FESE response to the FCA consultation paper on the framework for a UK consolidated tape

Brussels, 15th September 2023

The Federation of European Securities Exchanges (FESE), representing 35 exchanges in equities, bonds, derivatives and commodities in both the EU and the UK, welcomes the FCA's consultation paper and the opportunity to comment on it. We believe that a CT could be an important step forward for a complete view of markets. In June, the EU reached a political agreement on the revision of MiFID II/R, which includes the introduction of a CT for three main asset classes. We suggest the UK takes note of the EU's successes and failures in this process and designs a CT that meets its goals efficiently, without creating latency and arbitrage problems, and without imposing excessive burdens on trading venues and data providers.

In this response, we would like to share our views on selected aspects of the CT consultation paper, such as the appointment of a single CT provider (CTP) per asset class, the scope of data to be included in future CTs, the standards for data transmission and deferrals, and the pricing and revenue sharing model.

Appointment of a CT provider per asset class

We support the appointment of a single CTP per asset class through a tender process, as this would ensure consistency and avoid duplication of data. However, we believe that the tender process should not be based solely on the bidding price, but include as well other criteria around operational resilience and governance. We also stress the need for a strong supervisory framework to oversee the CTP's activities and ensure compliance with the regulatory requirements. Furthermore, we support starting with a bonds CTP before going ahead with another asset class.

Scope of data

We wish through this contribution to underline that the inclusion of pre-trade data in an equity CT would have a distortive impact on market structure and consider that post-trade data would be sufficient. We would be concerned about the inclusion of pre-trade data in the CT for equities, as we fear that this could undermine the role of central limit order books (CLOBs) in concentrating liquidity and create more market fragmentation.

A real-time pre-trade equity CT would be distortive as it would display a misleading pre-trade price benchmark. Even with the lowest latency requirements for the CT there would always be a time lag between the prices displayed by the CT and the reality of the underlying order books at a given point in time. A consolidated best bid and offer (BBO) disseminated by the CT would always be slower than direct connections to trading venues, and hence should not be used for trading.

As illustrated by the US tapes, this would favour latency arbitrage and dark trading, in the end delivering a bad deal for less sophisticated EU investors such as retail investors. A tape would incentivize professional participants to commit to execute unsophisticated orders (retail) at the consolidated tape price, whilst these same participants would have the opportunity to trade themselves at a timelier better price. Regarding the scope of data to be included in the CT for bonds, we support the FCA's proposal to focus on post-trade data. Post-trade data, combined with other sources of information such as trading axes and inventory information, is sufficient to enable informed investment decision-making in the bond market.

Standards for data transmission and deferrals

In terms of data transmission, we agree that data should be transferred from data providers and received by the CTP via a standardised, open-source application programming interface (API) developed or selected by the CTP. We consider that responsibility for applying deferrals should remain with data providers and not the CTP, as only the data providers have a full view of the transaction chain and can ensure compliance with the relevant rules. Furthermore, the deferred data would still need to be distributed by the providers to the public. Implementing two deferral regimes would not be efficient.

Data contribution to the CT: pricing and revenue sharing model

While the provision of high-quality data must be a requirement for data providers, we consider that mandatory contribution should be coupled with a fair compensation model for contributors.

We do not agree with the FCA's proposal that a bonds CTP should not be required to share data revenues with data providers but be allowed to offer incentives for high-quality data. The quality and reliability of data should be non-debatable. However, for proportionate regulation, it must be considered how the various parties may be affected and negative side effects avoided. Creating bond data products has similar costs to equity data, when considering the necessary infrastructure for trading, surveillance, consolidation and distribution, etc. A data provider supplying its data at its own cost and free of charge to a third party may have little other income sources other than data. Hence, we believe that there should be some form of revenue sharing between the CTP and data providers, covering data processing and distribution costs at least.

In terms of the design of the revenue-sharing scheme for bonds, we draw the FCA's attention to the long-established volume-based revenue-sharing mechanism outlined in paragraph 8.43 of the consultation paper. We believe a volume-based mechanism would be equitable to contributing trading venues and simple both for the CTP to administer and for the FCA, if required, to audit. That being said, the redistribution criteria developed for a bonds tape should not preclude the revenue-sharing mechanisms for other classes from being individually designed based on dedicated criteria pertaining to the asset class in question. For example, whilst a volume-based mechanism could be equitable for a bonds tape, for shares the redistribution model should be particularly mindful of elements such as the importance of financing being available to a broad range of parties (including SMEs), initial admission to trading, price forming nature of trades and making available market data on less liquid instruments.

We think as well that the CT should be available on a standalone basis and provide services at arm's length, while not being bundled with any other services. Indeed, the CTP should focus on collecting and distributing the data in question, in order to not overly interfere with market forces. Should the CTP provide any value-added services, data contributors should be paid according to their fee schedule, in order to ensure a level playing field with other providers of such services.

CT data licences should be separated according to re-use and direct use, as this would reflect different types of usage and value creation, but the CTP should have discretion in the setup of these licenses. Following the market practice, it is fundamental that the value of the product is taken into consideration when pricing the data to allow the CTP to recover high fixed costs, while enabling broad data usage across all different customer groups (professional and retail, small and big, alike).

Conclusion

In summary, FESE welcomes the FCA's initiative to establish a CT for bonds, potentially followed by one for equities. Whilst equity markets and government bonds markets already offer high levels of transparency, corporate bonds markets would benefit from enhanced transparency. In our submission, we also highlight some issues that need to be addressed in order to ensure a fair and effective implementation of the CT proposal. These include: ensuring a balanced tender process for selecting a single CTP per asset class; defining an appropriate scope of data; setting technical and operational standards for data transmission and deferrals; establishing a fair revenue-sharing model; and designing suitable licensing arrangements.