

## Consultation Response

### MiFIR Review - CP on Technical Standards related to Consolidated Tape Providers and DRSPs, and assessment criteria for the CTP selection procedure

Date: 28 August 2024

#### Question Responses

#### Section 3 of CP – RTS on input and output data of CTPs

No	Question
1	Do you agree with grounding the assessment framework of the quality of transmission protocols on the identified categories of technical criteria?
<b>Response</b>	
<p>Yes, AFME members believe that the proposed evaluation framework of the identified categories of technical criteria provides a reasonable and logical ground for assessing the quality of transmission protocols.</p> <p>Furthermore, AFME recommends that the framework for assessing the quality of transmission protocols should also include the following areas (either as standalone/additional categories or as part of the four categories currently proposed by ESMA):</p> <ul style="list-style-type: none"> <li>(i) documentation, encompassing a well-documented process for the operation of relevant API that will also include practical examples and provide ways of communicating any changes and adjustments;</li> <li>(ii) service level agreements (SLAs), whereby details and minimum standards of the services will be captured and key metrics for assessing performance periodically will be set;</li> <li>(iii) testing, whereby any technical issues with respect to transmission of data can be detected and addressed ahead of the CT going live.</li> </ul>	

No	Question
2	Do you believe that additional categories of technical criteria should be considered for the definition of minimum requirements of the quality of transmission protocols?
<b>Response</b>	
<p>AFME members believe that the identified four categories of technical criteria, namely performance, reliability, security and compatibility, as well as the fields of technical requirements included in each of them are reasonable.</p> <p>In addition, as referred in AFME's response to Question 1 above, the categories of technical criteria should be expanded to include documentation, SLA and testing requirements (either as standalone/additional categories or as part of the four categories identified by ESMA for defining the quality of transmission protocols).</p> <p>Furthermore, the scope of the 'Compatibility' category should also include backward compatibility which will allow any changes throughout the life cycle of the CTs to be backward compatible.</p>	

No	Question
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<b>3</b>	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?
<b>Response</b>	
<p>Although AFME welcomes, where possible, a harmonised set of requirements across all asset classes, there are certain considerations from an operational and cost-related point of view which suggest that some of the minimum technical requirements need to be adjusted for each asset class.</p> <p>In general, AFME members believe that a ‘one-size-fits-all’ approach would not be appropriate. For instance, given the different approaches to the notion of ‘real time’ dissemination of trade information between equities and bonds (which for the latter is within 5mins) the requirements for the technical criteria related to performance should be calibrated differently for each CT. This is further illustrated in the case of latency and throughput requirements.</p> <p>For example, the performance requirement of maintaining latency below 100 milliseconds that is proposed in the table on paragraph 27 of the CP can be viewed as an unnecessarily aggressive threshold for the bond CT that will disproportionately increase costs and therefore, it would be more appropriate for latency requirements to be set at the level of seconds (not milliseconds) with respect to the bond CT. On the other side, a granularity level set at milliseconds would be viewed as more suitable for the equity CT. In this regard and as further explained on our response to Question 8 below, we also note that latency requirements should not be considered by reference to the execution timestamps as that would interfere with regulatory requirements for post-trade transparency under MiFIR particularly in relation to trades reported via an APA.</p> <p>Likewise, throughput for each of the different CTs should be at such levels that represent the relevant underlying volumes of data to be transmitted. Therefore, the minimum technical requirements should reflect any divergence in approaches among the different asset classes and be tailored for each class where there is sufficient evidence to support that.</p>	

<b>No</b>	<b>Question</b>
<b>4</b>	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.
<b>Response</b>	
<p>AFME supports the development of minimum technical requirements in accordance with existing recognised industry standards and levels of technological progress to ensure efficiencies of costs and simplicity in the transmission of data. In addition, developments in other financial markets and comparable transparency regimes (e.g. the US TRACE) can also provide useful guidance for the purpose of developing the necessary technical requirements related to performance.</p> <p>We also reiterate, that a ‘one-size-fits-all’ approach should be avoided, and instead asset-specific approaches should be favoured where appropriate.</p> <p>With regard to throughput for example, the higher the amount of data to be transmitted, the higher the level of throughput should be. More specifically, throughput calibrations (generally understood as the stability of lines used for transmission of data) provide another instance where thresholds need to be reviewed dependent on asset class, given the different volumes of activity between equities and bonds, and as a result probably set at different minimum levels depending on the range of volumes of data to be transmitted. In</p>	

any case, the adjusted range of throughput levels according to the size of data contributor and amounts of data should be high enough to be fit for purpose and enable equivalent levels of performance across all categories of data contributors.

In addition, minimum technical requirements should also be customised to the nature of trading activity in each asset class and therefore, deviations from a generic cross-asset approach may be required. In this regard, a below 100 milliseconds requirement for latency as proposed in the table on paragraph 27 of the CP is unnecessarily aggressive for the bond CT and can excessively increase costs associated with data transmission without delivering any meaningful positive impact for consumers of the consolidated tape.

