Frankfurt,
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BVI[1]`s position on the EU-Commission Proposal for Regulation (EU) No 600/2014

General remarks

BVI sees great value in the creation of four asset class based consolidated tapes (equities, ETFs, bonds, derivatives) to support Europe's capital markets. However, we qualify that statement with a reminder that the framework for a successful consolidated tape should i) address the known market failure around market data costs, ii) manage the costs of the tape by limiting compensation for data contributors to the cost of production, iii) simplify transparency requirements without harming the balance between transparency and liquidity, and iv) support rather than limit competition between execution venues as introduced with MiFID I and MiFID/MiFIR.

Furthermore, the four tapes will also support the investment decisions of the investors. For instance, the tape can help to inform more retail investors about the best trade prices and quotes which occurred in the market and create competitive pressures so that they cannot be disadvantaged. Currently, retail investors have only very limited visibility into prices, quotes and volumes.

A consolidated tape could further strengthen the ability of both institutional investors and retail investors who trade via brokers to improve their trading process and best execution by providing them with immediate access to trading activity, liquidity and price. The visibility of pre- and post-trade information means that investors would get to see prices and liquidity before they make decisions, ensuring that they can invest efficiently and cost-effectively and enabling them to achieve best execution.

Finally, the consolidated tapes will help issuers to raise capital in the EU. A recent study on the US TRACE bond CT provides new evidence that the economic consequences of increased transparency in secondary markets for corporate bonds extends to primary markets and the reduction of cost of raising debt capital.

A Consolidated Tape is a must to achieve a visible European Capital Markets Union
As representatives of the German buy-side, we are pleased to see an ambitious push from the Commission to put in a place a consolidated tape (CT) for market data. BVI overall supports the EU Commission's proposal to introduce separate Consolidated Tapes for equity instruments, including exchange traded funds (ETF), and non-equity instruments (bonds). We see to a lesser extent a market need for a (OTC) derivatives CT.

BVI, however, does not support a two stage approach introducing firstly a post-trade equity CT and only at a later stage pre-trade data (5 levels of quotes). The equity CT should include post as well as pre-trade data right from the start. The suggestion to provide pre-trade-data should primarily cover all trading venues (exchanges, MTFs, OTF). SIs should not be obliged to provide pre-trade-data. SIs

[1] BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset Managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 116 members manage assets of some EUR 4 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.

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provide pre-trade market data only on a request for quote basis to their clients whereas regulated markets deliver addressable mutilateral liquidty to the trading entities.
This increases pre-trade transparency across the EU and is likely to make the CT provision economically viable as more users with trading interest will consume the data, including retail investors and their advisors which can't afford to pay expensive exchange and data vendor licenses. It needs to be remembered that the MiFIR reform was inspired in part by the petition of a retail investors association in Portugal to the European Parliament with the request to address the excessive exchanges market data cost faced by this segment of the market[2].

More important than a reduction in cost will be that with an equity CT all retail and institutional users get a comprehensive overview over the prices for all stocks traded within on all Member States trading venues, and at a lesser price than it currently costs to obtain price data from 4 to 5 large EU securities markets. This transparency makes the CMU visible and it will help to present Europe as one market for issuers, investors and the trading community. Ultimately increased pre- and post-trade equity transparency should help draw more capital and investments especially into the smaller Member States and thereby help to increase listing and trading revenue streams to smaller national stock exchanges.
We welcome the proposal that the CT is delivering data to the users as close to real-time as possible. BVI would like to stress in this context that an equity/ETF tape delivering data at a second speed (1000 milliseconds) is fully sufficient to improve displayed transparency to both retail, and institutional investors, thereby impeding very little on existing market data business of the exchanges which is focused on low latency data feds (average 4-5 milliseconds).

BVI stresses also the need for implementing a post-trade bond CT at minutes speed given the current lack of data quality and corresponding transparency and liquidity in this space.
The implementation of the bond CT should not be depending on the implementation of an equity tape. We also support the principles of mandatory contribution and voluntary consumption of the CT, which we consider crucial for making the CTs a success.

Moreover, we believe that it should be possible to have granular consumption; that is to receive the data from a chosen number of trading venues, APAs or SIs as is currently the case. Also as it is the law today, aggregated CT delayed data should remain free of charge and should not be opened up to a new revenue stream for the exchanges.

Overall the envisaged contribution of the CTs to the visibility and transparency of the EU Capital Markets Union to both retail and institutional investors could be further enhanced if especially the equity CTs would be required to create, provide and publish a CMU (all shares) Equity Market Index Family as a free or low cost data product to the market participants.

We also want to stress that the establishment of CTs should not result in changes to the EU's best execution framework which functions well today and would suffer from added complexity. BVI expressly does not call for the designation of certain trade quotes as European Best Bid and Offer (EBBO). The similar concept in the US (NBBO) is over there an important market structure element which implementation would require further regulation not existing in the EU today such as a trade through rule and a market access rule. The existing EU MiFID/ MiFIR requirements on best execution on the other hand can be fully supported with 5 levels of equity quotes delivered by the CT.

