Consolidated Tape proposals

1. Overall progress on the consolidated tape initiative

1.1 Political agreement on the consolidated tape proposal

The Chair explained that the journey to political agreement on the consolidated tape (CT) project has taken 10 years. Implementing a CT was originally proposed as part of MiFID 2, but it never materialised. Recently, there has been a new push on CT in the context of the MiFIR review. In June 2023, a political agreement was finally reached on the introduction of CTs for four asset classes: bonds, equities, derivatives and exchange traded funds (ETFs). The implementation will be staged, starting with bonds. The technical trilogue has started and is currently working on the details of the proposal.

A policymaker stated that the CT project met with a great deal of opposition at the outset. Arguments were raised about a lack of private sector providers interested in running the CT and its insufficient use for retail investors. Finally, an agreement was found on a project potentially worthwhile for all market stakeholders. Different consortia have now come forward to participate in the tenders and there is interest from retail investor representatives.

An official explained that the CT proposal was an important priority of the French EU Presidency and was continued by the Czech and Swedish EU Presidencies. There were diverging views on the Commission's proposal during the negotiations, but a satisfactory agreement has been reached. The CT will increase transparency and promote integration within the European capital markets landscape in line with the objectives for the development of European capital markets set out in a recent op-ed by the German and French Finance Ministers[1]. It will also send a signal to investors around the world that Europe is making concrete progress on the Capital Markets Union (CMU) agenda.

An industry speaker agreed that the CT will be critical to CMU. It will enhance the visibility of issuers and companies in the market and enable investors to better assess market conditions. Another industry representative concurred that the compromise on CT is a positive sign for CMU. Building on the reforms that have helped to shape a more resilient and efficient trading and post-trading landscape in the EU, the transparency provided by the CT should encourage investors, including retail investors, to participate more in the capital markets. Greater market visibility in periods of crisis thanks to the CT should also help investors to better manage their positions. Transparency will also increase the accountability of market participants to investors and regulators because the level and quality of execution will be more easily measurable.

1.2 Implementation approach and selection process of CT providers (CTPs)

A policymaker remarked that a number of technical details concerning the CTs still need to be finalised. The Commission is coordinating the finalisation of the legislative text and the sequencing of the implementation with ESMA.

A regulator welcomed the staggered approach to implementation and the priority given to the bond CT. The sequencing of the different CTs will leave more time for preparing the implementation in a context where the market's response to this new tool is still uncertain. A number of key details still need to be finalised, such as the type of information that will need to be produced and shared and the format of the data. Once there is a stable text with clarity on the technical details, ESMA will be able to step up its work in a concrete way, starting with the management of the selection process for the CTPs. This is the first time ESMA will be in charge of such a process, which is a challenge. In addition the timelines are very tight, so the process needs to begin as soon as possible.

An official suggested that governance will be crucial. All stakeholders within the industry must be involved in the strategic decision making concerning the implementation of the CT, irrespective of which firm wins the tender, in order to create a sense of cohesion around the project. A regulator advised that all potential applicants will be kept informed throughout the selection process. There will be workshops to explain how the process will be run and to clarify the information that will need to be included in applications. All players must have the same level of information to preserve a level playing field among applicants. An industry speaker emphasised the short implementation timeline. Guidance from the Commission and ESMA on the data standards will need to be communicated swiftly to give the industry enough time to prepare for implementation. Another regulator pointed out that ESMA will be mandated to assess whether the CTPs are meeting their objectives in 2026, which means the implementation process should start as soon as possible.

1. Bruno Le Maire and Christian Lindner: We must close the EU capital markets gap – Financial Times 13 September 2023

1.3 Main factors of success of the CT Level 2 requirements: flexibility, simplicity

A regulator stated that the detailed requirements for data reporting must make the reporting simple for end users. The requirements must also be flexible enough to be adjusted to future market developments, which means that they should be specified in Level 2 regulation, rather than at Level 1. ESMA should have the capacity to assess whether market conditions have changed and to propose amendments to the rules if needed. A second regulator added that it will be critical to have flexibility in areas such as data standards and data reporting, because technology and standards evolve very fast. There are some questions about how to achieve this, but the most adequate solution seems to design these details at Level 2 with input from the market data expert group. Amending Level 1 requirements would require another legislative process, which is not an effective use of co-legislators' time.