No	Question
5	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.
<b>Response</b>	
<p>As mentioned in AFME response to Question 4, the development of minimum technical requirements should be based on existing recognised industry standards and levels of technological progress to ensure greater simplicity and minimisation of costs. It would also be desirable if developments in other global financial markets where similar transparency regimes are in place (e.g. the US TRACE) would also be considered and if possible mirrored where that would be recommended.</p> <p>In particular, the harmonisation should be attained, where appropriate, between the EU consolidated tape and similar initiatives in other jurisdictions/markets/geographies (e.g. USA, UK), so as to avoid a “clash of tapes”, whose negative impact would be amplified due to the “structural” nature of the tapes (market infrastructures).</p> <p>Moreover, the field of minimum requirements for ‘reliability’ showcases another instance where an asset-tailored approach would be necessary.</p> <p>Concerns on data quality issues are more prominent on the non-equity side where there are still high levels of voice trading activity. In those cases, the minimum requirement proposed by ESMA for establishing correction mechanisms that will automatically rectify detected errors could be a suboptimal recommendation as due to their nature, fixed income trades executed through voice trading systems would require a lot more human intervention to appropriately address any erroneous trades. Consequently, on the non-equity side reliability of transmitted data can be improved when as a minimum there is a sufficient balance between manual/human-based and automatic error correction mechanisms. In addition, with respect to equity where the framework of post-trade transparency requires immediate transparency within 1 minute, the calibration of requirements for reliability is critically tied to this limited time. Therefore, in recognition of this limitation AFME members suggest caution before moving to more granular approaches for technical requirements.</p>	

No	Question
6	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.
<b>Response</b>	

Similar to the views expressed in the context of previous questions, AFME members believe that existing industry standards and comparable regulatory frameworks for determining quality of transmitted MiFID data should be leveraged to ensure efficiencies of costs and resources.

Furthermore, available technological solutions should be compared between each other from a cost-benefit perspective to ascertain what would be more appropriate for the purpose of security of data transmitted to the CTP. For the purpose of that assessment, it would be helpful to make a distinction between private data (e.g. identities of parties involved in a transaction) that will be transmitted from data contributors to the CTP and public data, i.e., the trade information that becomes publicly available and which the CTP will aggregate and disseminate to the public. AFME acknowledges the importance of maintaining high levels of system security for both categories of data, but in view of the different sensitivity in the nature of the data technical requirements should be adjusted accordingly.

In this respect, it is noted that data encryption, which is one of the available techniques for ensuring data confidentiality, takes a substantive amount of time and is associated with increased costs to decrypt those data at a later stage before adding to the data feed. It is, however, doubtful whether this technique is currently used in existing market data feeds in relation to the publicly available data that are disseminated. Therefore, deviations from existing market practices should be justified only where evidence demonstrates that data confidentiality arrangements currently in place are not sufficient to serve their purpose.

No	Question
7	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.
<b>Response</b>	
AFME generally agrees with the proposed minimum requirements on compatibility. Furthermore, as noted in AFME's response to Question 2, 'Compatibility' should also be viewed as including changes throughout the life cycle of the CTs to be backward compatible. It is also reminded that the points previously made regarding (i) alignment with existing industry and regulatory standards and practices also considering parallel initiatives in other jurisdictions/markets/geographies, and (ii) adjustments of minimum requirements to the specific characteristics of each asset class where necessary are also valid for the purpose of compatibility.	

No	Question
8	Do you agree with the proposed definition of "transmission of data as close to real time as technically possible"? If not, please explain.
<b>Response</b>	
AFME disagrees with the proposed definition due to the use of execution timestamp as a reference point for ESMA's proposals in paragraph 45 of the CP. In particular, with respect to data transmitted to the CTP by APAs the appropriate reference point for latency of transmitted data should be calculated from the point of time that an APA receives and can publicly disseminate the relevant data and not from the time of the execution timestamp. It is only from that point that an APA is able to proceed to transmission and public dissemination and therefore, the execution timestamp is not an appropriate determinant.	
Moreover, AFME would propose an approach that takes into consideration the different categorisation of publication delays permitted for each asset class (at post-trade and pre-trade, where applicable) in order to determine the definition of "as close to real time as technically possible" for the transmission of data to	

the CTP. Therefore, the calibration of 'real time' should be structured in a way that adequately reflects what is currently applicable in the context of trade transparency for each asset class (notably RTS 1 and RTS 2).

In this regard, it is noted that paragraph 45 of the CP states that *"For post-trade data, regardless of asset class, data contributors should transmit data to the CTP no later than 100 milliseconds from the execution timestamp (field 1 of Table 3 of Annex I of RTS 1 and field 1 of Table 2 of Annex II of RTS 2) for transactions executed on a trading venue and, 200 milliseconds from the execution timestamp for transactions executed OTC"*. However, this would conflict with existing SLAs under MiFID post-trade transparency framework e.g. 1 min for RTS 1 (60k milliseconds) & 5 mins for RTS 2 (300k milliseconds). Therefore, imposing the requirement on data providers (predominantly APAs) to transmit data as per ESMA's proposal in the CP would be challenging and can create an additional, unnecessary reporting burden.

