

ICMA response to the ESMA MiFIR Review Consultation Package
Technical Standards related to Consolidated Tape Providers and DRSPs, and assessment
criteria for the CTP selection procedure

28 August, 2024

Introduction:

ICMA welcomes the opportunity to respond to the ESMA MiFIR Review Consultation Package “Technical Standards related to Consolidated Tape Providers and DRSPs, and assessment criteria for the CTP selection procedure”.

ICMA promotes well-functioning cross-border capital markets, which are essential to fund sustainable economic growth. It is a not-for-profit membership association with offices in Zurich, London, Paris, Brussels and Hong Kong, serving over 620 member firms in nearly 70 jurisdictions globally. Its members include private and public sector issuers, banks and securities dealers, asset and fund managers, insurance companies, law firms, capital market infrastructure providers and central banks. ICMA provides industry-driven standards and recommendations, prioritising three core fixed income market areas: primary, secondary and repo and collateral, with cross-cutting themes of sustainable finance and FinTech and digitalisation. ICMA works with regulatory and governmental authorities, helping to ensure that financial regulation supports stable and efficient capital markets.

Executive summary:

ICMA welcomes ESMA’s proposals to further define the EU consolidated tape framework with a view to improving transparency in the EU bond markets, following the latest amendment of the Markets in Financial Instruments Regulation (MiFIR) which entered into force on 28 March 2024. ICMA’s response reflects the views of ICMA’s MiFID Working Group, notably secondary trading desks, investors, exchanges and data providers across the international bond markets.¹

¹ Please note, ICMA has not responded to Section 4 “RTS on the Revenue Distribution Scheme of CTPs” as this Section refers to Equity Markets

Key points:

- ✓ As highlighted throughout our response to this consultation, ICMA is of the view that in the development of the framework for a Consolidated Tape for bonds, it is important that a distinction is being drawn between different asset classes.
- ✓ In particular, the bond market with its mechanics is very different from the equity market and this important distinction has to be reflected in the upcoming transparency regimes
- ✓ When defining the framework for a consolidated tape, there is a trade-off to be balanced between a) the cost of the consolidated tape and technical requirements and b) latency and data quality/accuracy. Such trade-offs have to be viewed differently with respect to the different asset classes.
- ✓ Whereas requirements for latency and real-time transmission may play a pivotal role in equity markets, the underlying nature of bond markets is very different, and the focus here should be on high data quality and accuracy.
- ✓ A strong governance model of the CTP is key and ICMA welcomes ESMA's proposal to set up an administrative committee consisting of data providers and data users.
- ✓ Ultimately, the successful CTP "project" will depend on the right calibration of the framework, and a good collaboration of all involved stakeholders, with the aim to make high quality data accessible in a consolidated form, at an affordable cost, thereby allowing for a wide market participation across EU bond markets.

3 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?

ICMA response:

ICMA agrees. The technical criteria as proposed on page 15 paragraph 19 look reasonable with no major gaps identified.

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?

ICMA response:

No additional categories have been identified. In general, it is important that the consolidated tape for bonds can be used by the industry and that there will be a high degree of acceptance by the industry.

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?

ICMA response:

ICMA believes that with respect to some of the technical features such as latency for example under Performance criteria, there should be different sets of requirements per asset class. As mentioned in the Executive summary and at various levels in this consultation response, it is particularly important to distinguish between equity and bond markets. Further details, in particular with respect to latency and real-time transmission requirements, are explained in our responses to Q4 and Q8.

In addition to the distinction between asset classes, a differentiation between pre-trade and post-trade transparency should be considered. It might be important to introduce different solutions for the pre-trade transparency process.

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.

ICMA response:

With respect to the minimum requirements for the technical criteria related to performance, and specifically with respect to the latency requirements of 100 milliseconds, ICMA would like to refer to our response to Q8 and highlight that a distinction has to be made between bond markets and equity markets.

ICMA believes that these high standards are valid for equity markets (and relevant especially in the context of pre-trade equity data), and as such many trading venues will already have such high-speed connectivity protocols available. However, in the case of bond markets, where as per RTS2 the real-time transmission requirement is up to 5 minutes (as also discussed under Q8), a latency requirement to the protocol of only 100 milliseconds does not seem necessary and would potentially impose a huge implementation cost burden to TVs and APAs. A further and very detailed discussion of real-time requirements in the context of bond markets can be found in our response to Q8, as well as associated excel diagram “CTP Transmission time”, showing the different stages of transmission (as displayed in Annex 2).

