

MIFIR RTS 23 ON CTPs AND DRSPs

ESMA'S CONSULTATION

AMAFI's answer

AMAFI is the trade association representing financial markets' participants of the sell-side industry located in France. It has a wide and diverse membership of more than 170 global and local institutions notably investment firms, credit institutions, broker-dealers, exchanges and private banks. They operate in all market segments, such as equities, bonds and derivatives including commodities derivatives. AMAFI represents and supports its members at national, European and international levels, from the drafting of the legislation to its implementation. Through our work, we seek to promote a regulatory framework that enables the development of sound, efficient and competitive capital markets for the benefit of investors, businesses and the economy in general.

As part of the review of MiFIR, which was published in the OJEU on 8 March 2024, new provisions related to the establishment of consolidated tape providers (CTPs) and data reporting service providers (DRSPs) were introduced. In this context, ESMA has been mandated to develop new draft Regulatory Technical Standards (RTS) and to propose revisions to existing ones. It is therefore presently consulting on draft technical standards with focus on:

- (i) the input and output data requirements of CTPs,
- (ii) the revenue redistribution scheme for the equity CTP,
- (iii) the synchronisation of business clocks, and
- (iv) the authorisation and organisational requirements for DRSPs.

The consultation paper also includes ESMA's initial reflections on the specification of assessment criteria for the CTP selection.

As the consolidated tape could become a key element of market transparency in the future, providing according to us its scope is extended, AMAFI wishes to provide its answers hereafter on this structural topic.

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?

Generally speaking, the methods of implementing the various CTs must not result in excessive costs for investment firms (including those that manage multilateral trading facilities), or even APAs which will inevitably pass on the costs to investment firms. This would raise barriers to entry, to the detriment of the vitality of financial markets.

Currently, there are multiple protocols in use for transmitting data to APAs. The XML format was introduced recently, specifically to comply with the EMIR Refit reporting requirements, resulting in considerable implementation costs. XML is widely adopted across the industry for various reporting purposes such as EMIR Refit, SFTR, and RDT.

While standardising protocols could streamline operations, it raises the question of the associated costs for investment firms. It would need to be clarified whether the protocol would apply solely to APAs and CTs, or also to investment firms, but in any case, the costs incurred by APAs are likely to be passed eventually on to the firms themselves.

In addition, AMAFI wonders whether ESMA should be responsible for defining these protocols.

We understand however those following studies carried out at the request of ESMA, it appears that the JSON format would be deemed more suitable. We are not opposed to using this format, however we would call for caution regarding its implementation timeline, as there are significant costs involved and, for other reporting purposes, XML has just been implemented. The technical and financial impacts of this change should hence be weighed with care.

With regards to the very detailed considerations in the CP on the speed of data transmission, one must bear in mind that the objective of the CT is not to gather data with maximum speed but as soon as technically possible. Above all, the objective is to centralise and harmonise data with accurate transmission, according to the regulatory principles of timely reporting.

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?

N/A

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?

N/A

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.

N/A

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.

N/A

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.

N/A

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.

N/A

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

Please refer to our answer to Q1.

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

N/A

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.

Please refer to our answer to Q1.

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.

N/A

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?

N/A

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?

N/A

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

N/A

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

N/A

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

N/A

4 - RTS ON THE REVENUE DISTRIBUTION SCHEME OF CTPs

General comments

AMAFI encourages a revenue-sharing system that favors a fairer distribution to smaller exchanges, without being able to precisely give details on how allocations should be calculated.

The revenue distribution scheme also raises some concerns as to its potential impact on the fees incurred by brokers from trading platforms and APAs.

Also, we believe that a more precise definition of IPOs and “young instruments” is needed.

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?

Regarding the identification of a trading venue and group, we recognise the challenges small trading venues face in continuing their activities and maintaining their role in the domestic market.

These challenges are not exclusive to small markets that are not part of a group but also apply to small markets within a group.

We suggest considering both the national and group levels to ensure a comprehensive assessment. This approach would balance the potential benefits of market integration and consolidation with the need to support smaller actors.

Therefore, we propose presenting the implications of both approaches without a strong preference but highlighting the symbolic importance of preventing market fragmentation.

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

We agree with the assessment presented and the methodology proposed for identifying trading venues and groups.

However, we stress the need for clarity on whether the criteria should be applied at the national level or the group level. Adopting a group-level approach might better support the sustainability of smaller markets within larger entities.

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.

We prefer option (A), i.e. the use of FIRDS for the identification of the venue of first admission to trading. FIRDS is a centralised and reliable source that enhances consistency and stability in data usage.

Utilising FIRDS ensures that all stakeholders use a common data source. This approach reduces duplication of efforts and promotes data integrity.

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, AMAFI agrees with this proposal.

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.

AMAFI disagrees with this proposal, and we do not fully understand the question.

What is the relevance of determining the pre-trade volume by the CTP? The CTP's primary role is post-trade transparency, and it is unclear why pre-trade data would be necessary.

However, if the determination of pre-trade volume is required, it should be precise and based on reliable data sources. But, again, we see limited value in this exercise for fulfilling the CTP's main functions.

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

AMAFI agrees with the methodology of converting the values into percentages for revenue distribution.

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.

We agree with the proposed transactions to be included and excluded for determining the volume for criteria #1 (Small trading venues) and #2 (Young instruments). More generally, we believe it makes more sense to place greater importance on criteria 1 and 2 than on the third criterion.

However, we do not have a specific position on the exact calculations. We believe that the methodology appears logical and fair but defer to ESMA's expertise for the precise details.

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.

We agree with the proposed frequency of redistribution.

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.

N/A

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.

N/A

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.

AMAFI is not in a position to provide a response to this question.