No	Question
9	Should ESMA consider specific rules for real-time transmission of transactions subject to deferred publication?
<b>Response</b>	
<p>As an initial remark, AFME notes that section 3.2.2.1 of the CP is not supported by a rationale that would justify the introduction of specific rules for those categories of trades where a deferred publication of trade information applies.</p> <p>AFME believes that details of deferred trades should be retained by trading venues (TVs) and approved publication arrangements (APAs) throughout the duration of the deferral timeframe and disseminated to the CTP at the time when the obligation to publish those details arises. Therefore, we see no practical reasons for introducing specific rules for real-time transmission of data in those situations. We also note that the current MiFIR framework does not impose any obligations to the CTP to calculate deferral times in the context of post-trade transparency and therefore, the CTP should not be expected to do so.</p> <p>This is in line with existing market practices while it also offers the advantage of enabling TVs and APAs to perform quality checks and rectify any erroneous information before publication given that APAs can use the established networks of communications with investment firms who are the original contributors of trade data to APAs.</p> <p>Furthermore, if that stage is bypassed and information on deferred trades is directly transmitted to the CTP on a 'real time' basis, that would burden the CTP with the assessment of determining the appropriate time of publication of that information and would go beyond the current mandate and envisaged consolidation role of the CTP.</p> <p>In addition, it would increase the costs of operation of the CTP due to the additional intermediation role and duties before publication of deferred trades, leading to potentially increased charges of fees for the users of consolidated tapes. Therefore, AFME members do not support a differentiation of transmission requirements for deferred trades, given the complexities and knock on effects on costs highlighted above.</p>	

No	Question
10	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.
<b>Response</b>	

AFME is supportive of a solution on the standards and format of data that will be in line with industry standards and levels of technology. In the current trading environment, the Financial Information eXchange (FIX) protocol is the most widely used protocol among market participants. Based on members anecdotal experience FIX could adequately respond to the needs associated to the transmission of the data to the CTP. Furthermore, other solutions, such as JSON, could potentially also be supported by the market although we understand they have less traction than the FIX protocol.

However, we have concerns about ESMA's approach to prescribe the use of a specific protocol in level 2 as this will leave the CTP with no flexibility to switch to a different format of protocol if that is needed or advised by data contributors at a later stage during the award period or after the expiration of the term of first CTP and during the selection process for the new CTP. According to AFME members view, the selected protocol per asset class should be suitable to support good functionality and performance and given the multiple options that are currently available in the market and the potential for adjustments due to constant market development and innovation, it is recommended that ESMA should refrain from endorsing a particular protocol and hardwiring it in legal text. Instead, prospective CTPs should be able to propose their recommended protocols in line with industry standards and expectations about functionality and performance and any minimum technical requirements set by ESMA in the relevant RTS. Furthermore, different protocols might be useful for different asset classes and therefore, CTPs should be allowed to propose the most suitable option for each asset class. ESMA should further be able to assess the merits of such proposals during the selection process by taking into account the above factors as well as any relevant recommendations from the expert stakeholder group established pursuant to article 2 MiFIR.

No	Question
11	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.
<b>Response</b>	
As mentioned in AFME's response to question 10 above, AFME believes that prospective CTPs should be able to specify what protocols they intend to use provided that these are aligned with commonly accepted industry standards and minimum regulatory requirements on functionality and performance. This will enable each CTP to choose the most appropriate protocol for each of the different asset classes and lead to greater coherence with the rest CTP requirements provided in level 1 and level 2 legal provisions.	

No	Question
12	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?
<b>Response</b>	
AFME members believe that it would be more appropriate for protocols to be adjusted at asset class level as the use of different protocols might be useful for different asset classes due to the varying market standards and practices.	

No	Question
13	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?
<b>Response</b>	



AFME members believe that different models on the treatment of core and regulatory data should apply between the bond and equity CT given that for the latter there would be a wider scope of data to be reported, particularly due to the inclusion of pre-trade transparency data. Therefore, AFME members agree with ESMA's approach to outline in section 3.2.2.3 of the CP its proposals on core and regulatory data for the bond CT only and then further specify the requirements for the equity CT at a later stage concurrently with amendments to RTS1.

As noted by ESMA in par. 68 of the CP, regulatory data are to be provided to the CTP only by trading venues. However, for certain types of trading systems, such as the request for quote (RFQ) trading systems for bonds, there are not currently in use any mechanisms that could notify users on the status of the trading system. To the extent though that those systems have the status of a trading venue, they will have to report as per ESMA's proposals both core market data and regulatory data. Nevertheless, the implementation of ESMA's proposals on fields of regulatory data can be challenging in those cases, as it would require from those trading systems to develop relevant fields to reflect the trading status which do not currently exist.

Furthermore, in respect of supplementary fields for input core market data, and depending on the approach that ESMA would follow regarding CTP's powers with respect to data quality issues and reporting of erroneous trade information, in the event that ESMA would require from the CTP to use specific data fields in order to flag any erroneous trades (instead of requesting the CTP to filter out those transactions and only report them as soon as the relevant information is verified), CTP core market data output table should also include a separate field to reflect that.

