AFME Position Paper on the Consolidated Tape (August 2022)

Background:

AFME believe that the provision of an appropriately constructed CT could facilitate access to a common view of the market to all investors, irrespective of resources and level of sophistication, with a comprehensive and standardised view of equities and fixed income trading environments. This will contribute to the creation of a truly pan-European market, in line with the goals of the Commission's Capital Markets Union ("CMU"). An appropriately constructed CT could also reduce the cost of display data and reduce complexity relating to market data licences.

It was envisaged that a private entity would emerge as a consolidated tape provider (CTP), however a private solution has yet to emerge due to the lack of a commercial incentive to act as a CTP. Therefore, AFME considers that a key priority should be to determine how a CTP can emerge including making vital decisions on governance, structure and cost. In the context of the Commission's proposals, we set out below our key recommendations for the creation of an appropriately constructed CT. It is important to note that separate CTs for equities and bonds will be required to reflect the different market structures of these asset classes.

AFME's key recommendations

AFME believes that through democratising access to market data, an appropriately constructed CTs across bonds, equities and derivatives will help building deeper, and more open and integrated capital markets in Europe.

We welcome the following features include in the Commission's proposals from November 2021:

- **The cost of accessing the CT should be as low as possible –** a key benefit of the CT is the potential to facilitate market data access to market participants who currently cannot access these feeds. Having a high cost to access market data represents a major barrier to entry to European markets and is not a sign of a healthy, competitive market. CTPs should be assessed on their capacity to provide a CT which will be commercially appealing to widest range of potential users, thus increasing the commercial viability of the CT.

- **Mandatory data contribution to the CT** – trading venues and APAs should be obliged to provide market data, free of charge, to the CTP. This would be a necessary condition to i) ensure the viability of the CT and ii) minimise the cost of accessing the CT by final users. Should this fail, any additional costs to consumers could limit the number of firms consuming CT data and therefore reduce the commercial incentive for the emergence of a CTP.

- **No mandatory consumption of the CT** – market participants should not be forced to consume the CT. In many cases, mandatory consumption will mean that firms already consuming direct feeds would also be required to pay for the CT. Instead, a CT should be appropriately constructed so that it provides an offering that is economically attractive to market data users. This will ensure the continued success of a CT.

- **There should be a single CTP for each asset class –** allowing multiple CTPs carries the risk of a high number of CTPs, with potentially different or overlapping product scopes which may defeat the purpose of having a truly consolidated view of the market and increase costs to consumers. To avoid this scenario, potential CTPs should compete in a tender process which establishes which firm will operate as a CTP for a set period.

- **Data quality should be addressed alongside the development of a CT** – the implementation of the post-trade transparency regimes under MiFID II identified a number of data quality issues relating to SI and OTC post-trade reporting, particularly the treatment of non-addressable/non-price forming trades which should be excluded for the purposes of post-trade transparency. Industry groups began addressing these issues years ago and have welcomed work undertaken by ESMA who recently issued a consultation on transparency data for equities (RTS 1) and non-equities (RTS 2). The issue of data quality deserves particular attention when considering the bond CT.

- **The bond CT needs to** ensure committed liquidity providers are not exposed to undue risk - MiFID II introduced deferrals because it was recognised that real-time post-trade transparency can expose committed liquidity providers to undue risks, especially when trading in illiquid instruments or transactions above a certain size, given the longer timeframes to unwind the trade or hedge. A bond CT needs to reflect this by not publishing post-trade details until after the deferral period has expired. The consolidated bond data generated from the tape can then be analysed and deferrals modified if, and when appropriate.

- **The equity CT should be continuous and real-time** – AFME supports the EU Commission and ESMA on acknowledging that the equity CT should be real time and that there is no business case for a delayed tape given that the legal framework already requires the provision of market data, free of charge, 15 minutes after publication. ESMA highlighted that "no respondent expressed support for a CT providing only delayed data"[1]. We note that so far, no data providers have chosen to consolidate this free data indicating that there is no commercial incentive or demand for a CTP to provide a service on the basis of delayed data. Conversely, an equity real-time CT offers a number of benefits which we set out later in this paper. However, due to the time involved in consolidating data from disparate venues, a CT will not satisfy latency-sensitive use cases (i.e., algorithmic trading, smart order routing or high frequency trading) therefore will not compete with those venues which offer these market data via direct feeds.

