

EDMA Response to the FCA's Consultation on the Framework for a UK Consolidated Tape

EDMA remains committed to contributing to ongoing discussions regarding the evaluation, development and provision of a UK bond consolidated tape ("CT"). As such, please find below our responses to the questions posed in the FCA's consultation paper CP23-15.

Q1: Do you agree with the appointment of a single CTP per asset class through a tender process?

Yes, we agree with the appointment of a single CT provider ("CTP") per asset class through a tender process.

EDMA is pleased that the FCA agrees that, in order to create a unique and unambiguous reference price, a separate consolidated tape for bonds should not be associated with an equity tape or an equity CTP¹, and that multiple non-equity CTPs specialising in subsets of the bond asset class would be counterproductive to the concept of CT provision. A single bond CTP will also be able to reach the proposed 80% threshold² if properly governed and if revenue sharing is transparent and equitable.

Q2: What success criteria should be used in the post-implementation framework review?

Potentially the number, and type, of CT subscribers and usage of CT data to market data contributors could be used as criteria in the post-implementation framework review, especially as EDMA believes that trading venues ("TVs") should have the right to audit both the CTP and CT subscribers.

Q3: Do you agree with our proposals on the scope of a bond CT?

Yes, we largely agree with the FCA's proposals on the scope of a bond CT.

We note below the FCA's comment on Latency Back Stop in the consultation paper: "We are not proposing a backstop in our rules but are interested in views of whether one should be imposed, whether it should be within one minute or shorter and what the costs might be associated with such a standard." (para. 4.5)

In addition, the consultation paper indicated "The strong view we received from market participants was that the scope of bonds categories covered by the CT should be the same as for the transparency regime." (para. 4.10) and "All who responded on the relevant question supported a post-trade only CT for bonds." (para. 4.11)

As above, EDMA concurs that the correct definition of bonds should mirror the ToTV universe under MiFID/MiFIR definitions except for ETNs and ETCs. For the avoidance of doubt, sovereign bonds would be included. EDMA also believes the introduction of new fields and flags to help launch the CT should be kept to an absolute minimum.

Q4: Do you agree that data should be transmitted from data providers and received by the CTP via a standardised, opensource API developed by the CTP? Should this be based on the FIX protocol?

EDMA supports one single standardised API across the entire industry to streamline the process and reduce the connectivity costs. However, if the FCA is considering having more

¹ P.7, Rogge, E. The MiFIR Review and a European Consolidated Tape: the next step towards a Capital Markets Union. ERA Forum (2023), available at: <https://doi.org/10.1007/s12027-023-00743-y>

² Article 15a(2) of Commission Delegated Regulation (EU) 2017/571.

than one bond CTP, this will become a scenario where multiple APIs are developed by multiple bond CTPs. Please refer to our response to Q1 in this regard.

We disagree with the use of a legislative tool to mandate any specific industry protocol. This should be left to the market to design.

Q5: Do you think that our rules should be more specific about the means of dissemination of a CT?

As long as the governance framework is solid, we prefer to have a market-led approach. We recommend a commercial organisation drives the further details.

Q6: Do you agree that the consumption of the data published by the CT should be discretionary for market participants?

We agree that the consumption of the data published by the CT should be discretionary for market participants. The alternative, mandatory consumption, would give the CTP an inappropriate competitive benefit.

Q7: Do you agree that the CT should only start operation after bond transparency regime changes come into effect?

EDMA believes that, as highlighted in HM Treasury's Wholesale Markets Review³, changes to the transparency regime should be agreed and implemented well before the CT is launched to ensure the CT is inherently viable and therefore a practical commercial success.

Q8: Do you agree that responsibility for applying deferrals should remain with data providers and not the CTP?

Yes, deferrals must continue to be applied by trading venues and not by the CTP.