No	Question
14	Do you support the proposal of machine-readable and human-readable formats outlined in this section?
<b>Response</b>	
AFME supports machine-readability and human-readability of data consumed by users. With respect to publication of data in CSV format, AFME believes that this should be user-driven so that essentially users can request CSV files by selecting what information will be included in those files from a set of available criteria/filters (e.g. period of time). In that way, CSV files would be customised per each individual user and thus would be more useful as data would have been narrowed down on the basis of selected search criteria/parameters than if users just had access to static CSV files with historical data produced by CTPs (e.g. at the end of each trading day).	
Furthermore, given the option to develop a user-driven CSV format that will produce CSV files on the basis of selected criteria by individual users, publication in GUI could remain simple to avoid increased costs for users. In this respect, it would be sufficient for users to be able to search for basic information about an instrument by using the instrument's ISIN or description which, as a minimum, would require from the CTP to set-up a designated webpage that users can access.	

No	Question
15	Do you agree with the proposal of data quality measures and enforcement standards for input data?
<b>Response</b>	
AFME members believe quality of input data is particularly important for the success of the CTP and therefore, there should be robust mechanisms to identify and effectively address any data quality issues. In this respect, the input from the expert stakeholder group that has been formed can offer meaningful	

guidance regarding the measures that the CTP can apply to ensure a comprehensive approach to data quality assurance.

Moreover, AFME agrees with ESMA's proposal for having in place well-defined arrangements between the CTP and data contributors that can support this objective. However, the CTP should not be able to levy penalties as part of their enforcement powers as implied in par. 97 (page 36) of the CP. The judgment of levying a penalty is a function that only regulators can perform and not any commercial entities. Consequently, in those cases where data do not adequately comply with quality standards and data contributors fail to cooperate with the CTP for addressing the identified data quality issues, the CTP should report that to the competent authority to determine if any enforcement action is required. The competent authority should also report quality issues to ESMA. This additional step would be fundamental in order to ensure a genuinely EU-wide, centralised oversight of the quality of the input data and of the performance in this specific domain by the data providers. To pursue the objective of an EU-wide panorama of the transactions occurring across all the EU venues (the objective pursued by the CT initiative) it should be accompanied by the objective of setting up mechanisms with an EU scope designed to effectively ensure the quality of the data provided to the CTP.

It is also noted that the second enforcement measure proposed by ESMA, namely the temporary suspension of revenue redistribution could only work in the context of the equity consolidated tape while for the other tapes the only available enforcement measure would be the notification to the competent authority.

No	Question
16	Do you agree with the proposal of data quality measures for output data?
<b>Response</b>	
AFME agrees with ESMA's proposals of data quality measures for output data. It is further noted that the periodic data reconciliations proposed by ESMA should include adequate processes for identifying and addressing any data quality issues and provide specific timeframes for corrections. In addition, any changes made to rectify erroneous trade information after publication should be accurately and timely notified to the CTP users. In this respect, the use of appropriate transaction IDs/reference number tags for each trade being published would be also recommended to enable users to easily track any changes to published data as well as the use of an appropriate flag to be utilised when a transaction is under investigation.	

#### Section 4 of CP – RTS on the revenue distribution scheme of CTPs

No	Question
17	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?
<b>Response</b>	
AFME are not responding on this question.	

No	Question
18	Do you agree with the above assessment? If not, please explain.
<b>Response</b>	
AFME are not responding on this question.	

No	Question
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<b>19</b>	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.
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<b>Response</b>
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AFME are not responding on this question.
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<b>No</b>	<b>Question</b>
<b>20</b>	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.

<b>Response</b>
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AFME are not responding on this question.
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<b>No</b>	<b>Question</b>
<b>21</b>	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.

<b>Response</b>
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AFME are not responding on this question.
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<b>No</b>	<b>Question</b>
<b>22</b>	Do you agree that the methodology to distribute the revenues should require the conversion of the values into percentages? If not, please explain.

<b>Response</b>
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AFME are not responding on this question.
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<b>No</b>	<b>Question</b>
<b>23</b>	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.

<b>Response</b>
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AFME are not responding on this question.
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<b>No</b>	<b>Question</b>
<b>24</b>	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.

<b>Response</b>
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AFME are not responding on this question.
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<b>No</b>	<b>Question</b>
<b>25</b>	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.

<b>Response</b>
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AFME are not responding on this question.
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<b>No</b>	<b>Question</b>
<b>26</b>	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.

Response	
AFME are not responding on this question.	

No	Question
27	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.

Response	
AFME are not responding on this question.	

No	Question
28	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).

Response	
AFME are not responding on this question.	

No	Question
29	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.

Response	
AFME are not responding on this question.	

No	Question
30	Do you agree with the proposed text? Have you identified any missing points or issues?

Response	
AFME are not responding on this question.	

No	Question
31	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?

Response	
AFME are not responding on this question.	

No	Question
32	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?

Response	
AFME are not responding on this question.	

No	Question
33	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?

Response	
AFME are not responding on this question.	

No	Question
34	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?
<b>Response</b>	
AFME are not responding on this question.	

No	Question
35	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?
<b>Response</b>	
AFME are not responding on this question.	

No	Question
36	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?
<b>Response</b>	
AFME are not responding on this question.	

## Section 5 of CP – RTS on the synchronisation of business clocks

No	Question
37	Do you agree with the proposed approach on synchronisation to reference time? If not, please explain.
<b>Response</b>	
AFME members agree with the approach proposed by ESMA.	