- **The equity CT should include ETFs** – the inclusion of ETFs within the pre- and post-trade equity CT offers an opportunity to support the growth of EU ETF markets. However, there should not be a requirement to provide pre-trade data from RFQ systems, in line with the approach taken in other asset classes (e.g. bonds).

[1] P.60, ESMA MiFID II/MiFIR Review Report No. 1 On the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments, December 2019

However, we are concerned that the opportunity to mandate a pre-trade Equity CT has been missed by the Commission's legislative proposals:

- **For equities, a CT should include both pre-trade and post-trade data** - Ideally, these would be developed in parallel. However, as a compromise solution, policymakers could agree to require mandatory contribution of pre-trade data from all trading venues, except smaller exchanges from markets with little to no fragmentation which could contribute to the tape with pre-trade data on a voluntary basis.

- From a technical perspective, the simultaneous creation of a pre- and post-trade CT is achievable. Today, there are data vendors and market participants who already undertake the process of consolidating both data feeds. For commercial entities considering an application to become the provider of an equity CT, the inclusion of pre-trade data will be seen as a pre-requisite to ensuring that running the CT will be commercially successful.

- The development of a pre-trade equities CT will show investors what prices are available, making a significant step forward in providing visibility and transparency on market data for all types of market participants. This is especially the case for smaller asset managers and retail investors who operate with smaller or zero budgets for data feeds and are placed at a disadvantage when compared to institutional firms.

- For less liquid shares (e.g. from SMEs) - which trade less frequently, a post-trade only tape is of less relevance and will often be out of date, presenting an incomplete picture of available liquidity and pricing. By providing additional visibility on available orders in the market (as opposed to executed trades), the addition of a pre-trade tape will facilitate increased investment in less liquid shares which is key to the growth of EU capital markets.

- For equities, most use cases for the CT require of both pre-trade (quoted prices/volumes and indicative prices/volumes from venues and post-trade data (executions occurring on-venue and off-venue). Based on significant market research, demand for a purely post-trade CT is limited, and insufficient to support a financially viable CTP.

- Pre-trade data must include the top of book five levels of quotes (price and volume) from venues operating central limit order books during continuous trading, and indicative price/volume data from venues during auctions.

- In the event that a phasing approach is implemented (post-trade and then pre-trade as suggested by the Commission), AFME would highlight that the costs of engineering the CT twice – first to carry post-trade data only, and subsequently to also carry pre-trade data, would be substantial and wasteful for the CTP, venues and consumers. Instead, the CT infrastructure should be built to receive (and CTP selection criteria must require) pre-trade data from the outset, even if it is not to be distributed – as this will allow for subsequent flexibility. This approach would also have the benefit of allowing the CTP to consume existing market data feeds from venues, rather than switching to a different data source from each venue or requiring every venue to implement a new technical standard at significant cost.

- If inclusion of pre-trade data in the CT's distributed feed is not immediately politically possible, a model must be found to allow either for the phased inclusion of pre-trade data in as short a timeframe as possible, or for the exemption from mandatory contribution for smaller European markets.

Observations on revenue sharing arrangements:

- Any allocation of revenues from the CT should compensate all market data contributors. Such allocation should be via an appropriate model which does not lead to competitive distortions or undesirable behaviour.

- We support the provision of certainty of revenues to smaller exchanges within the framework of a regime that grants fair remuneration to the benefit of all market data contributors. In any case, we envisage that the increase in access to their trading data would facilitate greater visibility and potentially an increase in activity on their venues.

- The CT will not replace direct market data feeds, provided by venues (including smaller exchanges). This is due to the latency at which the data can be provided which will always be quicker when coming directly from the venue.

- Under this model, we recommend that ESMA develops Level 2 measures which should determine how much revenue CTs are expected to generate, who should participate in the revenue sharing scheme and how revenue is allocated. This has not traditionally been the role of ESMA, so in this capacity ESMA should ensure there is a level playing field among contributors and no preferential treatment is applied as part of a revenue sharing scheme.

- As stated above, in the circumstance that pre-trade data provision is not mandated from the outset, then revenue allocation should incentivise the voluntary provision of this data.

- Finally, the revenue allocation model should also guarantee a coverage of the CT set-up cost for the CT provider.