A CTP's role is to consolidate data, not to originate. By ensuring/applying deferrals, a CTP would effectively be altering inputs to create, rather than distribute, transparency data. Indeed, there are no circumstances where a CTP needs to ensure/apply deferrals (including re-submission and historical amendments) to meet its primary consolidation and redistribution objectives. Creation should therefore stay within the domain expertise of trading venues who crucially have continual contact with trading counterparties to guarantee the integrity of inputs at the point of trade so that correct trade reports are published and delivered to the CTP via relevant market data contributors.

In terms of cost management, if a CTP must correctly ensure/apply deferrals, it follows that a CTP must either (i) audit data sent to it by trading venues or (ii) receive raw data and apply the deferrals. To do so, a CTP would need to take each trading venue's individual raw feed which in turn requires a CTP to install and maintain systems that are programmed with the specifics of each trading venue's deferral application protocol; validate the exact methodology of deferral application to each trading venue's data feed; and continuously update at precisely the same time when each trading venue makes a modification to its deferrals logic. Clearly this would unnecessarily increase CTP operating costs. The higher costs introduced by a duplication of deferral application will be a barrier to entry for potential CTPs.

³ Para. 5.14, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1057897/Wholesale_Markets_Review_Consultation_Response.pdf.

EDMA also notes that only “reportable trades” should be published by the CTP, i.e., financial instruments within scope of the transparency regime excluding any exempt trades, for example the activities of Central Banks e.g. the European System of Central Bank (ESCB) members, Bank of England, HM Treasury and Debt Management Office. Trades by Central Banks in performance of monetary, FX and financial stability policy are exempted from transparency.

Responsibility for managing exceptions to what trades are or are not published on the CTP, whether that is driven by deferrals or exemptions such as the Central Bank exemption, should remain in one location, i.e., with trading venues where the responsibility lies today.

Q9: Should the CTP offer a deferral checking service? If so, should use of this service by data providers be mandated?

We disagree with the CTP being able to offer a deferral checking service as this is not a core CTP service.

Mandatory contribution of data for the creation of a CT must be accompanied by a regime that only allows CTPs to make use of such data for the sole purpose of providing the consolidated tape.

The use of core market data by a CTP for the purpose of providing the tape should be strictly limited to the collection, consolidation and redistribution of such data (and not, by way of example, separately redistributing the data or commercialising it in any other way or for another purpose other than as directly required to create and provide the tape).

The contribution of market data does not transfer Intellectual Property in that data and the contribution of market data is provided on an “as-is” basis only, without any representations or warranties as to its authoritativeness, accuracy, completeness, timeliness or fitness for any particular purpose. The contributors accept no liability whatsoever in relation to any loss or damage suffered (directly or indirectly) in relation to the contributed data.

Q10: Do you agree that the provision of a historical data service should be optional for a CTP?

We disagree that the provision of a historical data service should be optional for a CTP as historic data is a ‘non-core’ offering for a CTP.

Mandatory contribution of data for the creation of a CT must be accompanied by a regime that only allows CTPs to make use of such data for the sole purpose of providing the tape.

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Q11: If you think that a CTP should be required to provide a historical data service, what minimum requirements do you think should be established for such a service? For example, should data only be available in response to queries, or should there be a requirement to provide access to some of or all the data through a downloadable database?

As above, we reiterate that the CTP should neither be required to provide a historical data service, nor be able to offer it as an option.

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Q12: Do you agree that trading venues and APAs should be required to provide data to a CTP without charge?

In the instance where a) and b) below are true, we agree that trading venues and APAs should be required to provide data to a CTP without charge:

- a) The CTP’s role is solely to consolidate data provided by others; and
- b) The mandatory contribution of data for the creation of a CT must be accompanied by a regime that only allows CTPs to make use of such data for the sole purpose of providing the tape.

Our answer to Q11 and Q13 are also relevant to Q12 so are repeated here.

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Q13: Do you agree that a bond CTP should not be required to share revenues with data providers but be allowed to offer incentives to data providers for high quality data?

We disagree that a bond CTP should not be required to share revenues with data providers.

EDMA believes the FCA should ensure a revenue participation scheme for a bond consolidated tape exists. Revenue shares should be subject to commercial negotiations.

