

IOSCO CONSULTATION REPORT ON MARKET DATA IN THE SECONDARY EQUITY MARKETS

AMAFI contribution

Association française des marchés financiers (AMAFI) is the trade organisation working at national, European and international levels to represent financial market participants in France. It acts on behalf of credit institutions, investment firms and trading and post-trade infrastructures, regardless of where they operate or where their clients or counterparties are located. AMAFI's members operate for their own account or for clients in different segments, particularly organised and over-the-counter markets for equities, fixed-income products and derivatives, including commodities.

AMAFI welcomes the opportunity to respond to this consultation report on market data in the secondary equity markets.

Before answering the specific questions raised in the report, AMAFI would like to highlight the following general comments.

GENERAL COMMENTS

In the EU landscape of market data provision, the MiFID II regulatory framework had an objective to reduce the cost of market data.

From a user perspective, a continuing increase in the prices of market data in the EU was observed, despite the introduction by legislators in the MiFID II framework of an obligation to provide data on a reasonable commercial basis (RCB).

The increase observed from a user perspective stemmed from both the direct prices charged for data feed by market data providers and the multiplication of indirect costs linked to complex market data agreements and the intensifying need for additional resources to manage and control the use of market data by market participants.

At the same time, and as stated in IOSCO's report and also acknowledged by ESMA, market data plays an increasingly important role in financial markets and market participants are consuming an increased amount and variety of data, which requires innovations by trading venues and data providers for the infrastructure necessary to provide and use data.

Considering this, AMAFI encourages pursuing some clarifications in keeping with the transparency plus approach.

In its response to previous consultation papers by EU supervisors, AMAFI had made proposals with the goal to improve the enforcement of the RCB (reasonable commercial basis) principle, notably:

- An enhanced comparability of pricing lists published by trading venues.
- A simplification and harmonisation of the fee schedules provided trading venues for their core business on market data.
- A simplification of Market data agreements and a standardisation of their validity period (at least on an annual basis), allowing data users to avoid deploying unnecessary resources.
- The simplification and harmonisation of audit procedures.
- The harmonisation of high-level definitions (information/market data, derived data/other original created work/etcetera, display use, non-display use...).

Moreover, AMAFI had raised the issue of the application of the RCB rules to data vendors as highly important for levelling the playing field between MiFID II market data providers and non-regulated entities.

AMAFI believes that the draft regulatory guidance recently proposed by ESMA deals with important issues pertaining to the practices of market data providers. Overall, we believe that the clarifications provided for the provision of market data, the obligation to provide market data on a non-discriminatory basis, increased uptake of the per user model and the obligation to keep data unbundled will play an important role in improving the contractual relationship between market data providers and users in the EU.

In this response, we make a high-level assessment of the current state of play of the market data provision landscape in the EU and formulate some propositions for the provision of fair, equitable and timely access to market data.

ANSWERS

Defining Core Market Data

Q1: Please identify the data elements that are necessary for investors and/or market participants to participate effectively and competitively and make informed trading decisions in today's markets. In your response, please consider:

- **The type of investor (e.g. retail or institutional) that uses the data;**
- **How orders are sent to a trading venue (e.g. electronic, manual, direct access by clients; and**
- **How orders are routed**

Please provide the reasons why each element is necessary.

AMAFI would note to begin with that financial regulation is highly heterogenous across the globe and often goes hand in hand with the maturity of market and its unique characteristics, as such it may differ as well as regards market data needs. AMAFI will focus mainly on EU regulation and EU data users in its response to the IOSCO report.

As developed in IOSCO's report, different types of market participants have different market data needs, and the data elements and latency that are necessary for one market participant may not necessarily be the same for another. For example, retail investors usually do not arbitrage markets but are interested in medium to long-term investments. Consequently, they do not have the technical infrastructure needed to take full advantage of low-latency direct feeds and they do not see the same need for it compared to other market participants.

Market participants identify market data needs differently depending on the level of sophistication of their uses, their roles in the market and the availability of market data for every participant. Table 1 presents typical data requirements for data consumers outlining which categories of market data may be viewed as useful for market participants undertaking a given activity. AMAFI is most aware of the demand voiced by sell-side firms (investment banks, institutional and retail brokers...), buy-side firms (Asset managers) and, to some extent retail customers:

