MIFIR REVIEW

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MiFIR Review: three key challenges for the Czech presidency

The coming into force of MiFID II and MiFIR in early 2018 has had a significant impact on the European capital markets. The MiFID/MiFIR framework is the Operating System (OS) for the financial markets. As with any OS, it needs a regular upgrade. So, there is currently the opportunity to further improve this OS by way of the 'MiFIR Review'. The European Commission drafted an ambitious proposal. Negotiations began under the French presidency, with several compromise proposals being discussed. It is now up to the Czech presidency to take up the mantle and finish the good work already done. We would like to summarize what are, in our view, the three key challenges.

The first challenge is Payment for Order Flow, colloquially known as PFOF. It describes the practice where a venue or market maker pays a broker a fee in exchange for the exclusive right to execute the orders of this broker's clients. The AFM believes there is a lack of transparency in the costs to investors and our research shows that PFOF venues underperform in both quoted and executed prices. ESMA has warned about the risks of PFOF as well. A ban on PFOF would appear appropriate, although not all Member States agree. Some are more supportive of these practices and revenue models deployed, for example, by neo-brokers.

We should realize the debate on PFOF is not an EU-only matter, but part of a global policy debate. The UK has a ban on PFOF. Australia has recently installed a ban on PFOF. In the US, in response to the wild-west trading in GameStop, the SEC is moving towards reforming the (PFOF) system substantially, e.g. by creating an order-by-order auction system, but with an outright ban on the table. The negotiations on the MiFIR Review must be seen within this global direction of travel. All major financial markets around the world are banning PFOF due to issues around conflict of interest and best execution. The European Capital Markets Union should not ignore this and take the wrong turn.

The European Capital Markets Union should not take the wrong turn.

The second challenge is the establishment of consolidated tape provider(s) (CTP) for different asset classes. These consolidated tapes (CT) would add significantly to transparency, resilience, and execution quality. It would reduce fragmentation in the Capital Markets Union, increasing visibility, comparability, funding opportunities and improve market resilience. As with the first challenge, the AFM has been vocal in its support for a CT.

We have been particularly supportive of establishing a real-time post-trade bond CT, facilitating the generation of ideas, business models and proofs of concept by way of our Regulatory Sandbox that includes a group of technology companies and an industry working group consisting of both buy- and sell-side, trading venues and liquidity providers. This allowed for rapid progress to be made and for market based, practical policies to be developed into an agreement on high level technical principles for a corporate bond CTP. The AFM invites the co-legislators to take note of these principles.

An equity CT is perhaps more complicated. The EU market for shares is very fragmented, with a significant amount of local or national exchanges. Whilst a real-time equity CT with limited pre-trade information (on a voluntary basis) is the desired outcome, there is opposition. It should be noted, however, that an equity CT would not compete with proprietary market data franchises: this business model for venues would remain unaffected. In return, better visibility and revenue-sharing models could provide a tangible benefit for smaller and non-interconnected venues in particular.

The third challenge is to enhance 'meaningful transparency'. It suggests transparency should be improved where it makes sense to do so and in a manner that is useful to market participants. An example is the calibration of the deferral regime for bonds. The current regime allows for notable differences between Member States: an EU-wide regime would be a significant improvement in itself, especially if it is both shorter and less complex. Furthermore, the correct calibration of this EU-wide regime is essential for the establishment of a bond CT. A way forward could be to have different categories, with a price being either real-time, 15min. delay or end-of-day, and the corresponding volume at 15min. delay, end-of-day, or two weeks.

Another example of achieving meaningful transparency is the improvement of market data quality and consistency. There are several ways of achieving this. Strengthening ESMA's role in handling and enhancing data quality and reporting consistency is one. Another is to form an industry expert group to advise on some of the key issues in reporting market data, which we strongly support.

In our view these are the three key challenges to overcome in order to have the MIFIR review become successful and providing a useful 'OS' upgrade to the MiFID/MiFIR framework that is a tangible improvement for the financial markets. We wish the Czech presidency the best of luck.

CARLO COMPORTI

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The CTP project in the perspectives of competition and investor protection

The establishment of a CTP at European level, after it failed under MiFID I and MiFID II, is one of the main objectives of the current MiFIR review. The expected benefits of the CTP are known, following the extensive discussion on this project since long time. The project also leverages the significant experience of TRACE in the USA.

Nonetheless, the negotiation at EU level proved to be difficult so far on the scope of the CTP and its link with the proposed ban on Payment for Order Flow ("PFOF").

