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European Fund and Asset Management Association

European Forum of Securities Associations

The appropriate construction, and conditions for the usage, of a Consolidated Tape[1]

Concerning our joint statement from 3 November 2020[2], EFAMA and EFSA agree that an appropriately constructed Consolidated Tape (CT) could help to build deeper and more open capital markets in Europe. In line with the European Commission's vision for the Capital Markets Union, a key aim should be to democratise access across European markets to provide all investors regardless of resources or sophistication with a comprehensive and standardised view of European trading.

However, our members do not believe that a CT is the solution to the concerning issue of increasing market data costs[3] as the requirement for proprietary data is indispensable for the market participants to conduct their business and to comply with regulatory requirements. The challenge with high and increasing market data costs must be addressed head-on, including through the proper enforcement of the MiFID II and MiFIR requirements, standardisation of pricelists, policies, audit procedures, etc.[4], regardless of the existence of a CT.

The two issues are nevertheless connected as the commercial viability of the consolidated tape provider (CTP) will be closely connected to the price at which it obtains input data from trading venues and Approved Publication Arrangements (APAs).

EFAMA and EFSA members consider that prerequisite conditions for the usage of the CT are:

- ✓ Mandatory data contribution to the CT
- ✓ No mandatory consumption of the CT
- ✓ No contractual restrictions or limitations in the usage of the CT
- ✓ The price of purchasing access to and usage of the CT should be symbolic as the present regulatory specifications in Delegated Regulation 2017/565, art. 84 to art. 89 would imply a serious risk of setting prohibitive prices due to the significant costs of obtaining the market data from trading venues and APAs.

The optimal architecture for any successful CTP should take into account both commercial and technical recommendations provided by expert market practitioners and industry stakeholders. EFAMA and EFSA members acknowledge that different CT models may need to be considered for different asset classes; for example, any consolidated tape developed for bonds must preserve the delicate balance between transparency and liquidity. As a result, the CT must respect the current MiFID II/R (4 weeks) deferred publication regime, such that trades that benefit from deferred publication are not published on the CT until after the deferral period has expired. The deferral regime has various use cases including ensuring that market participants do not suffer from adverse price movements when executing trades in size. Policymakers should not modify the deferrals regime for bonds to create a CT, other than aligning different member state interpretations of the deferral regime. Efforts to harmonize the deferral regime should not result in any undue risk to committed liquidity providers.

Finally, further discussions with market participants should be undertaken to analyse which of the ESMA recommendations, specified in their Final Report on market data[5] should be implemented.

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[1] EFAMA,the voice of the European investment management industry, represents 28 Member Associations, 60 Corporate Members and 24 Associate Members. At end Q2 2020, total net assets of European investment funds reached EUR 17.1 trillion. These assets were managed by almost 34,200 UCITS (Undertakings for Collective Investments in Transferable Securities) and more than 29,100 AIFs (Alternative Investment Funds). More information is available at www.efama.org. EFSA is a forum of European Securities Associations gathering the Association for Financial Markets in Europe (AFME), the French Association of Financial Markets (AMAFI), the Spanish Asociación de Mercados Financieros (AMF), the Italian Association of Financial Intermediaries (ASSOSIM), the Danish Securities Dealers Association (DSDA), The German Federal Association of Securities Trading Firms (bwf), The Belgian Financial Sector Federation (Febelfin), The Polish Securities Dealers Association (IDM) and the Swedish Securities Markets Association (SSMA).

[2] See joint statement as published by EFSA and EFAMA.

[3] Market data is a by-product of the primary function of an exchange, which is trading. See for example UK FCA CFI on accessing and using wholesale data , section 3.7 and IEX Report the Cost of Exchange Service. As orders are placed and executed, market data is automatically produced. This implies that the marginal costs of production are close to zero and the incremental costs associated with data production are limited to collecting the information and distributing it to customers. Present EU legislation allows that an appropriate share of joint costs **may** be included. We believe this possibility should be removed due to the very low cost However, definition of costs is lacking and therefore it neither possible to compare the costs between venues nor to ensure compliance and enforcement for supervisors. In the IEX report, cost assessment is transparent and well described. In the CE guideline – the construction of a cost benchmark for comparison and enforcement is elaborated using the IEX figures.

[4] See our recommendations as published EFAMA (here) and ESFA (here) communications.

[5] ESMA Final Report on Market Data, point 65 on page 27.