Typical data requirements for data consumers

User		Purpose (use) of data	Type of data required
Trader: broker, prop trader, HFT, etc.	Front office	To execute trades	Real-time (often low-latency) Level 2
	Middle office	Risk, credit and strategy management, including forecasts and some modelling	Generally delayed or real-time Level 1, but some activities can require Level 2
	Back office	To monitor and administer settlement and clearing obligations, regulatory compliance (including evaluation of best execution), and reconciliation of trades	Delayed and/or end-of-day
Market maker		Observing the liquidity and depth in the market to fulfil quoting obligations, generate prices and calculate risk	Real-time (often low-latency) Level 2 ¹
Indexing (e.g. credit default swap (CDS), benchmarks)		To analyse and group companies' risk profiles to form CDS indexes or to form and manage an index	Real-time Level 1 or Level 2
Fund manager		Research and strategy, including forecasts and modelling, assessment of brokers and other service providers	Dependent on individual manager. Often, delayed data is sufficient. Some managers may choose to receive real-time data at Level 1 or 2 according to their strategy. End- of-day data used to calculate and report portfolio values
Competitor trading venue (e.g. MTF, organised trading facility, dark pool, SI)		To inform traders/market makers of pricing on other venues To provide a reference price when the venue does not have its own price formation mechanism. To provide order pegging services—i.e. where a trader enters an order that does not contain a price, but the instruction to execute only at a price better than available on other venues	Real-time Level 1
Market surveillance, regulators and governments		Identify illegal behavior by participants	Private information on trading participants, Level 2 (real-time and delayed)
Retail investor		To assess investment prospects and strategy	Delayed data; occasionally Level 1 real-time data
Media		To broadcast financial market information over television channels and on websites	Post-trade, Level 1 real-time and delayed data
Issuer		To form a correct pricing and demand estimation at issuance;	Delayed post-trade

	to assess listing venues	
Other research/academic	To model markets and market mechanisms, investigate specific relationships between economic variables	Historical data

Source: Oxera. "The Design of Equity Trading Markets in Europe: An Economic Analysis of Price Formation and Market Data Services." Oxford, 2019

Q2: Are there other data elements that, while not necessary to all market participants, may be necessary for some market participants or business models? Please provide the reasons for your answer.

Some specific actors may require depth of book data and auction data. Most firms also have a demand for administrative event data generated by trading venues. Such data can include information about order book status updates and trading halts. Such data can be used by firms for pre-trade analysis, execution management and compliance procedures.

Overall, there is high heterogeneity in the data needs of market participants, including in the way data is consumed, e.g. via display or non-display data. Indeed, there is no one-size-fits-all solution. Besides the required levels of depth, the inclusion of only order book data, amendments, cancellations, action imbalances, session statistics, historical data, admin messages, or events feeds vary according to the user.

Q3: Please share your view on defining Core Market Data and how such a definition can be used (for example, for compliance purposes or as a mechanism to make routing decisions, etc.).

AMAFI believes that the definition of “Core Market Data” is highly dependent on the economic model of market data provision in every jurisdiction. Indeed, financial regulation is highly heterogeneous across the globe and often goes hand in hand with the maturity of market and its unique characteristics.

In this context, building a definition that goes beyond the current landscape of market data provision in the EU would result in an unrealistic definition of the notion of core market data, thus compromising its use for compliance purposes or its inclusion in the regulatory framework.

Furthermore, the notion of “Core market data” is in its essence best suited to the U.S trading landscape where Reg NMS and the SIP provide core market data. AMAFI is thus sceptical regarding the relevance of such a definition to the EU context. Within the EU, there is no similar regulation nor terminology, neither a similar market structure. Compared to 17 interlinked venues competing for data and transactions in the US, the EU resembles a highly fragmented market with 10 times the number of venues, which, however, are not interconnected.

Uses of Market Data

Q4: How is market data used by different types of investors or different functions of your firm? Consider, for example:

- **Type of investor (e.g. retail or institutional)**
- **Trading Desks (proprietary or client-servicing including retail and institutional), Institutional, proprietary)**
- **Compliance**
- **Risk-Management**
- **Back office functions**

AMAFI members' uses of market data are mostly associated with the needs of sell-side firms. The most relevant uses are those associated with pre- and post-trade analysis and execution management. Depending on every firm's size, other uses vary through a range of middle and back office functions. The latter include collateral management, reconciliations, risk management among other specific functions.

More sophisticated users also use market data for their High-frequency trading and algorithmic trading activities.

Q5: What impact does different uses have on the need to access data? How can these impacts be managed or addressed?

Most uses related to transaction analysis and execution policy require timely access and appropriate levels of aggregation and depth of book according to the punctual needs of every firm.

Some of these requirements can be met by putting in place an equity consolidated tape in the EU. However, a more sophisticated demand relating to additional depth of book, low latency feeds or different levels of data aggregation will continue to be met by direct feeds from trading venues and APAs. Until an equity consolidated tape is established in the EU, all needs to access data by market participants in the EU continues to be met by the market data licenses commercialised by trading venues, APAs and unregulated data vendors.

ESMA has recently published draft guidelines on the MiFID II/ MiFIR obligations on market data. These guidelines pertain to the principles of provision of market data on a reasonable commercial basis, the obligation to provide market data on a non-discriminatory basis and the application of the per user pricing.