No	Question
38	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.
<b>Response</b>	
<p>AFME members note that the levels of granularity can have various implications to transaction reporting. Therefore, they should be set at such levels that would not excessively burden entities with costs associated with changes to the current technological infrastructure or any other adjustments of their internal set-up. In view of the above, AFME is not supportive of ESMA's alternative option requiring even smaller granularity levels with respect to timestamps.</p> <p>AFME supports ESMA's proposal to maintain the granularity set in RTS 25 of 1 microsecond or better (option 1) in table 1 of the annex to the draft RTS. However, we support this level of accuracy on the basis that article 2 applies only to trading venues. As further explained in our response to question 41, the words "and systematic internalisers" should be deleted from article 2 and the title of table 1.</p>	

No	Question
39	Do you support the proposed approach on the level of accuracy for trading venue members, participants or users? If not, please explain.
<b>Response</b>	

AFME members agree with the proposed levels of accuracy to the extent that these do not deviate from what currently applies. Similar to our response at Q38 above, any increase of the level of granularity should be justified if there would be a case of delivering a meaningful impact without excessively burdening compliance of firms. AFME do not support any increase in granularity outside of trading venues.

No	Question
40	Do you agree with the proposed approach on traceability to UTC? If not, please explain.
<b>Response</b>	
Yes, we agree with the proposed approach.	

No	Question
41	Do you agree with the proposed accuracy levels for APAs, SIs, DPEs and CTPs? If not, please explain.
<b>Response</b>	
<p>No, we do not agree. The proposed approach does not take into account the types of trading activity that can take place in an SI or DPE, it creates an inappropriate equivalence between trading venues and SIs/DPEs (which is not required by the Level 1 text) and would unnecessarily increase costs for a wide range of investment firms trading across asset classes.</p> <p>It's important to note that not all SI or DPE activity is electronic, AFME members think that an approach whereby different accuracy levels are set for equity and bond transactions would be appropriate. This would also ensure that the levels are set for different types of trading activity that can take place within an SI or DPE. It would also account for differences between the granularity of timestamps in the new RTS on clock synchronisation, which are aligned with the relevant granularity levels for timestamps used for post-trade and transaction reporting, including under RTS 1, 2 and 22. In addition, accuracy levels applicable to each of those categories of firms should be set at such thresholds to allow an easy implementation without requiring a radical overhaul of existing technological infrastructure and organisational set-up.</p> <p>However, when extending business clock synchronisation rules to systematic internalisers ("SIs"), ESMA is treating SIs as if they are equivalent to trading venues ("TVs") by including SIs within article 2 of the draft RTS. AFME believes that this is inappropriate on technical and operational grounds. An SI is an investment firm acting in the capacity of an SI. This capacity is not a venue, nor is the investment firm operating a venue. An investment firm has a fundamentally different design and purpose to that of a TV, including when acting as an SI. SI activity comprises several component systems and processes, some of which includes activity completed manually. SIs cannot be treated as if they have a gateway-to-gateway model comparable to that of TVs nor, therefore, is it appropriate to apply to these systems the same gateway-to-gateway latency obligations. Applying the same granularity requirements to SIs and TVs would not recognise these crucial differences.</p> <p>Article 22c (1) of MiFIR requires SIs (as well as APAs, CTPs and DPEs) to synchronise their business clocks but, critically, does not compel ESMA to treat SIs and TVs as if they are equivalent under regulatory technical standards. AFME strongly believes that requiring SIs to conform to the granularity requirements of TVs would, in practical terms, represent a significant change to the business clock synchronisation rules based on a false equivalence between SIs and TVs, unnecessarily raising considerable costs for investment firms.</p> <p>Further, the majority of firms that will become DPEs will do so precisely because they are currently SIs, to ensure they have the obligation to report for post-trade transparency under MiFIR Article 21 as a service to</p>	

their clients. As such, they will typically share the same infrastructure and use the same protocols at firm level, and should be treated in the same way.

Accordingly, AFME recommends that ESMA proceed with option 1 of the application of TV accuracy requirement as outlined in table 1 of the annex of the draft RTS.

However, in light of the above concerns regarding SIs and DPEs, AFME proposes that article 4 be extended for SIs, accompanied by a new table 3 inserted to the annex to outline accuracy obligations for both SIs and DPEs for their off-venue activity. All activity that is voice or RFQ should continue to be subject to a maximum divergence from UTC and timestamp granularity of 1 second, as it is when conducted on-venue. Other equities activity that is electronic should be at millisecond granularity/divergence, and all other activity, which would be fixed income activity, should be at 1 second granularity/divergence. We set this out in our mark up to the proposed RTS, including a new Table 3 (see appendix to our response attached as a separate document).

No	Question
42	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.
<b>Response</b>	
AFME members do not support introducing more stringent requirements for SIs compared to DPEs (or vice versa). As noted above, where an investment firm is both an SI and a DPE it will make use of the same infrastructure and protocols at firm level.	
We are concerned that the RTS proposed by ESMA does not take into account the different trading activities undertaken by investment firms which include voice trading activities. The level of accuracy then becomes dependent on whether a firm is an SI, a DPE or both, without accounting for the different types of activity it can undertake or the different asset classes in which it might trade. We think this is the wrong approach and propose an activity/asset class based alternative requirement.	
As noted in our response to Q41 above not all SI activity is electronic activity therefore we reiterate our drafting amendment proposals provided in the appendix to this CP response (attached as a separate document).	