[2] http://www.stopmarketdatafees.com/

However, a level-playing-field when compensating data contributors must be in focus. We are concerned about a model which puts ‘fair remuneration of data contributors’ as a key feature enabling an equities CT. We can’t agree with proposals to compensate the data contributors through ‘minimum revenue targets’ as currently defined to be open-ended with no visible ceiling capping costs to a level associated with the actual production of data. Today MiFIR (Article 13) says that market data cost must be based on a reasonable commercial basis, i.e. the long-term incremental cost of provision of data, in the future also data to the CT. We call for the revenue sharing scheme to be more precisely defined and extended to all contributors beyond regulated markets. Notably, it should specify the constitution of the total amount to be redistributed, to ensure that contributors have a stake in the success of the tape and that subscription to the tape remains attractive for market participants. As we have pointed out previously, the MiFIR Level 1 text should reflect that market data has to be provided on the basis of costs and that trading venues, APAs, SIs and CTPs should disclose relevant information in this area to National Competent Authorities (NCAs).

When considering the sharing of revenues generated by a consolidated tape, it is important to remember that trading venues (in particular incumbent exchanges) will continue to collect revenue from both proprietary data and the new CT as their proprietary data will continue to be indispensable for investment firms. If the equity CT data prices can be driven by the revenue expectations of the larger exchanges, the CT will only be another market data distribution channel for them. An expensive CT, however, will not be used by the market, in particular by the German buy-side.

Market data cost reform must be addressed now too

Market data costs must be addressed independently of the CT. We recognize that the Commission’s proposal includes ESMA’s recommendation to convert the ESMA guidelines on market data into legal text as well as the empowerment of ESMA to specify how RCB should be applied by further strengthening the application of Article 13, MiFIR. However, a number of ESMA’s remaining recommendations are unfortunately not included in the proposal. This includes the ESMA recommendation to move the provision to provide market data on the basis of costs to the Level 1 text and the deletion of the articles allowing trading venues, APAs, CTPs and SIs to charge for market data proportionate to the value the market data represents to users. This contradicts the cost-based approach.

Market structure reform proposals endanger the balance between transparency and liquidity for non-equity markets

We would also like to emphasize that several of the reform proposals for both equities and non-equities transparency regimes are based on expected benefits that have not been subjected to much needed in-depth analysis, and a comprehensive impact assessment.

BVI therefore welcomes a more targeted reform especially of the bond deferrals regime that maintains the sell-side’s market making and risk trading capacity in the fixed income space. As far as the trade transparency aspects of the proposal (especially for bonds) are concerned, we are not opposed to the simplification of the current regime provided that it is aligned with rules that enable adequate deferral of publication. Nevertheless, the proposals do not ensure a deferral regime calibrated in a way which enables SIs and other liquidity providers to unwind their risks. The balance between transparency and liquidity is delicate: If SIs and other liquidity providers are exposed to undue risks from too much transparency, they could either withdraw or widen spreads to protect themselves. This will result in reduced liquidity, which harms clients and, ultimately, end-investors. Moreover, there is a strong risk that it would have a detrimental impact on the attractiveness of EU markets compared to other markets which might have a greater ability and willingness to provide liquidity.

We are concerned with the deletion of both pre- and post-SSTI without clear expectations as to the availability of alternatives given the limited possibilities to defer prices. There appears to be no possibility to defer price disclosure beyond End of Day for transactions that are large in scale or in illiquid instruments. This will ultimately harm asset managers' ability to fulfil their fiduciary duty toward end-clients on best execution. BVI also calls on the trialogue parties to consider to align the deferrals regime of corporate and sovereign bond issues.

Market structure reform proposal that enable competition between execution venues must be encouraged

For equities in particular, we note several attempts to direct flow to Regulated Markets at the expense of other execution venues. BVI, however, is highly sceptical of the necessity of the increased minimum trade size to two times Standard Market Size (2x SMS) for both the Reference Price Waiver (RPW) and the SI's. BVI believes that these measures will inhibit liquidity provision to the buy-side, especially the capability of fund managers to execute large trades across todays broad selection of lit and dark trading venues catering to all investors needs. Equity market structure changes such as those contained in the EC's recent proposals, create an unlevel field and compromise competition introduced with MiFID I. Such step is damaging for clients' choices and to the competitive and diverse nature of the EU's trading landscape. In order to address the fragmentation of the trading venue landscape in the EU and to be able to improve liquidity for all investors, particularly on lit markets, the EU Commission should require the exchanges to improve their product offering to both retail and institutional investors by putting less emphasis on speed and put more emphasis on enabling execution of transactions in size.

Repeal of RTS 28 reporting

We support a repeal of RTS 28 "Best Execution" Reports. We stressed in our reply to consultations on the subject and continue to stress the significant costs of producing these reports for which there appears to be very little investor demand. Professional end-investors and the buy-side already have access to proprietary tools and data for assessing best execution. The multiple asset class consolidated tape referenced above will provide valuable data toward retails investors for their best execution needs. Finally, it seems unfair and punitive to require EU firms to maintain publication of RTS 28 reports when other jurisdictions have removed such requirements. We therefore respectfully request the EC to consider removing the RTS 28 'Best Execution' Report obligation.