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.

ICMA response:

The minimum requirements could also include information about omitted information since usually, the requirements of “error” and “omission” would be addressed together, as also included in Article 10 of the “Draft RTS on the authorisation of APAs+ARMs” in Annex III of this CP on page 156.

Aside from the requirements for data contributors under this question, the CTP should be able to conduct a thorough “in vs out” reconciliation at a) the overall and b) an individual data contributor feed level, to ensure that what the CTP receives is equal to what it processes. A fundamental trade report should be possible to ensure that the CTP itself has not omitted any reports. (as is also mentioned in the draft RTS on input and output data, Article 10 (1)-(3): “Management of incomplete or potentially erroneous information by CTPs” on page 121/122 of this CP).

Furthermore, and in regard to Article 10 (6) of the draft RTS on input and output data (on page 122 of this CP) and with respect to the “Management of incomplete or potentially erroneous information by CTPs” ICMA would like to highlight the following: With reference to Article 10 (6). : “Where a CTP determines that the input data it receives is incomplete or contains information that is likely to be erroneous, it shall not publish that information and shall promptly alert the data contributor submitting the input data”, there is a need for clarification on which type of data should be automatically rectified, since there is a distinction to be made between data formats which might be erroneous and economic data which might be erroneous. Accordingly, the course of action should be as follows:

- In the case of data formats which are erroneous, the CTP should do as proposed under Article 10 (6)., as mentioned above.
- In the case of economic data (such as price or size of the transaction), the CTP should not have the power nor responsibility to withhold publication of the information, but instead it should publish the information, and shall alert the data contributor. *See also ICMA’s response to Q15, specifically with reference to paragraph 93 of this CP.*

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.

ICMA response:

ICMA believes that it is difficult to assess at this point in time whether the proposed minimum requirements are aligned with DORA, given that final details of the new DORA requirements, which will enter into force in 2025, are not known yet. It is not entirely clear what the scoping DORA will be but the impact is expected to be quite significant.

With respect to the feasibility of the minimum requirements proposed here, it is not clear how far “non-repudiation” should reach, and further elaboration from ESMA would be helpful.

Finally, trading venues (as one type of data contributors) are also subject to NIS 2 and CER Directive on some occasions. However, we believe that ESMA's expectation on the security of transmission protocol should focus on DORA only.

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.

ICMA response:

ICMA agrees and would suggest that the compatibility requirements should refer to systems, processes and data formats.

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

ICMA response: In its response to this question, ICMA would like to refer to the attached diagram “CTP Transmission Time” (see *Annex 2*) which aims to provide an overview about the different stages of data transmission, respective transmission times and associated legal requirements.

As per MIFIR Level 1 Article 22a, and as mentioned in paragraph 39 of this CP, ICMA understands that ESMA is provided with the mandate to develop the RTS on input data, which as per MIFIR Article 22a is the data going from data contributors - which as per MiFIR Article 22a are trading venues (TVs) and APAs - to the CTP. Therefore, it should be understood that when speaking about data transmission between data contributors and the CTP, the transmission time should **NOT** be measured from the execution timestamp of the transaction (as suggested by ESMA in paragraphs 39-45 and also, indirectly, in the context of discussing additional reporting fields in paragraph 82, (as well as in Article 3 of the draft RTS on input and output data on page 119), but instead should be referring **ONLY** to the time between timestamp of receipt at APA level (as per “APA reception time” in the diagram “CTP Transmission Time”, which in the diagram is T1) and timestamp of receipt at CTP level (which is the CTP reception time in the diagram and which equates to T3). The reference to the time from T3-T0 (which is understood by ICMA to be ESMA's proposal in this CP) is in ICMA's view incorrect.

ICMA assumes that the wording “from execution timestamp” has been mistakenly taken from the EC impact analysis as referred to by ESMA in this CP on page 21 footnote 7, which has a focus on equity markets and on-venue transactions, and which says for example on pages 39 and 40:

- (page 40) “The basic requirement for the equities tape is that it will collect, store and disseminate market data within 200 to 300 milliseconds of the **timestamp of the execution venue**.”