EDMA believes that treating non-equity/fixed income differently to equities, or indeed other major asset classes, for CT revenue-sharing arrangements is fundamentally disproportionate, unjustified and inequitable.

The concept of remuneration for data (either via revenue sharing or direct charges) is applicable and appropriate in bond markets as it is in equity markets.

Whilst the concerns around revenue sharing in equity markets are not fully apparent in bond markets (as the absolute level of data revenue is lower in bonds), possible amendments to the existing transparency regime under consideration contemplate, in part, reducing the delayed nature of bond data. Should this come to pass then the value of bond data and associated revenues will increase and, therefore, trading venues not being compensated directly for the cost of data production via revenue sharing may necessitate that operators' data production costs will be incorporated into other fees, notably execution fees. When considering the cost of data production all costs both direct and indirect must be included. There are substantial costs associated with operating a regulated venue including, but not limited to, regulatory, operational, legal, technology, R&D, marketing and sales. All of these costs of production contribute to ensuring a deep liquid, reliable, low risk marketplace. Absent these investments by trading venues they would not have data to contribute.

EDMA therefore proposes a revenue sharing mechanism. For further details EDMA would encourage the FCA, as indeed the FCA themselves discuss in paragraph 8.43 of this consultation paper, to consider other pre-existing approaches/models in operation today.

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EDMA therefore proposes a revenue sharing mechanism. For further details EDMA would encourage the FCA, as indeed the FCA themselves discuss in paragraph 8.43 of this CP, to consider other pre-existing approaches/models in operation today.

- Q14: Do you agree that a bond CTP should not be required to contribute to data providers' connectivity cost recovery? If you think that a bond CTP should contribute to data providers' connectivity cost recovery, on what basis should the terms of this arrangement be set?

Provided that the revenue sharing regime is properly designed as described in our response to Q13, we agree that a bond CTP should not be required to contribute to data providers' connectivity cost recovery.

However, we still want to re-emphasise our response to Q4. EDMA supports one single standardised API across the entire industry to streamline the process and reduce the connectivity costs. However, if the FCA is considering having more than one bond CTP in bonds in the future, this will become a scenario where multiple APIs are developed by multiple bond CTPs causing much higher connectivity costs that are borne by the trading venues. Please also refer to our response to Q1 in this regard.

We disagree with the use of a legislative tool to mandate any specific industry protocol. This should be left to the market to design.

- Q15: Do you agree that the requirement for a CTP to provide data free of charge 15 minutes after publication should be removed? If so, how best should we seek to ensure that academic and retail users of the data have low-cost or free access to the data?

We agree that the requirement for a CTP to provide data free of charge 15 minutes after publication should be removed. As to the academic and retail usages, the CTP should be able to have different pricing for different usage purposes. This is a commercial design decision of the CTP.

- Q16: Do you agree that the CTP should be able to offer value added services, provided that the CT service is available on a stand-alone basis and the provision of such services does not give the CTP an unfair advantage?

EDMA disagrees that the CTP should be able to offer value added services.

Mandatory contribution of data for the creation of a CT must be accompanied by a regime that only allows CTPs to make use of such data for the sole purpose of providing the tape.

The use of core market data by a CTP for the purpose of providing the tape should be strictly limited to the collection, consolidation, and redistribution of such data (and not, by way of example, separately redistributing the data or commercialising it in any other way or for another purpose other than as directly required to create and provide the tape).

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- Q17: Do you agree that CT licences should be separated according to re-use/direct use? For direct use licences, do you agree that users should be charged on a per-user basis? For re-

use licences, should users be charged on a per volume basis or on a use case basis? Which ways of licensing would encourage competition and innovation?

EDMA agrees that CT licences should be separated according to re-use/direct use.