An industry representative observed that flexibility is a key factor of competitiveness in a fast evolving market. An official agreed that the requirements will need to adapt to evolutions in the market for EU capital markets to remain competitive in the post-Brexit context. This will necessitate an appropriate allocation of the rules between Levels 1 and 2. Some issues need to be discussed within the Council and with MEPs, but others should be delegated to ESMA. While flexibility is important, the delicate balance agreed at the political level must be preserved. The Level 1 text and Level 2 requirements must stick to the political agreement, particularly in regard to pre trade data for the equity CT. A regulator acknowledged the importance of respecting the political agreement. However, the process is moving now to an implementation phase that requires a proper calibration of requirements and without the right level of flexibility the CT will not be a success.

1.4 Market structure issues

An industry speaker emphasised the importance of continuing to improve the structure of the European securities market beyond the implementation of the CT, in order to strengthen these markets and make them more attractive. Many companies are choosing to list outside of the EU for valuation reasons. Valuations in the EU are impacted by market fragmentation and the overall lack of depth in the EU equity market. Market structure is also important in the bond market. 75% of bond trading in the EU is over the counter (OTC). This structure is less relevant in a higher interest rate environment, where bonds have become more attractive for end investors, especially retail investors.

2. Equity CT: expected benefits and outstanding challenges

2.1 Relevance of the agreed proposal and expected benefits

The panellists were satisfied with the position reached on the equity CT proposal and commended the European institutions for achieving a political compromise after intensive negotiations. A policymaker noted that the political agreement on the equity CT goes further than the Commission's initial proposal on the pre-trade data. An agreement was found on a hybrid solution with a real time publication of anonymised pre-trade European best bid and offer (EBBO) data and a non-anonymised publication of post-trade volume and price data. This should improve transparency and liquidity in the market, but it remains to be seen whether this approach will produce the expected results. This will have to be monitored over time. The existing equity CTs, notably in the US, use a different approach for pre-trade data which is non anonymised.

A regulator stated that the conditions are right for the emergence of a real time equity CT. The CT should improve the situation in the EU equity markets by reducing fragmentation, improving transparency and creating a comprehensive view of equity trading. This is particularly relevant in the EU, where there are many different trading venues. Another regulator considered that the compromise on the equity CT strikes an adequate balance between transparency and feasibility.

An industry speaker stressed that the publication of post trade data will significantly strengthen best execution. Once a trade is completed, investors will be able to see the outcome and what other venues would have offered. This will help them to prepare future trades since it will be possible to see alternative quotes that could have been obtained. In addition, an anonymised CT for pre trade data will avoid several issues raised by a non anonymised pre trade CT including: latency issues, potential market front running risks to the detriment of the less informed investors and giving the advantage to computers over humans, who cannot exploit real time information as quickly.

An industry representative observed that market-makers and large intermediaries will continue to buy market data directly from exchanges. With the fast pace of trading in the equity market, they will not wait for the results of the CT. However, the 'golden source of truth' provided by the CT will be beneficial for other market participants. The data on the CT needs to be real time and comprehensive enough to provide the whole market with maximum information. This CT might also be useful in the event of an outage. Instead of putting pressure on exchanges to resolve outages within two hours, the CT might enable trading to resume sooner and give exchanges time to get back up and running. Another industry speaker emphasised the importance of reliable reference prices in this context provided by the exchanges.

The Chair was encouraged by the positive reaction to the equity CT proposal. Providing a single source of truth and reference price for equity trades has been a longstanding objective in the EU and should contribute to unifying the different existing pools of liquidity. The quicker resumption of trading following an outage could be another benefit.

2.2 Outstanding challenges: revenue distribution and data quality

Several panellists emphasised the importance of ensuring the commercial viability of the equity CT. To achieve this, the revenue distribution scheme needs to be properly defined.

A policymaker noted that the details of the revenue sharing model are still being discussed in the technical trilogue. The current position is balanced: it rewards small exchanges, which is fair, and it also rewards listing, which is very important for the overall objectives of CMU. All the elements are now on the table for market stakeholders to collectively conclude this debate. A regulator observed that stakeholders' opinions must be taken into account in the design of the scheme. The CT must be feasible in terms of cost and commercial interest. An official added that the detailed requirements of the scheme need to be clarified to prepare the implementation of the CT. These criteria are very important because this scheme is a way to reward primary listing. An industry speaker stressed that it is important not to threaten the viability of smaller exchanges, as this would be counterproductive to the wider efforts on CMU.

Data quality is another key consideration to ensure an effective CT. An industry speaker noted that ESMA has already carried out empirical work in this area, but more work needs to be done on systematic internaliser (SI) data. On the post trade side, 90% of SI data is shared within 30 seconds of execution, which is good, but the remaining 10% will also be needed, particularly if the pre trade transparency regime is extended in the future. A regulator noted that the incentives must be set correctly in order to ensure that all trading venues contribute to the CT and that the adequate level of pre and post trade transparency is achieved. It is also important to get the opt in mechanism right in order to reach as close to 100% coverage as possible.