- (footnote 77 page 39): *"For the provision of a consolidated equities tape with level 1 quotes/post-trade transactions, made available intra-day within a range of 200 to 300 milliseconds of the quotes/trades being **"time-stamped" at the execution venue**. Level 1 quotes supply "top of the order book" basic information that, for the most part, is more than sufficient for most investors. These ranges are the result of two separate costed estimates provided to DG FISMA."*

In ICMA's view, and as per the diagram "CTP Transmission Time", the transmission time between APA publication (T2) and execution timestamp (T0) is subject to RTS1 (for equities) and RTS2 (for bonds), and associated with Level 1 MiFIR Article 10(1) and Article 21(1) and (5) already, which are not in question this consultation.

ESMA's mandate of defining the input data and what constitutes "as close to real time as technically possible" shall therefore only refer to the period between APA reception time (T1) and CTP reception time (T3). This is particularly relevant for transactions executed outside a trading venue, which will be reported via an APA. Therefore, the "timestamp of execution" has to be replaced in Article 3 of the draft RTS (and associated paragraphs 39-45 in the CP) by "timestamp of receipt at data contributor level" or "timestamp of receipt at APA level".

Whilst ICMA understands that in reality the transmission time might in most cases lie significantly below the 1 minutes and 5 minutes respectively of RTS1 and RTS2, our understanding from the above quotes of the EC impact analysis is that the 200-300 milliseconds were concluded to be appropriate for the equity tape, and based on equity market data, which should not be applied to bond markets, again specifically in the case of transactions executed outside a trading venue and published by an APA, and also specifically with respect to post-trade bond transparency for which there is generally less of a need for a high-speed transmission time such as the above. Such high-speed transmission times can influence greatly the cost of the technology used for the reporting by TVs, APAs and CTPs – cost which will likely ultimately be borne by the end investor.

In reality, in the case of bond markets where transactions happen outside a trading venue and where an APA is required to publish the transaction, the following processes have to be taken into account (referring to the diagram "CTP Transmission time"):

- Transmission time between execution time of transaction and APA reception time (=T1-T0): Especially in the case of OTC voice transactions, a transmission time of milliseconds does not seem realistic. As mentioned above, the time between T2-T0 falls within the legal requirement of RTS2 which allows for up to 5 minutes.
- Transmission time between T2 (APA public dissemination time)- T1 (APA reception time): Again, this timespan can be expected to last longer than just milliseconds in some cases given that APAs will receive the data and process such data (for example check for erroneous trades as per requirements under Article 10 of the draft RTS on the authorisation of APAs and ARMs). In line with ESMA's discussion under Question 58 of this consultation paper, where ESMA notes the connection between data quality/accuracy and dissemination speed in the context of organisational requirements to the CTP, the same argument can be valid here with respect to the APA receiving data from SIs (or, under the new regime, DPEs), which is that the higher the dissemination

speed between T3-T2, the lower the data quality/accuracy. In this respect, ICMA would also like to query the studies ESMA is presenting under paragraph 41 of this CP stating that a) service level arrangements range between 1 millisecond and 1 second, and also b) the average latency from execution timestamp is 150 milliseconds, both of which, according to ICMA member input, do not seem possible in the context of bond markets for transactions conducted outside trading venue.

For above reasons, ICMA would like to highlight that a distinction needs to be made between bond markets and equity markets. Whereas it might be fair to describe “real-time” transmission in equity markets in terms of milliseconds, it makes more sense to understand this term in bond markets in the context of seconds. Another important aspect is that, if the transmission between APA reception time (T1) and CTP reception time (T3) was required to be 100 (and 200) milliseconds in the case of CTP input data, the result might be that the CTP receives and disseminates the trade data earlier than the APA or TV publish the transaction on their side (as per requirements under RTS2).

ICMA therefore concludes the following: In the case of transactions published by an APA, the transmission time has to be measured from T1 (APA receipt), and not from the trade execution timestamp. At the same time, given that the time between T2 (APA submission) and T1 (APA receipt) still lies within RTS2 (which covers the period between T2-T0), the transmission speed for CTP input data, measured from T3-T1, should be as close to real-time as technically possible, but in line, not in conflict, with requirements under RTS2. As a guidance from ICMA’s side, and perhaps open to further discussion with ESMA, such transmission time between T1 (APA reception time) and T3 (CTP reception time), should normally fall in the region of a few seconds (such as 10 seconds, to give a rough idea).

