

MiFIR - revised			
What	Where	Technical comments	BVI ¹ view
<p>Consolidated Tape EC proposes two CT models for all instruments (starting with shares, post trade): First best: A competitive solution and second best: a single, independent operator. Any of the models will be provided by the private sector, under the supervision of ESMA.</p> <p>Selection process</p> <p>Organizational requirements</p>	<p>Rec 20, Proposal Art 1(15) MiFIR Art. 27da.</p> <p>Art. 27da (1) (3)</p>	<p>It is not clear how the process will be. In rec 20 there will be a selection procedure where up to 4 entities will be selected for 5 years each which is able to provide the CT for the 4 specified asset class. It seems as if the CT starts with Post Trade info for shares. At least month before the second selection procedure (which is not specified), ESMA should prepare a report assessing whether there is demand for pre-trade information. But it is not clear when the other instruments (bonds, derivatives) are in scope.</p> <p>ESMA shall organise a selection procedure for the appointment of the CTP for a five year term. ESMA shall organise a separate selection procedure for each of the following asset classes: shares, exchange traded funds, bonds and derivatives (or relevant subclasses of derivatives).</p>	<p>We strongly support a CT without mandatory consumption and no best execution usage requirement. The fund industry has long called for the establishment of an affordable real-time consolidated tape to support best execution and liquidity risk management in highly fragmented capital markets. The benefits are, of course, far broader than the asset management industry's specific interests. There are wider use-cases that a real-time consolidated tape would deliver in terms of the competitiveness of the EU's capital markets and the access to capital for Europe's smaller firms</p> <p>BVI is especially pleased that the proposal supports multiple asset classes,</p> <p>We support a single consolidator per asset class as a result of a competitive bid,</p>

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset Managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 117 members manage assets of some EUR 4 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



		<p>The first selection procedure organised for shares shall only invite bids for the provision of a consolidated tape containing post trade data. Prior to subsequent selection procedures, ESMA shall assess market demand and revenue impacts on regulated markets and based on that assessment, report to the Commission on the opportunity of adding best bids and offers and corresponding volumes to the tape.</p> <p>Based on that report and on the experience gained further to the first selection procedure, the Commission is empowered to adopt a delegated act specifying the appropriate level of pre-trade data to be contributed to the CTP.</p>	<p>We support that all trading venues and systemic internalisers (SIs) will contribute post (and pre-)trade data,</p> <p>We support that there will be voluntary consumption based on quality of service,</p> <p>We support that the viability of including pre-trade data on the tape will be examined soon after the post-trade tape is operational.</p> <p>We especially support that the Consolidated Tape Provider will be mandated to deliver data in ‘as close to real-time as technically possible’ after receipt of the data from the different trading venues. For equities and ETFs, this shall mean delivery in the second range (1000 milliseconds). For fixed income the speed can be slower (in minutes) given the specific dynamics of price-driven markets which also need to take into account the applicable waivers and deferrals. We stress that only a tape delivering real-time data is of value to market participants, be they retail investors, EU-based asset</p>
--	--	---	--

<p>-----</p> <p>Reporting requirements/data qualities</p>	<p>-----</p> <p>Proposal Art 1(10) MiFIR Art. 22a</p>	<p>-----</p> <p>Market data contributors shall, with regard to shares, ETFs and bonds that are traded on a trading venue, and with regard to OTC derivatives as defined in Article 2(7) of Regulation (EU) No 648/2012 that are subject to the clearing obligation as referred to in Article 4 of that Regulation, provide the CTP with all the market data as set out in Article 22b(2) as needed for the CTP to be operational. Those market data shall be provided in a harmonised format, through a high quality transmission protocol, and as close to real-time as is technically possible.</p> <p>Each CTP shall be free to choose, from among the types of connection that the market data contributors offer to other users, which</p>	<p>managers or international investors.</p> <p>EFAMA published a use-cases document, demonstrating the futility of using 15 minute equity data and the major potential costs of basing decisions on stale data leading to billions of Euros of market impact cost to investors.²</p> <p>-----</p> <p>We are supportive of data harmonization. We support especially the use Of FIX MMT in the equities (RTS1) and of the FIX Bond CT data field proposals (RTS2). BVI also recoemnds to add a few bond asset class specific datafields to RTS 2.</p> <p>The need for (bond) data harminisation has been most recently described again in a report by Finbourne:³</p> <p>BVI also supports an express requirement that treasury departments and debt management offices should be required to report bond transactions into the CT.</p> <p>We need to evaluate whether a single open</p>
	<p>Proposal Art 1(10) MiFIR Art. 22a (2)</p>		