## Section 6 of CP – RTS/ITS on the authorisation and organisational requirements for DRSPs

No	Question
43	Do you agree with the approach proposed by ESMA?
<b>Response</b>	
AFME are not responding on this question.	

No	Question
44	Do you agree to include new authorisation provisions on ownership structure and internal controls for APAs and ARMs?
<b>Response</b>	
AFME are not responding on this question.	

No	Question
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<b>45</b>	Do you have any further comments or suggestions on the draft RTS? Please elaborate your answer.
<b>Response</b>	
AFME are not responding on this question.	

<b>No</b>	<b>Question</b>
<b>46</b>	Do you agree with the approach proposed by ESMA?
<b>Response</b>	
AFME are not responding on this question.	

<b>No</b>	<b>Question</b>
<b>47</b>	Do you foresee specific conflicts of interests that may arise between (i) CTP and data contributors and (ii) CTP and clients and users?
<b>Response</b>	
AFME are not responding on this question.	

<b>No</b>	<b>Question</b>
<b>48</b>	What other elements, if any, should be included in the RTS on authorisation of CTPs?
<b>Response</b>	
AFME are not responding on this question.	

<b>No</b>	<b>Question</b>
<b>49</b>	Do you have any further comments or suggestions on the draft RTS? Please elaborate your answer.
<b>Response</b>	
AFME are not responding on this question.	

## Section 7 of CP – Criteria to assess CTP applicants

<b>No</b>	<b>Question</b>
<b>50</b>	How would you define retail investors, academics and civil society organisations for the purpose of the CTP?
<b>Response</b>	
<p>AFME's proposal to define those categories of users of data is the following;</p> <ul style="list-style-type: none"> <li>• <u>Retail investors</u></li> </ul> <p>The definition of 'retail client' in article 4 par. 1 (11) MiFID can be used as a starting point to define retail investors for the purpose of the consolidated tape. Essentially, the definition should include those investors who cannot be classified as per se professional clients under the MiFID framework. In this respect, the criteria to distinguish between retail and professional clients in the context of relevant MiFID definitions can provide useful guidance to the CTP to interpret the definition of retail investors.</p> <ul style="list-style-type: none"> <li>• <u>Academics</u></li> </ul> <p>The definition should capture individuals from universities or research institutions with a non-commercial/non-profit purpose.</p> <ul style="list-style-type: none"> <li>• <u>Civil society organisations</u></li> </ul> <p>The definition should capture independent, non-profit organisations.</p>	

<b>No</b>	<b>Question</b>
<b>51</b>	What are in your view the most important elements that should be taken into account when defining the governance structure of the CTP?



Response	
<p>AFME notes the importance of a robust governance framework for the CTP. In addition to ESMA proposals outlined in paragraphs 249-253 of the CP, AFME would recommend the strengthening of stakeholder involvement in the governance structure through the following ways:</p> <p>(1) The consultative/advisory committee to be established by the CTP shall be composed of a representative range of its users and data producers. Its numerical composition shall be in favour of data users from whom the majority should come from fee paying professional users.</p> <p>(2) The committee must meet at least every 6 months and its Chair must make the meeting agenda and minutes public.</p> <p>(3) The CTP must share information about its operating costs with the consultative committee, including providing regular updates to the committee on these costs.</p> <p>(4) The CTP shall consider implementing any of the recommendations made by the stakeholders committee or provide an explanation, which shall be made available to the public, of its reasons for not implementing the recommendations.</p> <p>(5) Where the consultative/advisory committee has made a recommendation that the CTP has rejected or not fully implemented, the committee shall have the option of referring the recommendation to ESMA, which shall consider the recommendation in the course of performing its supervisory and/or enforcement functions.</p> <p>(6) The Chair must make public information on how it takes forward any recommendations of the committee including on its performance and operation of the CT.</p>	

No	Question
52	Should the CTP include representation of other stakeholders within their governance structure?
Response	
<p>As stressed in our response to Question 47 above, participation of stakeholders in the governance structure of the CTP is paramount to create an effective framework that supports the well-functioning of the tape. In this respect, the weighting of such participation should be in favour of data users (with an increased representation of professional users among the different categories of data users who cumulatively will have the majority in composition). Furthermore, it is also recommended ESMA to be invited as an observer to any meetings of the stakeholder committee.</p>	

No	Question
53	Do you agree with the proposed approach on the assessment of necessity of joint application?
Response	
AFME agrees with ESMA's proposed approach.	