Commercial data revenue redistribution models are very common in fixed income and have been in place in some cases for many decades, especially in sovereign bonds. As a result of this historical expertise, EDMA stresses that client types (e.g., professional/ non-professional) and associated use cases for CT market data will significantly impact licensing and applicable charges. This must be considered when implementing commercial terms and licensing as well as the scope of consumption. EDMA believes there should be specific categories of data license for CT consumption, namely:

- a) Internal
 - i). Display usage by CT subscriber
 - ii). Non-display usage by the CT subscriber, e.g., as an input for electronic trading system, APIs, end-of-day mark-to-market
 - iii). Derived data usage for use by the subscriber internally only and not for external commercial purposes (e.g. index creation, ETPs, values for swaps)
- b) External
 - i). Redistribution by the CT subscriber, e.g. data vendors
 - ii). Derived data usage by the CT subscriber, e.g., as an input for indices and composite prices

EDMA believes CTPs must be obligated to put in place an agreement with CT subscribers when distributing CT data. The CTP's license should include:

- a) Data license selected, e.g., internal display, internal non-display, etc.
- b) Audit rights
- c) Delivery frequency (should more than one option be available)

Q18: Should the FCA specify a set of components for which CTP bidders must submit price bids, or should bidders be given the option of specifying their own price list?

We do not support any auction process led by price-based bidding.

We believe there should be a single solution provider appointed to operate a Bond CT within an appropriate commercial model and subject to safeguards to make it available at a reasonable cost (rather than a price cap set in the bid). See further in our response to Q27.

The CT solution provider should be selected by the FCA, using a competitive process from market infrastructure providers who have the relevant experience in data management, operating regulated business and expertise in bond markets. It should not be an auction process led by price cap bids only.

Q19: Do you agree that the tender process should be undertaken based on multiple descending rounds of price-based bidding? Do you have a preference between a clock auction or Anglo-Dutch hybrid auction?

We do not support any auction process led by price-based bidding.

We believe there should be a single solution provider appointed to operate a Bond CT within an appropriate commercial model and subject to safeguards to make it available at a reasonable cost (rather than a price cap set in the bid). See further in our response to Q27.

The CT solution provider should be selected by the FCA, using a competitive process from market infrastructure providers who have the relevant experience in data management, operating regulated business and expertise in bond markets. It should not be an auction process led by price cap bids only.

Q20: What factors should be considered when determining bidding price parameters, standardisation of bids (if bidders are allowed to specify their own price list), and minimum price reduction in bids between rounds?

We do not support any auction process led by price-based bidding.

We believe there should be a single solution provider appointed to operate a Bond CT within an appropriate commercial model and subject to safeguards to make it available at a reasonable cost (rather than a price cap set in the bid). See further in our response to Q27.

The CT solution provider should be selected by the FCA, using a competitive process from market infrastructure providers who have the relevant experience in data management, operating regulated business and expertise in bond markets. It should not be an auction process led by price cap bids only.

Q21: Do you agree that the duration of the initial CTP contract should be five years? How would the length of the contract affect costs, revenues and incentives of a CTP?

Yes, the current FCA proposal and the draft regulation 6 of DRSR (i.e., 5+2 years) for the initial CTP contract is fully in line with the market expectation. In addition, the general consensus in the EU is for a 5-7 year contract for the CTP, as discussed in the Commission impact assessment document (SWD(2021) 346 final).

Q22: Do you agree with proposed mitigants to address any potential incumbency advantage of the first bond CTP? Are there additional factors that we ought to consider?

No response submitted.

Q23: Do you agree with our proposed extension of the operational resilience requirements in SYSC 15A to a CTP?

No response submitted.

Q24: Do you agree with our proposed additional outsourcing and conflicts requirements applying to a CTP?

No response submitted.

Q25: Do you agree with our proposed retention unchanged of the obligations currently contained in Regulations 13, 44 and 45 of the DRSRs and Articles 5 to 9 of MIFID RTS 13?

No response submitted.

Q26: Do you agree with our proposed prudential regime for CTPs?

No response submitted.

Q27: Do you agree with our proposed deletion of the requirement for a CTP to price on a reasonable commercial basis?

We disagree with the FCA's proposed deletion of the requirement for a CTP to price on a reasonable commercial basis.