In the current landscape of market data provision in the EU, such guidelines will introduce a standardised format for the publication of market data, and overall play an important role in improving the contractual relationship between market data providers and users.

 **Access to Market Data**

Q6: What factors should be considered in the context of evaluating “fair, equitable and timely access”? How should these factors be considered?

AMAFI is of the opinion that fair, equitable and timely access can be assessed by the following factors:

- **Complexity of the fee structure:** Market participants face a complex set of choices when it comes to the fee schedules elaborated by market data providers. The high specificity of the fee policies proposed by every provider complicates the comparability of the proposed packages. However, an oversimplification of fee policies would result in a more restrictive set of choices for market data users. The draft guidelines on market data obligations published by ESMA contain a proposition to standardise the publication of reasonable commercial basis information to enhance comparability of market data pricing lists published by trading venues.
- **Fee policy:** The overall market data fee schedule should respect RCB principles (i.e. cost based) and although as a general principle, proportionality of market data fees to the value the data represents should not be the norm, there may be merit in clarifying that customers segmentation should allow to differentiate fees from retail vs professional users for instance.
- **Level of latency:** This factor depends both on the products offered by market data providers and the type of demand for market data.
- **Unbundling market data provision from other services:** Although market data providers make unbundled market data available to customers in compliance with MiFID II disaggregation requirements, if market data vendors do not make data available disaggregated packages unbundled data might not be available to customers.
- **Level of complexity of market data agreements:** The contractual relationship between market data providers and their clients can be complexified if the former make frequent changes to the market data agreements signed with their clients. Complex auditing procedures, which by and large constitutes isolated cases, can favour the multiplication of indirect costs linked to complex market data agreements and the intensifying need for additional resources to manage and control the use of market data by market participants.

Q7: What types of access do trading venues and RDPs provide? Are some forms of access provided only to specific market participants?

Trading venues provide market data in the EU through direct electronic feeds depending on the demand of each client. Market data constitutes an intrinsic part of the price formation process carried out by trading venues. The data is produced within the trading venue / APA and sent to the users depending on the choices made by clients in terms of latency, aggregation and content. Other than real time provision of market data, trading venues have an obligation to provide market data free of charge 15 minutes after the occurring of the transaction.

It is also important to acknowledge the important role played by data vendors, who collect data from trading venues and provide parallel feeds to those provided by trading venues. Data users may use data vendors to access market data since they provide highly sophisticated consolidated and normalised data solutions. They also offer to provide processed market data feeds for users not willing to process data themselves. Data vendors in the EU are practically acting as a consolidated tape, but are so far not covered by the regulatory framework governing market data provision in the EU.

Q8: Please identify the type of access necessary for different investors and/or market participants to participate and make informed trading decisions in today's markets and the rationale for the type of access and identified differences. In your response, please consider:

- Type of investor (e.g. retail or institutional)
- Trading Desk (Proprietary or client-servicing including retail and institutional)
- How orders are sent to a trading venue (e.g. electronic, manual, direct access by clients)
- Order routing
- Business models
- Compliance and regulatory issues

Q9: What issues or concerns arise in the context of fair, equitable and timely access to market data?

Please refer to question 6.

Q10: Please share your view on interchangeability of market data between trading venues. If concerns are identified, please provide suggested mechanisms to address them.

Investment firms are required to meet best execution obligations as laid out in the MiFID II/MiFIR framework. That being said, under the MiFID II best execution obligations investment firms are not required to assess the execution criteria across all EU execution venues and have to take into account a range of criteria in addition to price (e.g. costs, speed, likelihood of execution etc.) Many instruments are traded on multiple venues. Consequently, multiple data from various sources on the same instrument is available to market participants. For example, as indicated in IOSCO's consultation report, investment decisions can be made using market data from one or a subset of entities as indicative data. However, the quality of the data can differ.

Q11: How should market data fees be assessed? How could this be implemented in practice? What factors should be considered and how can they be defined or applied?

Market data fees should be assessed by their level of compliance to the principle of reasonable commercial basis (RCB), trading venues' uptake of the per user model to ensure that costs are not duplicated, and the resources necessary to manage and monitor the use of market data.

In practice, the enforcement of RCB requirements is complex. For instance, a high-level assessment of market data fees in the EU during the last years have not represented a consistent view of developments in market data fees in the EU. As a matter of fact, the cost increases were focused on specific products that were mostly consumed by sophisticated market participants while other market participants may be experiencing stable fees or even fee reductions.

In addition, user count depends on criteria depending on every market data provider and on the type of data used.

ESMA's recently published draft guidelines provide a path for an accurate assessment of market data fees by relevant National Competent Authorities (NCAs) in the EU.

These guidelines require that market data providers have a *"clear and documented methodology for setting the price of market data"*. Based on the MiFID II level 2 requirements, ESMA proposed a template for publishing *"RCB information"*. The template will ensure comparability between price lists provided by market data providers and help enhance transparency in the pricing of market data.