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

ICMA response:

In line with our response to Q8 with respect to the ESMA proposals on “real-time” transmission on page 21-23 of this Consultation Paper, specifically under paragraph 45, ICMA would argue that these (too) high requirements are even less desirable in the case of deferred publication. ICMA’s view is that in the case of deferred publications (with the deferrals ranging from 15 minutes to 4 weeks as per revised MiFIR), there is even less need for a high-speed transmission in milliseconds.

Furthermore, certain types of deferred publication such as “end of day”, might lead to a huge bulk of data needing to be published simultaneously, and it could be problematic from a technical perspective to publish such high amounts of data simultaneously within the high-speed latency guidelines. Also for this reason ICMA would like to suggest less stringent latency requirements with respect to any deferred publication.

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.

ICMA response:

ICMA would like to stress that our response to this question refers to the data that is to be transmitted to the CTP (which is input data only), and not to the CTP output data. In this respect, ICMA would note that we do not agree with the ESMA proposal in paragraph 84 of this CP and in the Placeholder under Article 9 of the draft RTS on Input and Output data on page 121 of this CP, which is to disseminate output data in the same format prescribed for input data. We would further note that data formats and standards, and protocols for input and output data serve different purposes and parties and ICMA sees no need for deploying the same data formats to the input data (where for example a two-way communication is essential) and output data (where a one-way communication seems sufficient).

It is also important to highlight, with respect to the input data, that the data format needs to be compatible with a wide range of protocols, given that different APAs and TVs will potentially choose different protocols for the data to be transmitted to the CTP, and hence the compatibility of the chosen data format will be a key requirement.

Furthermore, and very importantly, ICMA members do not agree with the baseline proposal of adopting JSON as standards and format of data to be transmitted to the CTPs, for the following reason: JSON has no acceptance for market data dissemination by the industry. ICMA members would like to stress that the ESMA Study on data formats and transmission protocols (commissioned to Accenture in 2023) draws the wrong conclusions as it allocates too much weight on assessment criteria which are irrelevant in discussions around the CTP, such as

- **Human-readability:** In the sequence between data contributors (TVs, APAs) and the CTP (= input data), human-readability is not required. The real-time data feed is expected to transport compressed voluminous data sets in low latency mode. Both data providers and the CTP as recipient have competent IT staff that can easily handle any protocol and format. Human-readability is only needed at the end of the chain when human beings consume the data on a display service
- **ISO 20022 compliance:** ESMA considers ISO 20022 as the silver bullet for all standardization problems in the financial industry. This view is not shared by the industry given that ISO 20022 is a highly talkative XML-based data format that is not suitable for high volume/low latency data transmission. Consequently, it has no acceptance in the trading and market data space (and there is also no ISO 20022 market data message in the ISO 20022 message repository). ISO 20022 is mainly used for securities post-trade (C&S) and payment services.

If the above criteria were removed, the assessment would lead/would have led to different conclusions.

ICMA members would strongly suggest using data formats and standards that are compatible with FIX protocol, with FIX protocol having a very high acceptance across industry participants, something also acknowledged on page 6 of the ESMA Study on data formats and transmission protocols.

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.

ICMA response:

nA

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?

ICMA response:

ICMA members propose the same formats for all asset classes. Depending on the choice of format for all asset classes, there might be a need to distinguish between pre-trade (equity) and post trade formats (which would lead to distinct formats between a) pre-trade equity and b) post-trade equity, bond, derivatives formats).

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?

ICMA response:

With reference to paragraph 68 on page 27 of this consultation paper, which suggests that “regulatory data are not relevant for APAs: the status of systems matching orders only concerns trading venues...”, there is a concern as to what happens if there was a system outage on APA level, and how the information of such outage would be transmitted to the CTP (as part of the input data) and from the CTP to users (as part of the output data).