As emphasised in our responses to Q18-20, we believe there should be a single solution provider appointed to operate a Bond CT within an appropriate commercial model and

subject to safeguards to make it available at a reasonable cost (rather than a price cap set in the bid).

Q28: Do you agree with the retention of the requirement for a CTP to provide market data on a non-discriminatory basis?

Yes, we agree with the retention of the requirement for a CTP to provide market data on a non-discriminatory basis. Given this is one of the key infrastructures, non-discriminatory should be a default requirement.

Q29: Do you agree with our proposed changes to the transparency obligations in respect of pricing?

We disagree with the proposed changes to the transparency obligations in respect of pricing because we do not support the bidding framework and do not agree with the deletion of the requirement for a CTP to price on a reasonable commercial basis. See further in our responses to Q18-20 and Q27.

Q30: Do you agree with our proposed governance requirements for the bond CTP?

We agree with the FCA's proposal to establish a consultative committee composed of data providers and users and associated governance requirements. As future data providers to the selected CTP, our members would like to know more about how the members of this committee will be selected and associated relevant details.

We recommend other necessary subscriber provisions as part of good governance requirements would include:

- The CTP reporting the number of CT subscribers and usage of CT data to market data contributors
- The rights of TVs to audit both CTP and CT subscribers.
- To the extent CTP or CT subscribers create historic time series for purpose of redistribution this should be considered chargeable and contribute towards a revenue share
- a requirement for subscriber to maintain internal controls (e.g., the electronic systems (including software and hardware), network configurations, rules, procedures, and policies which, taken together and to the satisfaction of the contributors: (i) identify the ability to access information; (ii) permit access to Information using a defined Unit of Count⁴; (iii) prevent any unauthorised access to information; and (iv) retain auditable records of the forgoing)
- the existence of Limitations of liability and indemnity clauses
- Data agreement amendment clauses
- Termination clauses
- Clear Intellectual Property rights

Q31: Do you agree with our proposals on requirements for trading venues and APAs to provide data to the CTP? Do you agree with our proposals on the management by the CTP of potentially erroneous information?

We agree with the FCA's proposals on requirements for trading venues to provide data to the CT.

⁴ : the measure for identifying, recording and controlling use and distribution of Information. We propose "Device" is the default Unit of Count, meaning means any display unit (fixed or portable), piece of software or method, which may access, receive, process or display the information.

We reiterate that mandatory contribution of data for the creation of a CT must be accompanied by a regime that only allows CTPs to make use of such data for the sole purpose of providing the tape.

We disagree with the FCA's proposals on the management by the CTP of potentially erroneous information.

Quality assurance performed by the CTP concerns EDMA members. This unnecessary additional operational complexity exposes the marketplace to operational/technological risk as the additional layer of CTP activity could result in delay and/or the wrong deferral applied to a trading venues feed; as well as transparency prints mismatch, e.g., the CTP gathers prints fractionally earlier/later/more inconsistently than trading venues do now. This IT risk of data getting out of sync could result in the same trade having two different publication outcomes, leading to market confusion. From the supervisory perspective, this would trigger a new cycle of scrutiny, quality assurance, supervisory time and reconciliation costs between data sets of the CTP versus the data sets of trading venues with whom the primary responsibility (presumably) still remains. Such additional complexities and costs are unlikely to promote the competitiveness of the UK capital market.

Q32: Do you agree with our proposals on data quality?

We disagree with the FCA's proposals on data quality.

In practice, there are no material quality problems with MTF-derived post-trade data. Issues may exist with off venue / OTC post-trade data; and EDMA believes that the FCA should engage and work with the industry to resolve any data quality issues. EDMA does not believe there are any CTP-related legislative measures necessary to improve the quality of post-trade data derived from Regulated Markets and MTFs.