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).

AMAFI is not in a position to provide a response to this question.

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.

AMAFI agrees with the proposed frequencies.

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

AMAFI agrees with the proposed text and has not identified any missing points or issues.

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?

AMAFI agrees with this proposal.

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?

N/A

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?

N/A

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?

N/A

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?

N/A

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?

N/A

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.

Yes, we agree with the proposed approach. Synchronisation is crucial for accurate timestamping and compliance with best execution obligations, though it presents significant operational challenges for front-office systems.

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.

We note important operational challenges in implementing and transmitting such fine-grained timestamps across investment firm's systems. Given this, AMAFI does not support ESMA's alternative proposal for increased granularity levels for timestamps, as it would lead to excessive burdens and costs for entities.

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

Yes, we support the proposed approach. Accurate timestamps are essential for synchronised operations and protecting the integrity of the trading process, even though it requires significant operational effort.

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

Yes, we agree with the proposed approach of using UTC as the reference time. This is essential for ensuring consistency and uniformity, given that UTC is already widely established as a standard. Utilising the same reference time will facilitate more straightforward synchronisation.

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

Yes, we agree with the proposed accuracy levels.

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.

Yes, more stringent requirements should be set for SIs compared to DPEs. Under the new legislation, SIs are essentially execution venues used by clients to access liquidity. They are no longer used for reporting purposes. Given their role in execution and the high frequency of trades in equity markets,

it is reasonable to impose strict latency requirements to ensure they do not put clients at a disadvantage if prices fluctuate. In contrast, DPEs, which offer post-trade reporting services, have less stringent requirements, reflecting the different nature of their services. ESMA appears to distinguish between execution venues and reporting facilitators in this context, which appears relevant to us.

6 – RTS/ITS ON THE AUTHORISATION AND ORGANISATIONAL REQUIREMENTS FOR DRSPs

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

Yes, we agree with the approach proposed by ESMA. With APA/ARM now being directly authorised by ESMA rather than national competent authorities, the rules should be more harmonised across the EU. This structural change should facilitate a more consistent regulatory environment.

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

Yes, we agree with including new authorisation provisions on ownership structure and internal controls for APAs and ARMs. This ensures a higher level of oversight and harmonisation, which is crucial for maintaining the reliability of these entities. However, it is important that APAs can meet these new requirements, as their operational stability is critical. If an APA fails to meet the standards, it indeed directly impacts compliance of its users with their regulatory obligations.

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

Relevance of APAs: We question the continued need for APAs. For instance, in the U.S., reporting is done directly to the Consolidated Tape, eliminating the need for intermediaries. As DPEs are subject to similar obligations as APAs, APAs could be made effectively redundant. There would be benefits in terms of simplified processes, reduced costs, and fewer errors. It is therefore crucial to clarify the future role of APAs and DPEs.

CT Governance: It is essential that the governance of the CT is defined effectively to ensure the various interests at stake are balanced. If only one entity is selected as the CT provider, it is important to ensure that it is held to high standards. The CT should have mechanisms for ongoing feedback and interaction with market participants and ESMA to address any concerns that arise. This will help maintain its effectiveness and ensure it meets market needs throughout its mandate.

7 – CRITERIA TO ASSESS CTP APPLICANTS

Q46: How would you define retail investors, academics and civil society organisations for the purpose of the CTP?

AMAFI proposes the following definitions for the categories of data users in the context of the consolidated tape:

- **Retail Investors:** we recommend using the definition of “retail client” in Article 4(1)(11) of MiFID as a foundational reference.

Q47: What are in your view the most important elements that should be taken into account when defining the governance structure of the CTP?

The proposed governance structure for the CTP aligns well with governance standards defined in other regulations. The draft appears to be thoroughly developed, and given ESMA’s previous experience on similar matters, we have no additional comments at this time.

The primary concern is whether stakeholders will be kept informed throughout the selection process, including both the initial and intermediate stages, of the candidate provider, in order to be able to provide their opinion based on their experience and knowledge of best practices.

Q48: Should the CTP include representation of other stakeholders within their governance structure?

Yes, including stakeholder representation in the CTP’s governance structure is essential. Such representation should go beyond formal requirements, facilitating meaningful discussions and valuable recommendations. Clear terms of business for committee functions and leadership are needed. Stakeholders with relevant experience can provide insights into best practices, ensuring the committees contribute effectively.

To maintain transparency and legitimacy, detailed reports on operating costs and recommendations should be provided, and stakeholder feedback should be actively incorporated into decision-making processes.

Q49: Do you agree with the proposed approach on the assessment of necessity of joint application?

AMAFI agrees with ESMA’s proposed approach.

Q50: Which minimum requirements on identifying and addressing potential conflicts of interest would you consider relevant?

N/A

Q51: 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?

While evaluating annual costs is important, ESMA should also consider the cost structures of markets with established CT models for comparison. This approach would help ensure that the CT is financially viable and competitive. Excessive costs could undermine its operational relevance and its ability to attract subscribers.

Q52: 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.

N/A

Q53: 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?

N/A

Q54: 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).

N/A

Q55: 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?

N/A

Q56: 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?

N/A

Q57: Do you agree with the proposed approach to record keeping, based on the provision of document supporting intended compliance?

N/A

Q58: 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?

N/A

Q59: 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?

N/A

ANNEX II – COST BENEFIT ANALYSIS

Q60: 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.

N/A

Q61: 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.

N/A

Q62: 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?

N/A

Q63: 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?

N/A

Q64: Do you think that the proposed data quality requirements are sufficient to achieve the CT's objectives without generating excessive compliance burdens? Please explain.

N/A

Q65: 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.

N/A

Q66: 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.

N/A

