts in place to mitigate and address outages and cyber risks be considered when assessing criterion (g) regarding expenditure and operating costs. These measures may entail substantial cost implications while benefiting the CT project overall, which would constitute another example of the challenges in fairly awarding significant weight to criterion (g) in isolation. See our response to Q55.

Q63. Do you agree with the use of the Power Utilisation Effectiveness (PUE) as the metric to assess the energy consumption of the CTP? If not, which alternative approach would you favour?

Annex II - Cost Benefit Analysis

Q64. What costs do you expect in order to comply with the proposed minimum requirements for the quality of transmission protocols? What benefits do you expect? Please indicate to what role (data contributor, CTP, or CT user) your response refers.

➤ Broader cost-benefit analysis of the CT impact on data contributors

FESE believes that the cost-benefit analysis should take into account both the direct costs associated with the requirements and the indirect costs for the industry related to the CT, which will be a direct competitor to the data contributors who will transmit their data for free. Depending on the commercial model of the CT, there is a significant risk that the CT will lead to substantial revenue losses for data contributors, without any significant gains in terms of cost savings for clients. Indeed, most clients are likely to continue intermediated by data redistributors for the consumption of market data, whilst these redistributors are not constrained by any RCB requirement. The risk to data contributor revenues is further heightened by the fact that the revenue distribution scheme does not include itself incentives for the CT to generate sufficient extra revenues (or margins) to redistribute to the data contributors. In fact, it may be more economically rational for a CTP to maximise its costs under the RCB requirements rather than generate margins to be given back to data contributors.

As such, we strongly encourage ESMA to closely monitor the full costs and benefits associated with the CT in order to implement remedies where necessary, also in conjunction with the **review of the RCB framework applicable to both data contributors and the CTP.**

Lastly, it is important to note that, in addition to the questions being asked in the consultation regarding the cost-benefit analysis, there is a broader issue concerning the significant impact on exchange revenues. For this reason, it is **critical to establish an adequate compensation scheme to ensure that the overall economic model does not undermine the viability of data contributors' business models.**

➤ Challenges to proposed minimum requirements

Turning now to the question at hand, FESE believes that the minimum requirements outlined by ESMA are inherent to the respective protocols and their various layers, which may include both existing and new protocols. However, FESE is concerned that its members, in their role as data contributors—particularly those that may need to provide data to multiple CTPs—could face significant time constraints and high costs if new protocols and formats are required, especially if these differ by asset class.

Therefore, we find it crucial for ESMA to acknowledge the challenges faced by some data providers who must deliver to multiple CTPs within a relatively short timeframe. To alleviate this situation, ESMA should ideally: **a) support the use of existing protocols for as long as possible, or b) ensure that if data contributors must adopt a new standard protocol, it is uniform across all asset classes.**

The minimum requirements for the quality of the transmission protocol should refer to a new protocol rather than an existing one to avoid excluding any data contributor from the outset. If ESMA does not consider this feasible, while there is a possibility to start with

existing protocols, we strongly recommend omitting certain minimum requirements, such as the need for an open protocol and for non-repudiation. Both of these requirements could hinder the provision of data when it is requested. Please also refer to our comments in Q3.

Q65. What costs do you expect in order to comply with the proposed data format for input and output data? What benefits do you expect? Please indicate to what role (data contributor, CTP, CT user) your response refers.

Please refer to our comments in Q12.

Q66. Do you expect the benefits from the proposed real time data transmission requirement for input data to outweigh the operational costs borne by data contributors?

Please refer to our comments in Q8.

Q67. Do you think that the input and output data fields strike a balance between reporting burden for data contributors/CTPs and benefits for CT users?

As explained in Q13, FESE is concerned about the proposals regarding core market data. We believe it is crucial for the CTP to receive the data required to operate effectively. However, **requesting the full set of market data, including all post-trade transparency requirements under RTS 2, would exceed the data necessary for the CTP to be operational.** This would unnecessarily increase costs across the value chain. Delivery costs for contributing trading venues and the CTP itself will increase, especially due to the mandatory data delivery to the CTP. Furthermore, as well the bond CTP's production costs will be inflated, and all these extra costs will ultimately be passed on to the data users. In addition, from an economic rationale perspective, the fact data processing of large data volumes is also highly energy-intensive also leads to the conclusion that only the essential data should be provided.

In relation to the equity CTP, it is essential that only the first bid and offer is requested from data providers as outlined in L1, and currently clarified in paragraph 285 of the ESMA CT. In the final stages of the MiFIR review process the co-legislators have agreed to an anonymised real-time pre-trade EBBO (top of book) and the priority should now be on ensuring that this clear political will is translated into action and delivered in reality. At this early stage, calls to increase the amount of pre-trade information included in the tape are detrimental to the success of the CT, which will require a lot of dedication and adaptation efforts from all sides of the industry.

FESE Members are also concerned about the risk of potential frequent requests for adaptations initiated by the Expert Stakeholder Group for changes to RTS 2 (and RTS 1) data. Such changes are costly for the entire industry, impacting not only exchanges' data feeds but also their internal systems as well as external stakeholders, including direct customers and market data vendors. Therefore, we propose that any changes to the input/output data content for the CTP be incorporated into the actual CTP RTS. FESE members do not support an automatic link to RTS 1 or 2, as separate, clear, and targeted regulatory requirements within one and the same document will make it easier for industry participants to apply new regulations, and reduce unnecessary burdens on the industry. Furthermore, any requirements to change exchanges' data feeds should also be planned well in advance, e.g., with a minimum lead time of one year, since budgeting, design, implementation and testing are of essence.

Q68. Do you think that the proposed data quality requirements are sufficient to achieve the CT's objectives without generating excessive compliance burdens? Please explain.

FESE members have vast experience in producing, processing and distributing vast amounts of market data. In this context, data quality plays a significant role. FESE members are convinced that ensuring data quality by the CTP should focus on technical checks, including completeness and timeliness, as well as ensuring a proper sequencing of the consolidated data.

As a general remark, we do not fully agree with ESMA's proposals regarding data quality measures and enforcement standards for input data, and see a risk of unnecessary compliance burdens in certain provisions. Notably, we would like to draw ESMA's attention to the provisions regarding the 'identification of erroneous trades' and associated methods and arrangements. **The CTP cannot be expected to enhance the quality of data provided in terms of specific content;** this responsibility should rest with the data contributors, who have systems and controls in place to ensure data quality. To avoid unnecessary compliance burdens, the foreseen cooperation arrangements between the CTP and data contributors, along with effective enforcement standards, should focus solely on technical issues related to data delivery and quality. Please refer to Q15 for a broader overview of FESE's concerns in this space.

Q69. Which costs do you expect to implement the revenue distribution scheme? Please differentiate between one-off and on-going costs, between fixed and variable costs as well as between direct and indirect costs.

Q70. Which costs do you expect to implement the suspension and the resumption of the revenue distribution scheme? Please differentiate between one-off and on-going costs, between fixed and variable costs as well as between direct and indirect costs.