ICMA members understand the problem described under paragraph 75 on page 29 of this consultation paper, which is that several trading systems may appear under the same MIC, and hence more granularity was needed. In this context, ICMA members welcome the proposal of ESMA under paragraph 76, which in combination with field identifiers 3: System status start date and time and 4: System status end date and time as mentioned under Table 2 on page 29/30, would give sufficient information to identify the correct trading system. In the context of APAs having to conduct the transparency reporting for trading systems, members would like to seek clarification on what type of trading system ESMA is referring to. Members believe that this should only include the reporting for OTF/MTF, but not for Investment Firms.

Referring to the above last point, the field XOFF shall not be populated (as XOFF indicates that the related OTC trade relates to a ToTV (Traded on a Trading Venue) instrument (e.g. one that is available for trading on an OTF, MTF, or RM)).

With respect to paragraph 82, from a CTP perspective to fulfil its monitoring tasks, it might be useful to include an additional field with the timestamp indicating when APAs receive data from investment firms. However, we would like to refer to ICMA's response to Question 8 where we are of the view that with respect to CTP input data, the transmission time should be the time from APA reception time to CTP reception time (which is T3-T1 in attached excel diagram "CTP Transmission time" in Annex 2), and not from the execution timestamp of the transaction.

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

ICMA response:

NA

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

ICMA response:

We refer to the ICMA response to Q5 with respect to technical criteria in relation to reliability and in relation to the management of erroneous transactions). As mentioned under Question 5, and in reference to paragraph 93 page 35 of this CP, when it comes to a potentially erroneous transaction with respect to price and volume, the CTP should not be withholding publication.

Further to the response under Question 5, ICMA members suggest that the CTP should publish the trade, but an additional flag could be added signalling that the transaction is "under investigation". This would allow the trade to be published, and the CTP to alert the data contributor, in order to give the data contributor the chance to amend the data of that particular transaction, should it prove to be erroneous.

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

ICMA response:

ICMA agrees to the ESMA proposal of data quality measures for output data.

5 RTS on the synchronisation of business clocks

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

ICMA response:

ICMA agrees.

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.

ICMA response:

NA

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

ICMA response:

NA

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

ICMA response:

NA

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

ICMA response:

ICMA would like to clarify that ICMA is a bond market association and will provide this response (as all others) from the perspective of bond markets. The response is therefore referring to the obligation to publish transactions in bond markets only, and shall hence not be applicable to SI obligations for equity markets.

As a general comment, and referring to paragraphs 190 and 191, ICMA is of the view that SIs should not be treated in the same way as trading venue operators, but rather as members of trading venues. Furthermore, and in line with our responses to Q4 and to Q8, the proposed requirements for SIs and DPEs seems to have been taken from (pre-trade) equity markets and

are not considered necessary in the context of bond markets, particularly in the context of transmission times across the various stages discussed under Q8. The requirements for SIs and DPE as proposed here would be a very costly and burdensome exercise for the industry to adopt, especially for transactions where there is no gateway-to-gateway connection and more so for medium to smaller market participants intending to fulfil the DPE function. Especially in the case of OTC bond transactions, such type of clock synchronization does not seem feasible. Furthermore, ESMA in its proposal does not seem to have differentiated between different types of transactions in the case of DPEs, where the draft RTS on clock synchronisation in this CP proposes in all cases 1 millisecond for both the Maximum divergence from UTC and for the Granularity of timestamp.

In conclusion, in the context of bond markets, instead of 1 millisecond, ICMA members would propose a synchronisation requirement for DPEs of 1 second, again for both the Maximum divergence from UTC and for the Granularity of timestamp. The same requirement of 1 second should also be valid for APAs.

In addition to the above, there should also be no additional cost burden for smaller trading venues.

In general, ICMA is of the view that such high requirements come with a cost and should not hamper the overall CTP project of making data available at low cost.

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.

ICMA response:

See ICMA response to question 42.

6 RTS/ITS on the authorisation and organisational requirements for DRSPs

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

ICMA response:

ICMA understands the approach, however it is interesting to see that, following the change in structure as per Figure 8 on page 83 of this CP, there will not be any new organisational requirements for CTPs, at least not as per ESMA mandate in the new RTS for CTPs, which only addresses the requirements for CTP authorisation.

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

ICMA response:

NA

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

ICMA response:

NA

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

ICMA response:

ICMA agrees to the approach proposed by ESMA.