No	Question
54	Which minimum requirements on identifying and addressing potential conflicts of interest would you consider relevant?
Response	
<p>AFME stresses the importance of setting out minimum requirements that will be effective in order to identify and address conflicts of interests both at the outset and on an ongoing basis thereafter. In particular, CTP applicants shall demonstrate during the application process as well as throughout the operation of the tape that they have established adequate mechanisms and measures in line with the relevant governance and organisational standards and best practices, and which are regularly reviewed for their effectiveness. In this respect, the ownership structure of a CTP and any changes to it should be also publicly disclosed as well as any trading interests in relation to the data disseminated through the tape.</p>	

No	Question
55	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?
<b>Response</b>	
<p>AFME members believe that costs incurred for the development of the consolidated tape and its operation should both be considered in context without giving additional weighting to the operating costs <i>a priori</i> as proposed by ESMA in paragraph 264 of the CP. Essentially, the larger the investments that the CTP will make for the tape, the lower the amounts of operating expenses are expected to be as it can be validly assumed that good infrastructure already from the beginning of operation of the tape will prevent incurring operating costs due to IT issues such as outages, cyber-attacks, etc. Furthermore, awarding operating costs a more favourable treatment could incentivise CTP applicants to focus on inflating those costs to the detriment of investing in infrastructure.</p> <p>In addition, the business plan of the CTP shall also be assessed in terms of the adequacy of its provisions on financial planning which should be realistic and include different scenarios about trends in revenues and expenses depending on to the level of client demand throughout the 5-years period. However, although it is important for the CTP to demonstrate that they can lower overall costs to recoup annually, it is equally paramount to maintain the quality of services for five years as also mentioned by ESMA in paragraph 265 of the CP. Therefore, AFME recommends that the scoring methodology that ESMA will apply needs to be flexible in this respect to reflect the interplay between costs and quality.</p> <p>Whilst AFME does not support revenue distribution for the bond consolidated tape, we acknowledge that amendments to MiFIR – Article 27da (i) - have made provision for this. However, this revenue redistribution option for the bond consolidated tape proposed by ESMA in paragraph 272 of the CP, should not be awarded any special weighting and should not be a determinant for progressing or not bond CTP applicants to the next stage of the selection process (where applicants will be invited to submit initial offers). AFME believes that offering revenue redistribution for bonds should be purely voluntary for CTP applicants and as such should have zero weighting overall in comparison with the rest of the selection criteria.</p> <p>Furthermore, any CTP applicants that will submit proposals for arrangements to distribute revenues should clearly explain how that will impact operating costs and the fees charged to data users. it should be noted that where revenue distribution is offered, the preference would be for this to not directly impact overall operating costs ultimately passed on to end users i.e. if weighting is to be provided to this offering, bidders should be able to demonstrate revenue distribution implementation does not negatively impact fees imposed on end users. Therefore, this criterion should be assessed in conjunction with the criteria associated with the costs and fees of the tape.</p>	

No	Question
56	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.
<b>Response</b>	
<p>There is a need to keep fee structures and licensing models of a bond CT as simple as possible, however AFME members believe that there should be a clearly defined set of tiers that takes into consideration the different types of data users as well as their different informational needs and, consequently, the different volumes and type of data used and the frequency of the use of the CT. By ensuring a sufficient (not overly</p>	

complex) number of tiers, for example differentiating between professional clients and retail investors, data users will be able to benefit from a range of fees that are better tailored to their needs. In that sense, ESMA's approach to simplicity of the fee structure could have unintended consequences as reduced levels of granularity of tiers would lead to sub-optimal results for data users.

The risk in an overtly simplified approach is twofold: 1) a flood of unnecessary information to the detriment of users and 2) a duplication of costs to the detriment of users. In the final analysis, users of the CT will have to "process" and to "digest" the data they receive (a number of activities that would imply IT/technological burden; for example, these activities are those carried out by the TCAs that support the buy-side operators). Data adequately tailored to the needs of the users would be, in all likelihood, easier to be processed and digested, without additional costs and other related activities.

No	Question
57	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?
<b>Response</b>	
AFME supports the proposed ESMA approach regarding the assessment of CTPs technological infrastructure and that this is a criterion that should be assessed holistically and in conjunction with the data quality criterion and modern interface and connectivity criterion set out in point (f) and point (j), respectively, of Article 27da(2) of MiFIR.	
As such, technological infrastructure should be viewed as providing the necessary tools to the CTP to effectively monitor the processing of input and output data for the purpose of detecting and addressing any data quality issues. In addition, it would also be recommended for a testing interface environment to be developed by each bidder that participates in the CTP tender process which will be tested as part of evaluating each CTPs bidding proposal. This will ensure that the systems are fully operational and can provide assurance that they will work effectively at the go-live and most notably that they are capable of working in a secure way that will not compromise any sensitive information.	

No	Question
58	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 <sup>1</sup> ).
<b>Response</b>	
AFME believes that different speeds of dissemination should apply to the different consolidated tapes and agrees with ESMA's approach to distinguish between asset classes and categories of trade data. In addition, speed should be at levels that do not make dissemination too costly as it is imperative for achieving a balance between dissemination of information in a timely manner and minimisation of costs.	
This latter point is of critical importance to ensure that the CT business model might turn out to be sound and sustainable in economic terms.	

No	Question
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<sup>1</sup> This should obviously be read as 'pre- and post-trade data'.