² <https://www.efama.org/newsroom/news/buy-side-use-cases-real-time-consolidated-tape>

³ <https://insights.finbourne.com/ctp-whitepaper-1-download-success/#msdyntrid=bSdSlfODNgxwq700TO0Tu9OI8jrb5h5Me1Q326OVGT8>



<p>-----</p> <p>Remuneration of data contributors: Revenue targets with respect to professional users could be set at levels sufficient to largely subsidize the cost of granting retail access for minimal or no cost. Option 2.2: Minimum subscription fees for CT data (revenue participation model) via fee floors for the use of core market data. Option 2.3: Usage fee (ad valorem fee) for all execution venues that do not contribute to price formation in the equity</p>	<p>Proposal Art 1(10) MiFIR Art 22b</p> <p>-----</p> <p>Rec 21-24, Proposal Art 1 (10) MIFIR Art. 22a (4)</p>	<p>connection it wishes to use for the provision of those data. Market data contributors shall not receive any remuneration for providing the connectivity other than the revenue sharing for shares, as specified in the conditions for appointment of the CTP in the selection process laid down in 27da</p> <p>The Commission shall set up an expert stakeholder group by [OP add 3 months as of entry into force] to provide advice on the quality and the substance of market data, the common interpretation of market data and the quality of the transmission protocol referred to in Article 22a(1). The expert stakeholder group shall provide advice on a yearly basis. That advice shall be made public.</p> <p>-----</p> <p>According to data presented in the impact assessment accompanying the proposal for this Regulation, the expected revenue generation for the consolidated tape will vary depending on the precise features of the tape. The expected revenue of the CTP should significantly exceed the cost of its production and therefore help to build a solid revenue participation scheme whereby the CTP and the market data contributors share aligned</p>	<p>standard interface should be required to minimize the cost also for the users which only want to use one interface.</p> <p>Expert group is supported</p> <p>-----</p> <p>BVI does not see any need to remunerate especially RMs / primary exchanges to receive preferential "value based" remuneration for share data. Exchanges make in part excessive revenues on all three business lines, i.e. listing, trading , and market data. The CT will not impede on the ability of RMs to sell low latency market data feeds as the CT will be much slower (1000milliseconds) than</p>
--	---	--	--



<p>markets (“dark trading”) and uses reference prices based on the listing exchange. Option 2.1. is preferred.</p>		<p>commercial interests. This principle should not prevent CTPs from making a necessary margin to maintain a viable business model and from using the core market data to offer further analytics or other services aimed to increase the revenue pool.</p> <p>Market data contributors shall not receive any remuneration for the market data provided other than the revenue sharing as referred to in Article 27da(2), point (c).</p>	<p>exchange feeds (max 10 milliseconds). Conceptually the CT should operate on the basis of cost and market data feeds by RMs should be remunerated max at their cost of production (Art 13 MiFIR). Or the CT should be provided for free to users like the other ESMA operated databases namely the ERP (CRA ratings) and the ESAP (as proposed). CTs based on cost of production should not be a competitor to their contributors in terms of value-added services.</p> <p>BVI supports this limitation.</p>
<p>-----</p> <p>CTPs shall be exempted to provide data free of charge after 15 minutes.</p>	<p>Rec. 27</p>	<p>-----</p> <p>The requirement that trade reports should be made available free of access charges after 15 minutes currently applies to all trading venues, APAs and CTPs. For CTPs, that requirement stands in the way of commercialising the consolidation of the core market data and considerably limits the commercial viability of a potential CTP, since certain potential clients could prefer</p>	<p>We need to evaluate the necessity of this proposal to protect the revenue generation of the CT.</p> <p>A bond CT is likely operate at (15) minutes delayed data latency anyway as shown existing commercial solutions (Ediphy, Finburne, Propellant).</p>