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

ICMA response:

ICMA sees a potential conflict of interest between the wish to establish a single CTP as per revised MiFIR, and the “old” MiFIR Level 1 Article 27b) “ Requirement for Authorisation” point 2. according to which: “An investment firm or a market operator operating a trading venue may also provide the services of an APA, a CTP or an ARM, subject to the prior verification by ESMA or the relevant national competent authority that the investment firm or the market operator complies with this Title.”, and which has not been amended in that respect.

In this context, it is questionable whether the CTP as sole provider of the consolidated data should be allowed to conduct any other (vertically related) services such as APA/ARM or data user, especially within the same legal entity.

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

ICMA response:

In reference to MiFIR Article 27db (5) and (6), points 5. and 6., it would be helpful to understand better what happens in the case of a CTP no longer being able to comply with the requirements, and the process for how and by whom the non-compliance would need to be identified (other than by the CTP itself as mentioned under 27db point 5.), and furthermore what mechanism there is to appoint another provider. In this context, MiFIR Article 27db seems to refer back to

27da , which would mean that the same procedure would apply to the replacement CTP as would apply for a new CTP, however, further clarification would be helpful.

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

ICMA response:

NA

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

ICMA response:

The definition of retail investors should include “for non-commercial purposes”, to avoid that in some instances entities with a commercial purpose (such as high net worth individuals or Universities with commercial purpose) could be included

The definition of retail investor as per MiFID, which defines retail as “non-professional” would include a small SME for example, and this should not be included, hence to specify “for non-commercial purposes”

ICMA suggests that since the CTP is also subject to the RTS on Reasonable Commercial Basis (RCB), the definition of ‘retail, academics and civil society organisations’ should be linked back to the ‘non-professional clients’ defined as per Article 18 of the draft RTS on RCB, which is currently discussed in the ESMA Consultation on the Review of RTS 2 on transparency for bonds, structured finance products and emission allowances, draft RTS on reasonable commercial basis and review of RTS 23 on supply of reference data.

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

ICMA response:

ICMA welcomes ESMA’s proposals around governance in paragraphs 251-253 of this CP and would welcome the set-up of an advisory committee (similar to the FCA proposal of a consultative committee for a UK CTP, as was discussed in the FCA Consultation Paper [CP23/15](#)).

In addition to such advisory committee, ICMA believes that there should be a clear escalation process in case of discrepancies arising between the CTP and the advisory committee, or for example if there were any disputes about data quality.

It was suggested by some members that governance could also be a selection criterion, instead of an award criterion, given its importance.

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

ICMA response:

The representation from retail and academic users would be desirable, but could be difficult to implement, hence this group of stakeholders could be added on an ad-hoc basis when needed.

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

ICMA response:

In reference to the ESMA wording in paragraph 255 where “one or more applicants (or firms) putting together a bid for the consolidated tape under one single entity or under the same name, even if there is no formal agreement between the different parts”, ICMA members find it difficult to see how a joint application can work without such formal agreement. The reason being that it would not be clear in which name the joint applicants would apply, bearing in mind that it might be difficult to apply under the name of one of the applicants, as this might look too close to what ESMA describes in paragraph 255 of this CP which is : “An arrangement whereby one firm for example outsources a part of the business to another company, but still applies under its own name, should not be considered as a joint application.”

It might therefore be more straightforward to have a formal agreement in place, or to set up a holding company with subsidiaries, which would then be followed by the creation of a new entity, once the candidate has been chosen.

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

ICMA response:

ICMA's view is that more clarification is needed in how conflicts of interest are defined in this context.

One conflict of interest that members could see could arising is if one candidate appears in more than one joint application.

It is also important that the Chinese Wall policies work well in case of a joint application.

Aside from the above, the conflicts of interest policies for single CTP candidates (as per draft RTS on the authorisation of CTPs on page 179 of this CP) should apply. Reference can also be made to the ESMA Consultation Paper on RTS on RCB and the conflicts of interest section here.

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?

ICMA response:

ICMA understands that ESMA proposes to weight the upfront cost less than the ongoing operative costs for reasons explained under paragraphs 263-264, and assumes that the intention is to create a level playing field amongst applicants. However, ICMA would caution that this has to be a careful balancing act given that upfront costs are quite an important element of the overall cost of the CTP. It might be challenging to strike a balance in this respect.

