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The European Securities and Markets Authority
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Submitted online: <http://www.esma.europa.eu/>

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Dear Sir/Madam,

RE: AIMA Response to ESMA Consultation Paper on Technical Standards Related to Consolidated Tape Providers and Data Reporting Services Providers and Assessment Criteria for the Consolidated Tape Provider Selection Procedure

The Alternative Investment Management Association¹ (AIMA) welcomes the opportunity to submit comments to the European Securities and Markets Authority (ESMA) in response to its consultation paper on technical standards related to consolidated tape providers (CTPs) and data reporting services providers (DRSPs) and the assessment criteria for the CTP selection procedure (the “consultation”)².

¹ AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with more than 2,100 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than US\$3 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 250 members that manage over US\$1 trillion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). For further information, please visit AIMA's website, www.aima.org.

² Available at: https://www.esma.europa.eu/sites/default/files/2024-05/ESMA74-2134169708-7225_-_MiFIR_MiFID_Review_-_CP_on_CTPs_and_DRSPs.pdf.

AIMA supports the objectives of the MiFIR Review³ to facilitate the emergence of an EU consolidated tape for each asset class, improve transparency on markets in financial instruments, enhance the level playing field between regulated markets and systematic internalisers (SIs) and increase the international competitiveness of the EU's capital markets. We welcome the introduction of measures to encourage supervised entities to apply for authorisation to act as a CTP, specifically the requirement on all trading venues and Approved Publication Arrangements (APAs) to transmit harmonised market data directly to CTPs as close to real-time as technically possible; mandating the inclusion of post-trade and pre-trade data in a CT for shares and exchange-traded funds (ETFs), with the pre-trade tape displaying the European Best Bid and Offer with corresponding volumes and without venue attribution; allowing consumption of data published by the CT to be discretionary, not mandatory, by market participants; and empowering ESMA to organise a competitive selection procedure periodically to select a single CTP per asset class - bonds, shares and ETFs and over-the-counter (OTC) derivatives - for a specified period. We believe that such measures would facilitate the emergence of consolidated tapes for market data, creating a level playing field for trade data and enhancing market functioning.

In this response, AIMA would like to highlight several principles for ESMA to consider when finalising the technical standards relating to CTPs and the criteria to assess CTP applicants.

- Ensure the robustness, resilience and efficiency of the CTP in receiving, consolidating and disseminating data

A CTP must be robust, resilient and efficient to drive the successful operation of the CT and enhance market functioning.

AIMA believes that the quality of CTP transmission protocols should be evaluated in respect of technical criteria including performance (latency; throughput; connection setup time optimisation; scalability); reliability (error detection mechanism; error correction mechanism; recovery mechanism); security (data confidentiality; authentication; authorisation; non-repudiation); and compatibility (open solution; interoperability).

- Ensure that the fees charged by the CTP to data users are reasonable with simple fee structures and licensing models

AIMA believes that CTP applicants should be assessed in relation to the level of fees that they intend to charge, the simplicity of their fee and licensing models and their ability to provide ESMA with details on the actual costs of producing and disseminating market data. CTPs must offer simple fee structures and licensing models and charge reasonable fees to the different types of users. In addition, we believe that adequate procedures must be in place to ensure price control after the initial tender – CTPs should not be allowed to raise prices unreasonably during the first tender contract after the CTP commences its service.

Noting existing challenges with rising costs of market data, we welcome ESMA's mandate under the MiFIR Review to develop an RTS specifying the content of trading venues', APAs', CTPs' and SIs' obligation to provide market data on a 'reasonable commercial basis'. The current regulatory framework has led to a situation in which market data vendors and

³ Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202400791.

trading venues are charging unreasonable prices for market data. This impacts smaller alternative investment managers in particular and acts as a barrier to competition in the wider investment management industry.

- Ensure that the CTP governance structure includes proper representation of data users
A robust governance structure is key for the successful operation of a CTP.