		<p>waiting for the consolidated free data rather than subscribing to the consolidated tape. This is in particular the case for bonds and derivatives that are in general not traded frequently and for which the data has often kept most of its value after 15 minutes. While the requirement to deliver the data for free after 15 minutes should remain in place for trading venues and APAs, it should be abandoned for CTPs to protect its potential business model.</p>	
<p>Market Data costs Market Data Guidelines to be converted into legal text and ESMA should be empowered to specify how RCB should be applied by further strengthening the harmonized and consistent application of art. 13.</p>	<p>Rec 10, Proposal Art. 1(7) MiFIR Art. 13 (3)</p>	<p>ESMA issued guidelines explaining how the concept of RCB should be applied. These guidelines should be converted to legal obligations. Due to the high level of detail required to specify RCB and the required flexibility in amending the applicable rules based on the fast changing data landscape, ESMA should be empowered to develop draft regulatory technical standards specifying how RCB should be applied, thereby further strengthening the harmonised and consistent application of Article 13 of Regulation (EU) No 600/2014</p>	<p>EFAMA/BVI support that market data guidelines should be put into legal obligations, including the ESMA recommendations for required changes to MiFIR market data cost. But the association also stresses that a CT and alone cannot address the problem of ever-increasing prices charged by exchanges. We refer back to ESMA’s MiFIDII/MiFIR Report No. 1, which includes recommendations to standardise pricelists, policies and audit procedures.</p>

<p>Transparency – non-equities</p> <p>Very significant changes:</p> <p>On page 8 it appears that the deferral regime will be simplified via volume masking and full publication after 2 weeks as well as removing the supplementary deferral options left to NCAs under the current regime. The proposal implies that:</p> <p>Paragraph 4 is amended as follows:</p> <p>(i) the first subparagraph is amended as follows: point (c) is replaced by the following:</p> <p>‘(c) the transactions eligible for price or volume deferral, and the transactions for which competent authorities shall authorise market operators and investment firms operating a trading venue to provide for deferred publication of the volume or price for one of the following durations:</p> <p>(i) 15 minutes;</p> <p>(ii) end of trading day;</p> <p>(iii) two weeks.’;</p>	<p>Rec 8-9,</p> <p>Art. 5 (6) (a)</p> <p>„amended para. 1: preplacing first sub.para. ... “</p> <p>Proposal Art.1 (6) (c): Amendment to MiFIR Art. 11 (4) first sub.para., replacing point (c)</p>	<p>This regime will be very different from the existing one in Europe and will cause a lot of discussion, especially at the sell-side.</p> <p>It appears as if there is a choice between price or volume deferral. Prices can only be deferred until EOD and volume can be deferred up to two weeks. This is, however, not clear whether it is a mistake or intentional with the “or” (probably intentional).</p> <p>Apparently, it seems to still be the individual NCAs who should authorize the market operators and investment firms which may imply different regimes and an unlevel playing field.</p>	<p>In principle, we support the simplification of the transparency exceptions (waivers and deferrals), especially the replacement of the DVC by a single volume cap (see also comment below).</p> <p>The proposal to shorten the deferrals for bonds brings a gain in transparency, but from a practical point of view the different time periods for price and volume transparency are problematic, as this allows for inferences/estimates that undermine the purpose of the deferral.</p> <p>Harmonisation deferrals periods across all NCAs should be expressly addressed</p>
<p>Transparency – equities</p> <p>DVC changed to a Single Volume Cap of 7%</p>	<p>Rec 7,</p> <p>Proposal Art.1 (4): Amendment to MiFIR Art.</p>	<p>As expected. We would have preferred a removal of the DVC at least for the Negotiated Trade Waiver.</p>	<p>While we support in principle the replacement of the DVC by a uniform cap, we reject the reduction of the cap from</p>

<p>Minimum size of 2*SMS for using the Reference Price Waiver</p>	<p>5: replacing para. (1)</p>		<p>previously 8% (Art. 5 (1) (b) MiFIR) to now 7%.</p>
<p>SI – equities Quoting obligation Publish firm quotes up to minimum 2*SMS</p> <p>Forbidden to match at midpoint below 2*SMS</p> <p>Ok to midpoint above 2*SMS and below LIS if compliance with tick size rules cf. art. 49 in MiFIDII</p> <p>Above LIS – ok to match at midpoint without compliance with MiFID, art. 49</p> <p>-----</p> <p>Clock synchronization SIs must comply with the requirements of clock synchronization (to be specified by ESMA)</p>	<p>Rec 12, Proposal Art.1 (8), (9): Amendment to MiFIR Art. 11: replacing para. (2) and (3)</p> <p>-----</p> <p>Rec 16, Proposal Art 1 (10) MiFIR Art 22c</p>	<p>However, it is not clear what is the section in yellow means exactly</p> <p>-----</p> <p>Very difficult as requirement for clock synchronization will be extremely burdensome.</p>	<p>We reject a doubling of the RPW threshold to twice the standard market size.</p> <p>For the benefit of the end investors, asset managers seek to place orders with as little market impact as possible which is thwarted by a raised threshold. We doubt that the Commission's proposals to "simplify" some (reference price) waivers that benefit over-the-counter trading will help improve the trading infrastructure in Europe. The current - albeit fragmented - trading venue landscape supports the ability of asset managers to execute larger orders without too much impact on the market, contributing to better trading outcomes for all fund investors. While we support efforts to increase trading on exchanges to improve (reference) price formation, we oppose attempts to curtail the ability of over-the-counter venues, including SIs, to offer buy-side trading of large orders.</p>