ESMA's proposal of a two-fold assessment of the cost criterion as per paragraph 268 to look at costs might be difficult in conjunction with presenting this criterion as an award criterion, since the RCB component should be a selection criterion. It might therefore make more sense to split these into two criteria and put RCB as a separate, selection criterion.

ICMA welcomes ESMA's statement in paragraph 265 according to which "ESMA will take into account in its assessment the ability for CTP applicants to maintain the quality of services for 5 years, including through investments in innovation". ICMA deems innovation important for the CTP to continue to offer best quality and service.

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.

ICMA response:

ICMA welcomes the approach taken by ESMA. Again, this is a balancing act since on the one hand, market participants will benefit from a simple fee structure, but on the other hand, there is a complexity to the offering as different types of licenses have to be offered in order to account for different types of users. Accordingly, there needs to be a balance between offering a model that is complex enough to serve all clients but as simple as possible at the same time.

Furthermore, the fee model should be fair and objective.

ICMA understands there are 3 different types of core data that will be published (in different formats) which are :

- GUI (i.e. the CTP web site)

- CSV file (i.e. low cost feed)
- API (real time)

ICMA expects that different fees should be applied to the different formats as they are based on different cost.

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?

ICMA response:

ICMA agrees with the approach.

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)

ICMA response:

As highlighted under Q8 when speaking about the definition of “as close to real time as technically possible” in the context of the input data to the CTP, ICMA makes clear that there is a distinction to be made between different asset classes, specifically referring to differences between bond markets and equity markets.

ICMA would like to stress again that there is a trade-off between data quality and dissemination speed and in the context of a consolidated tape for bond markets (and perhaps as opposed to the equity CTP, especially for pre-trade), data quality and accuracy should be considered more important than dissemination speed.

ICMA would like to re-iterate, further to our response to Q8, that in the context of timeframes for bond markets, seconds are more appropriate than milliseconds and that a dissemination in milliseconds would also mean a higher cost to the CTP.

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?

ICMA response:

ICMA agrees with this approach.

Overall, there should be a strong emphasis on data quality and data accuracy (which is different from the FCA proposal which foresees a 2-stage bidding process with pricing the only

component of stage 2), also bearing in mind there is a trade-off between data quality and latency.

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?

ICMA response:

Again, there is a trade-off between latency and data quality/other factors.

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

ICMA response:

ICMA agrees with the proposed approach to record keeping.

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?

ICMA response:

In principle, ICMA agrees with the proposed approach, however, and in line with our response also under Q6, it is important to highlight that this is subject to the more explicit guidance with respect to DORA which is still under construction. It is difficult to assess whether all can be fully agreed to, without knowing the final details of DORA.

With respect to rewarding the additional commitments and measures in relation to outages and cyber-risk, ICMA agrees, noting that these commitments and measures should be fairly essential for CTP contestants to include, given the importance of being able to deal with such issues.

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?

ICMA response:

ICMA agrees to the use of PUE as the metric to assess the energy consumption.

However, ICMA finds it difficult to see how a prediction can be made about the expected PUE of the data centre facilities from which they will provide their services as a CTP on average for five years of operation, with five years being a long time. It will be hard to establish whether such predictions can be genuine.

Therefore, ICMA proposes that the CTP applicant's expectations about the PUE will also be confirmed/underwritten by the CTP infrastructure companies (such as cloud vendors for example).

Annex II – Cost Benefit Analysis

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.

ICMA response:

As mentioned in our response to Questions 8 and 10 of this CP, the CTP input data involves different parties and serves different purposes than the CTP output data. Therefore, a separation should be made between these two streams, for example with respect to the transmission protocol, data formats and standards, and definition of real-time, as discussed in our responses to this CP.

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.

In general, ICMA agrees with this statement. It is important to highlight that all parties have to contribute to the success of the CTP, not only on an ongoing basis (as discussed for example under this CP point 3.2.3. Data quality measures and enforcement standards), but already from the start, e.g. before and at launch of the CTP operation, in order to make sure that everyone is connected. The CTP project depends on the good co-operation between all involved parties.