The guidelines also call for the exclusion of practices such as excessive interest charging and extensive retroactivity. To this end, AMAFI proposed to limit the retroactivity of penalties linked to non-compliance to a maximum of 36 months from the audit notification date. As for excessive interest charging, AMAFI proposed to set the maximum rate authorised at the EONIA rate plus 100 basis points.

As for auditing practices, AMAFI proposed to include requirements regarding good practices for external auditors, in order to ensure that the payments made to external auditors by market data providers are not correlated to the penalties inflicted on users.

AMAFI is supportive of the efforts outlined above, but would however specify that a regional approach is best suited for efforts in this area.

Q12: Please provide details of other products or services related to market data that are provided by trading venues or other RDPs.

Connectivity services in the EU are mainly offered by unregulated entities who elaborate technological solutions to provide access to market participants to the market, including order routing and execution, linking buy-side and sell-side participants and orders allocation.

Q13: Please share your views on the fees for connected services that are necessary to access essential market data. If concerns are raised, please identify mechanisms to address them.

AMAFI takes issue with the opaque pricing policies of unregulated entities offering connectivity services. Sell-side firms support the larger share of the cost of these technologies while not being the first beneficiaries. They are thus subject to a prior choice of their buy-side clients and depend on those connectivity services to access to their clients' orders.

AMAFI believes that the pricing policies of these entities should be subject to the same requirements of fair pricing applied to market data products.

 **Data Consolidation**

Q14: Please provide your view on the need for consolidated data where there are securities trading on multiple trading venues. What should be the primary objectives of consolidated data and what outcomes should it lead to? How should these objectives and outcomes inform the nature of the consolidated data made available?

MiFID II has yet to fully address the issues arising from an increasingly fragmented trading landscape in the European secondary equity markets.

AMAFI believes that the establishment of a market data consolidation mechanism is would help in the context of market data fragmentation resulting from this fragmented landscape.

The main objectives of a potential EU consolidated tape should be:

- Offer high quality data of all venues on a non-discriminatory basis;
- Providing a credible alternative to the consolidated feeds provided by market data vendors;
- Covering a "reasonable" scope, not suitable for low latency uses, but focusing on covering the largest number of securities while providing a good quality standardised view of all liquidity available in the market essential to the best execution analysis and transaction analyses. This

would allow many firms to stop relying on sub-optimal feeds for the purpose of their essential market data uses.

Q15: Is a consolidated data feed the most efficient mechanism to achieve these objectives and outcomes? If not, what are the alternatives that could help achieve these objectives and outcomes? How do these alternatives affect the cost of and access to market data? How can they be addressed?

AMAFI agrees that a central consolidated data provider is the most efficient mechanism to achieve the objectives mentioned in question 14. Nevertheless, the establishment of a consolidated tape in the EU will not and should not aim at solving the bigger issue of the cost of market data. Some market participants will in fact still want market data providers' direct feeds for a part of their trading activity.

Q16: Please describe any issues or concerns not raised by IOSCO in this Consultation Paper and describe any suggested mechanisms to address them.

The IOSCO consultation report does not address the issues of auditing procedures engaged by market data providers and the additional costs attached to these practices. AMAFI believes that auditing practices, along with some discrepancies in the approaches taken by different market data providers, can add complexity to the contractual ties between data providers and users and in some cases result in penalties and excessive interests paid by users. The mere increased complexity of auditing procedures results in indirect costs linked to human and operational resources employed by users to control their use of market data. In this area clear best practices around audits could be an alternative to guide the audit process.

As specified in the answer to question 11, some of these practices were addressed by the draft guidelines on market data recently published by ESMA. However, AMAFI believes that the impartiality of audits was not addressed by the guidelines. The introduction of good practices for external auditors would help address this issue by ensuring that the impartiality of external auditors is not compromised by an incentive to inflict penalties on market participants to increase their revenues. It would also ensure that the confidentiality of market data is respected by auditors who happen to audit competing entities.

Furthermore, the important role played by market data vendors in the supply chain of market data in jurisdictions such as the EU was not addressed by this report. It is essential that this issue is taken into consideration for a more comprehensive analysis of market data provision in the EU.

Finally, even though the report suggests the creation of a definition for core market data, AMAFI believes that the issue of standardisation of the terminology used in market data provision services is not addressed. That being said, while AMAFI is supportive of efforts such as this, we would also underline that regional approach is best suited to this. AMAFI has suggested to ESMA that the creation of common high-level definitions in the European context would allow market data providers and users to discuss their contractual ties within a common semantic field within every jurisdiction. On the EU level, this has been sufficiently picked up by ESMA's proposal for a number of standardised definitions included in the draft guidelines for market data obligations.