3. Bond CT: expected impacts and outstanding challenges

The Chair explained that the bond CT has a different structure to the equity CT. There is a request for quote (RFQ) order system for bonds instead of a central limit order book for equities, which has led to an emphasis on post-trade rather than pre trade data in the bond CT.

3.1 Expected impacts

The panellists welcomed the bond CT proposal and agreed that it should bring transparency to a market that is currently opaque and fragmented. A regulator stated that the bond tape is strongly supported because of its obvious value to everyone. Bonds are an OTC market that is very fragmented and has huge data quality issues. Another regulator was favourable to the priority given to bonds in the CT project, because the market is less transparent than equity and the bond CT is likely to have the most impact. An industry representative noted that 85% of fixed income trading is not published immediately; it is usually published four weeks later. In these circumstances, it is difficult for investors to assess market conditions. The bond CT will allow investors to verify the depth of the market in particular.

An industry speaker highlighted the elements of the proposal that will maximise the chances of a bond CTP emerging and that tackle issues that have been an impediment to a bond CT previously in the MiFID II context. First, the decision not to include pre trade data will minimise complexity. Given the practicalities of bond trading, the value of pre trade data for bonds is debatable. The RFQ trading system inherently allows investors to evaluate liquidity in the pre-execution phase, therefore the decision to target the pre-trade transparency regime around central limit order book and periodic auction systems is relevant. For the bond CT the focus should be on simplifying the post-trade transparency regime. Secondly, legislators have recognised the importance of improving the deferral regime for bonds and taken the first steps to simplifying and harmonising maximum deferral periods. Previously, MiFID II's complex and unwieldly deferral regime resulted in trades being withheld from publication until after any usable time, diminishing the usefulness of consolidated trading and volume data. The CTP will also not be generating value added services, which avoids the possibility of a monopoly emerging.

3.2 Outstanding challenges for preparing the implementation of the bond CT

The panellists highlighted issues requiring further clarification for the success of the bond CT in two main areas: the calibration of price deferrals and revenue distribution.

A policymaker stated that the calibration of deferrals is essential to the success of the bond CT, but will be challenging. The Commission has tried to push for a US type model with a short price deferral and longer volume deferrals. The compromise agreed in the EU is to have long deferrals for both price and volume, which is a new model that has not been used by other jurisdictions. When this is implemented, the authorities will have to assess whether it is producing the expected results. The real debate will be around the calibration. A small difference in calibration will make an enormous difference to the day by day success of the bond CT.

An industry representative agreed that the question of deferrals will be crucial to the success of the bond CT. In the US, firms have 15 minutes to report a trade. The price, which is the main factor for investors, is published almost immediately, but the volume can be published, if it is a block, six months later. The US Trade Reporting and Compliance Engine (TRACE) system has been used for 20 years and its development has been iterative. It will be important for European regulators to have the flexibility to recalibrate the CT, if necessary. Academic studies have indicated that the US market grew exponentially following the implementation of TRACE. It is expected that the bond CT will be very beneficial for the EU fixed income market as well, which is essential to support economic growth. Another industry speaker observed that the EU bond CT will not have the same impact as TRACE unless there is a solution to the issue of 85% of bonds being published four weeks after transaction.

A regulator added that the exact calibration of deferrals will be critical for the CTP selection process. The selection procedure can be initiated without this but cannot be concluded until this detail is known. As with the equity tape, applicants will need clarity on inputs, outputs and formats in order to be able to finalize their proposal in terms of price and planning. An industry speaker agreed that the parties tendering will need this clarity because it will form part of the calculation of their revenue potential. The tender process can be launched without this but in an ideal world, there would be clarity on deferrals before it begins. The Chair commented that the value of the tender for providers will depend on the level of deferrals, as less deferrals will mean more value.

A regulator noted that beyond deferrals, the quality of the data provided will also be very important for the usefulness of the CT. ESMA and the national competent authorities (NCAs) are working to improve data quality and it has improved substantially during the last few years. The level of compliance with the data quality test is now almost 100%, but there is still room for improvement.

An industry speaker emphasised that revenue distribution is the main outstanding issue for the bond CT. It has been addressed for the equity CT, but there is a push for it to be excluded from the discussions around the bond CT, which does not seem appropriate. This is not a question of fairness, as it is for the equity CT, but more of incentives. Different data contributors such as trading venues and approved publication arrangements (APAs) will be mandated to provide data to the CT. That will probably work out, but having some form of incentive would make the delivery of a bond CT go much more smoothly.