On the basis of the above, CTP quality assurance concerns EDMA members. This unnecessary additional operational complexity exposes the marketplace to operational/technological risk as the additional layer of CTP activity could result in delay as well as transparency prints mismatch, e.g., the CTP gathers prints fractionally earlier/later/more inconsistently than trading venues do now. This IT risk of data getting out of sync could result in the same trade having two different publication outcomes, leading to market confusion. From the supervisory perspective, this would trigger a new cycle of scrutiny, quality assurance, supervisory time and reconciliation costs between data sets of the CTP versus the data sets of trading venues with whom the primary responsibility (presumably) still remains. Such additional complexities and costs are unlikely to promote the competitiveness of the UK capital market.

Q33: Do you agree with our proposal to require a CTP to provide a feed of its data to the FCA?

No response submitted.

Q34: Do you have any comments on our guidance on the tender and retender process?

We, as future data contributors, would like to see greater transparency of the entire CTP selection process. Therefore, in addition to publishing an invitation to the CTP selection process on the FCA's website (as proposed in MAR 9.2A.2G), all other key information (e.g., timelines, number of eligible bidders, names of the eligible bidders, the selected bidder) should also be published on the FCA's website in due time at different stages along the entire CTP selection process.

We also want to emphasise again that the CT provider should be selected by the FCA, using a competitive process from market infrastructure providers who have the relevant

experience in data management, operating regulated business and expertise in bond markets. It should not be an auction process led by price cap bids only.

Q35: Do you have any comments on our consolidation in the Handbook of the requirements applying to ARMs and APAs?

No response submitted.

Q36: Do you agree with not including material from the recitals in the Handbook?

No response submitted.

Q37: Are there any revisions to the requirements applying to ARMs and APAs you think we should make in due course?

No response submitted.

Q38: Do you agree that changes to the existing framework of rules discussed in Chapter 6 are also relevant for an equities CT?

No response submitted.

Q39: Do you agree that an equities CT should cover shares, depositary receipts, ETFs, certificates, other similar instruments? Should it also include ETCs and ETNs?

No response submitted.

Q40: Should an equities CT include pre-trade data? If so, why do you think this is necessary and what scope of data (including but not limited to depth of order book) should be included? If not, why not?

No response submitted.

Q41: Should an equities CTP be required to remunerate data providers through a form of revenue sharing? If employed, which data providers should a revenue-sharing model reward, how should the revenues to be shared be determined and how should shares of the revenues be set?

No response submitted.

Q42: Do you think that there will be demand for disaggregated feeds, by instrument or industry sector, of the data included in an equities CT?

No response submitted.

Q43: Do you agree that the equities CT should provide a single, combined feed of trade reports from different instrument categories?

No response submitted.

Q44: Do you agree that the equities CT should include data on market outages, and, if so, exactly what data on market outages do you think should be included?

No response submitted.

Annex 2 Cost benefit analysis

Q1: Do you have any comments on our cost benefit analysis on the proposal to establish a bond CT framework in the UK?

We are concerned about the cost benefit analysis based on the proposed price-driven-only auction.

As described in para. 161 of the consultation paper, the proposed price-driven auction is based on the inputs from DotEcon Ltd. However, given the utility nature of the CTP confirmed in para. 5.30, it is worth mentioning that the [latest UK governmental public procurement policy](#) requires public procurement to be based on 'value for money'. The 'value for money' should then be used as the fundamental principle to find the best balance between **price, quality and social value** in the bidding process. We therefore wonder whether this 'value for money' element has been properly considered in FCA's cost benefit analysis.

We remain available to discuss any of the above comments further.

September 2023

About EDMA

Electronic Debt Markets Association represents the common interests of companies whose primary business is the operation of regulated electronic fixed income trading venues (multilateral trading facilities and regulated markets) in Europe. EDMA seeks to foster and promote liquid, transparent, safe and fair markets and act as the voice and a source of consultation between the members in their roles as operators of such venues. EDMA projects collective views on regulatory matters and market structure topics to governments, policy makers and regulators for the benefit of the electronic fixed income markets. Our 6 members are: BGC Fenics, Bloomberg, BrokerTec, MarketAxess, MTS and Tradeweb. More information at www.edmae.org.