<b>59</b>	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?
<b>Response</b>	
<p>AFME agrees with ESMA's proposal, but this additional reward should only be restricted to qualitative commitments and measures proposed by CTP applicants. AFME believes that data quality is of utmost importance for the success of the CTP and for this reason the approach to it should be carefully structured to enable high data quality standards already from day one.</p> <p>AFME strongly opposes rewarding any additional financial commitments and measures, such as a revenue redistribution mechanism for those consolidated tapes where this is not a requirement (i.e., the bond and derivatives tapes). According to AFME members, in those cases revenue distribution would not be sufficient per se to improve data quality and as such it is a non-relevant criterion to evaluate CTPs applications and should not be used by ESMA to assign additional scoring. AFME members believe that revenue distribution should not be considered as a mechanism that guarantees improved data quality, but instead alternative commitments/measures would be appropriate layers of validations applied to fields for publication (such as Price format connection with Price Type/Price Notation, currency values reported associated with product traded and standardisation of currency conversion when aggregating data at the ISIN/Product level).</p>	

<b>No</b>	<b>Question</b>
<b>60</b>	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?
<b>Response</b>	
<p>As mentioned in AFME's response to question 53, this criterion should be viewed in conjunction with other relevant criteria that form part of the category of data quality/technological infrastructure/modern interface criteria. Furthermore, different approaches to the minimum technical requirements for ensuring modern interface and connectivity should apply to the different consolidated tapes. For instance, latency is an important factor for assessing the quality of interface and connectivity but should be assessed in view of any considerations for costs and adjusted accordingly per each asset class to ensure that costs can be minimised for each of the different consolidated tapes.</p>	

<b>No</b>	<b>Question</b>
<b>61</b>	Do you agree with the proposed approach to record keeping, based on the provision of document supporting intended compliance?
<b>Response</b>	
Yes, we agree with ESMA's approach.	

<b>No</b>	<b>Question</b>
<b>62</b>	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?
<b>Response</b>	

AFME members believe that the application of DORA requirements would be sufficient for the time being and do not foresee the need to introduce additional commitments and measures.

No	Question
63	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?
<b>Response</b>	
Yes, AFME members agree with the use of PUE as the relevant metric.	

## Annex II of CP – Cost Benefit Analysis

No	Question
64	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.
<b>Response</b>	
<p>AFME notes that the minimum requirements for the quality of transmission protocols will apply to data contributors so, essentially a cost-benefit analysis from the perspective of data users would be limited.</p> <p>As a general remark, it is reasonably expected that the data standardisation and gradual improvement of quality of data achieved through the minimum technical requirements on transmission protocols could deliver meaningful benefits for all market participants. In particular, as explained in our response to question 4 above, the development of minimum technical requirements in accordance with existing recognised industry standards and levels of technological progress would ensure efficiencies of costs and simplicity in the transmission of data. Deviations from a generic cross-asset approach would be highly recommended to ensure an appropriate balance between costs and benefits. For instance, a below 100 milliseconds requirement for latency for the bond CTP would be unnecessary as it would excessively increase costs associated with data transmission without delivering any meaningful positive impact for data users.</p> <p>Finally, AFME recommends that CTP applicants should include in their proposals an analysis of how technical requirements would impact the costs and benefits expected for data users. Indicatively, CTP applicants could include in their bids different proposals and options for fees and charges that will vary depending on the type of technical requirements that will be used for transmission of data. It will then be for each CTP to rank those proposals in terms of what they believe would be the most effective to appropriately balance between costs and benefits for data users.</p>	

No	Question
65	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.
<b>Response</b>	
<p>As highlighted in AFME's response to Question 10, ESMA should not be determining the data formats used. Given that the requirements on the input data will apply to data contributors only, a cost-benefit analysis from the perspective of data users will critically be limited to requirements for output data.</p>	

From a more holistic point of view, AFME believes that the benefits from the implementation of requirements on input and output are mainly the standardisation and comparability of data that will make aggregation of data and dissemination by the CTP easier. In order to ensure an adequate balance between costs and benefits for each of the different consolidated tapes, it is proposed that data formats are adjusted per asset class so that different requirements will apply to the bond and equity tape. Nevertheless, given that in section 3.2.2.3 of the CP ESMA only outlines the proposals for input and output data for the bond CTP, a cost benefit analysis covering the equity CTP could also be made at a later stage after publication of ESMA's approach to input and output data for the equity CTP.

No	Question
66	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?
<b>Response</b>	
Yes, AFME members believe that the benefits for the whole industry from deepening market access and allowing all market participants to have access to the same information at the same time would outweigh any costs for data contributors.	

No	Question
67	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?
<b>Response</b>	
Yes, AFME members believe that ESMA proposals could strike a good balance, especially for anonymous bids/offers.	

No	Question
68	Do you think that the proposed data quality requirements are sufficient to achieve the CT's objectives without generating excessive compliance burdens? Please explain.
<b>Response</b>	
AFME members believe that an asset specific approach should apply when dealing with data quality requirements for the CTs which should not only focus on the cost effect for CTPs but should also cover the impact of any costs to be incurred by users of CTs. In order to ensure that the CT remains attractive for users, the data quality requirements should be calibrated in such a way that can achieve a balance between robust quality standards and competitive pricing.	

No	Question
69	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.
<b>Response</b>	
AFME are not responding on this question.	

No	Question
70	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.
<b>Response</b>	
AFME are not responding on this question.	