We strongly support ESMA's suggestion for CTPs to set up an Advisory Committee that includes representatives of data users and market data contributors. The Committee should ensure that the views of different types of market participants are taken into consideration, with appropriate rotation of representatives of the Committee, and promote neutrality, transparency of decision making, avoidance of conflicts of interest, and stakeholder accountability. The Committee should receive key indicators and information on areas including the CTP's costs, the level of fees charged (including any proposed changes to the fee schedule), data quality indicators, technological updates and the quality of the transmission protocol. It is important that decisions such as matters relating to pricing and licensing are reflective of users' interests and that ESMA specifies the consequences of a CTP not taking into account any proposals or recommendations of Committee representatives where appropriate.

We agree that, at the time of application, CTP applicants should provide ESMA with necessary information to ensure they comply with the authorisation requirements set out in the RTS on: (i) CTP authorisation, including information on the organisation and the CTP's corporate governance, its management body and the arrangements in place to identify, manage and disclose existing and potential conflicts of interest; (ii) CTP governance model, to ensure an appropriate level of stakeholder involvement, in particular of data contributors and data users; and (iii) CTP governance structure, to enable stakeholders to make recommendations to the CTP, including on the performance, operation and quality of the CT.

- Ensure that the CTP disseminates data at an optimal speed while ensuring data quality

AIMA believes that CTPs must receive, consolidate and disseminate pre-trade and post-trade data robustly and in a low cost and efficient manner, fulfilling all reliability, scalability, low latency and security requirements.

The provision and display of data as close to real-time as is technically possible is necessary to provide market participants with a current snapshot of market trading activity and maximise the value of CTs to market participants. From an investment management perspective, real-time data feeds are critical for enabling investment managers to understand liquidity and manage and monitor portfolios. Investment managers require a clear and on-going picture of liquidity to analyse the short and long-term liquidity of assets in a fund. This is particularly important during times of market stress. Real-time CTs would also contribute to market resilience as they would enable firms and supervisors to monitor for price swings more easily. Moreover, real-time CTs would provide reliable reference prices to support uninterrupted trading in the event of an outage at a stock exchange or venue. Outages are highly disruptive, particularly during official opening and closing auctions where they prevent participants from trading affected stocks due to a lack of initial price formation prior to continuous trading and achieving the official closing price.

At the same time, the quality of input and output data must be ensured to maximise the effectiveness of CTs. Accordingly, we support data quality measures for output data including continuous real-time monitoring of the performance of the CTP's IT systems to ensure that the information it has received from data contributors has been published successfully; periodic reconciliations between the trade reports that CTPs receive from data contributors and the trade reports that CTPs publish; and communication channels between CTPs and data users to gather direct input regarding the quality and accuracy of the disseminated market data.

In addition, we support rewarding indications provided by CTP applicants that go beyond the minimum data quality requirements prescribed by the RTS. As ESMA suggests, indications could include (i) a CTP offering a more detailed or comprehensive elaboration of the requirements prescribed on data quality measures, such as a thorough and detailed plan for implementing data quality assurance measures including specific and concrete strategies for addressing potential challenges or shortcomings; and (ii) by a CTP proposing additional measures not envisaged by the RTS to ensure data quality dimensions such as accuracy, consistency and timeliness of input and output data. Further to this, we believe that CTPs should be subject to effective governance procedures, such as a requirement on CTPs to articulate and document comprehensively the procedures triggering their tools for contributing to the achievement of high data quality standards and to make these documented procedures available publicly.

- Ensure that the revenue distribution scheme of the CTP and arrangements for the suspension and resumption of redistribution is fair and workable

AIMA believes that the revenue distribution scheme of the CTP must treat venues operating under each transparency model fairly. A fair and workable revenue distribution scheme must be selected to ensure the effectiveness and sustainability of CTs.

We would be happy to discuss our position further.

If you have any queries, please contact Adam Jacobs-Dean, Managing Director, Global Head of Markets, Governance and Innovation (ajacobs-dean@aima.org), and Aniqah Rao, Associate Director - Markets, Governance and Innovation (arao@aima.org).

Yours sincerely,

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