<p>SI – non-equities SSTI is removed</p>	<p>Page 8</p>	<p>Difficult for sell-side. This is all there is on SIs in non-equities. None of the good proposals from ESMA to revise MiFIR Art. 18 has been included</p>	<p>ESMA proposals need to be included (cf. page 8)</p>
<p>Share Trading Obligation (STO) Exemption in MiFIR 23 a) is to be removed (non-systematic, ad hoc, irregular and infrequent) to be removed.</p> <p>Only shares with EU ISIN will be subject to STO</p>	<p>Rec 17 Proposal Art. 1(11) MiFIR Art 23 (1)</p>	<p>Difficult for sell-side with removal of Art. 23 a) as the removal of this section in combination with the strengthening of the definition of multilateral system in the revised MiFIDII (rec 6., page 9) and specifications on how SIs may operate via Q&As from ESMA ((limited if any possibility for even ad hoc brokerage) could mean a de facto “concentration rule”.</p>	<p>We support an ISIN based STO approach codifying ESMA practice. Need to check feared concentration / liquidity implications on buy-side trading.</p>
<p>Multilateral Definition of multilateral is moved from the directive to the regulation</p>	<p>MIFID Rec 4 Proposal MIFID Art. 1 (3) MIFIR Art 1 (7a), Art 2(1)</p>	<p>Definition of multilateral is moved from the directive to the regulation. This is in itself not problematic for sell-side. But in connection with the change of the STO and the Q&A from ESMA on what an SI can do and how multilateral is to be understood, sell-side could face a de facto “concentration rule”.</p>	<p>Need to check feared concentration / liquidity implications on buy-side trading</p>
<p>Greater consistency in transaction reporting between EMIR; SFTR, MFIR</p>	<p>Rec 18, Proposal Art (12) MIFIR Art 26 (9)</p>		<p>Support?</p>
<p>Payment for Order Flow To be forbidden: Investment firms acting on behalf of clients shall not receive any fee or commission or non-monetary benefits from any third party for forwarding client orders to</p>	<p>Rec 34, Proposal Art 1(28) MIFIR Art 39a new</p>	<p>Wording to be discussed to clarify (retail only) scope.</p>	<p>We tentatively and subject to further analysis we support the Commission's planned ban on investment firms receiving payment for routing client orders to a broker (payment for order flow), as this practice may reduce</p>

such third party for their execution			addressable liquidity for fund managers.
Clearing obligation , Trading obligation, derivatives	Rec 30-32, Proposal Art 1 (20) MiFIR Art 32		Not a priority ,
Open Access	Rec 33 MIFIR Art 35,36,38		Not a priority, however, vertical silos should not be accepted
MiFIDII - revised			
Multilateral systems Following recommendation from the ESMA final report on OTFs, the definition of multilateral systems is moved from the directive to the regulation in order to ensure uniform approach and ensure that that activity which require a multilateral license gets this.	MIFID Rec 4, 6 Proposal MIFID Art. 1 (3) MIFIR Art 1 (7a), Art 2(1)	Based on a rigid understanding of multilateral systems which is already the case with ESMAs Q&A, SIs may face significant challenges.	Need to check feared concentration / liquidity implications on buy-side trading
DEA, removal from scope Removal of the exemption to the exemption – meaning that persons having a direct electronic access to a trading venue will no longer be required to be licensed as investment firm or credit institution	Rec 5 Proposal Art 1(2) MiFID Art 2(1)		Not of interest
Best Execution reports to be removed RTS 27 (and mayb also RTS 28?) is to be removed. CT data can be used for best execution documentation instead	Rec 7 Proposal Art 1(4) MiFID Art 27	TBD – shouldn't such change require a change of MiFIDII art. 27 (1)?	Both RTS 27 and 28 reports should be removed. RTS28 reports do not provide value to investors.
Data quality must be ensured by MTFs and OTFs	Rec 8 Proposal Art 1(5) MiFID Art 31 (1),47(1)		Full support
Synchronisation of business clocks	Rec 9 Proposal Art	Extended requirement and removed from the directive to the regulation.	To be checked as this will be extremely burdensome to comply



	1 (7) MIFID Art 50		with and lead to additional cost also for buyside.
--	-------------------------------	--	--