One of the major issues is whether CTP should include all asset classes, or whether differentiation should be included particularly between equity to non-equity products. Whilst non-equity markets have been characterized by less transparency and more fragmentation, the equity space is already characterized by a more transparent price-discovery process. The potentials for introducing a consolidated tape could hence seem higher in the non-equity space; nonetheless this raises specific implementation issues, in terms of both data collection from a variety of venues and data quality, particularly for derivatives, which would need to be significantly improved for the consolidation to be valuable. On the other side, one could consider that the existing higher level of transparency in the equity space would make it more natural for a CTP to start from there; however, this may come at a higher cost, considering the value of market data for the industry, in a context where this has become one of the main drivers of competition across exchanges.

The distinction between pre-trade and post-trade also matters for the CTP project. Whilst broadening the scope of pre-trade information to be reported to the CTP could help strengthening the price-discovery process in the non-equity space, some might argue that it could undermine incentives for the research of trading strategies capable at supporting liquidity, due to the amplified trading and liquidity risks borne by brokers/dealers. Again, from a more practical stance it would certainly be easier to achieve such an important goal for the equity side and get the project started before considering any extension into other asset classes.

Whilst it is doubtful - at least at the CTP inception - that data could be used for trading purposes, considering the foreseeable latency issues that consolidation might entail, this has nevertheless the potential, particularly for more traditional investors (non-algo/HFTs), to immediately bring about more clarity and consistency for the best-execution compliance and supervision.

Benefits are also expected on competition between EU and US venues, aligning the respective regimes. In addition, small firms will benefit from easier and cheaper access to data, that will allow improvement of the quality of their trades' execution.

As stated above, the CTP project is also linked to the treatment of PFOF. As recently stated, we can argue that this practice is *"symptomatic of a broader issue of national EU regulators interpreting rules differently"* [1].

The existing rules on best-execution and inducements, represent a good framework to protect investors (together with transparency on costs and charges, management of conflict of interest). However, these rules proved to be interpreted and applied differently, particularly with regard to PFOF. A concrete example of this is offered by the divergent outcomes of studies performed by some NCAs as well as by the private sector. This seems to go beyond the different existing practices across Europe.

The lack of a common set of data and of a common methodology contribute to non-convergence across the EU. This was one of the weaknesses clearly highlighted in the impact assessment conducted by the European Commission, accompanying the proposal to set up a consolidated tape.

Data is available, but needs to be collected at different places, making it hard not just the collection but also the subsequent analysis. A single-entry point would have the benefit of facilitating better choices by investors and brokers/dealers, but also more efficient and effective supervision (particularly on best-execution) and more competitiveness between EU execution venues, as well as between the latter and non-EU venues.

[1] MEP Danuta Maria Hübner, rapporteur of the Commission legislative Proposal.

RODRIGO BUENAVENTURA
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Beyond the tape and transparency, best execution also needs regulatory attention

One of the most wide and deep legislative initiatives designed by the European Commission is the Capital Markets Union (CMU), which was born with the aim of improving the European stock markets to achieve greater attractiveness for new companies and, at the same time, increase the base of investors, institutional and retail.

A single market cannot exist without an integrated vision of securities trading in the EU, this being the objective of the consolidated tape (CT). An initiative that aims to provide consolidated data on price and trading volumes, improving not only market transparency but also competition between trading venues.

Transparency is a key factor as the EU trade landscape is highly fragmented and financial instruments, bonds and shares, are traded on hundreds of platforms. The existence of systematic internalizers (SI), OTC transactions, large pan-European investors operating single funds, and the development of technological platforms implemented in independent exchanges, have contributed to the development of fragmentation. However, trading fragmentation has not yet created a decrease of liquidity. It seems that market participants have adapted their business models accessing different types of trading venues to find the liquidity they need.

In this context, regarding non-equity transparency, the MifiR review proposal is moving into the right direction. There current proposal will significantly increase the level of post-trade transparency and intends to simplify the regime, although there are some aspects that need to be polished. For example, the current proposal sets a special deferral regime for sovereign bonds, with less transparency. However, it is unclear why not adopting the same deferral regime as for other types of bonds, as sovereigns are the most liquid class of bonds, and it seems counter-intuitive to require the lowest level of transparency to the class where more transactions occur. We should not regulate financial markets trying to protect the interest of public sector issuers differently from corporates.

On the side of non-equity pre-trade transparency, there has been a substantial and welcome change of direction after the proposal coming from the UK wholesale market review. The UK has proposed to remove pre-trade transparency requirements for RFQ and voice trading systems for well explained reasons. Publishing those pre-trade prices might give misleading signals of liquidity, that is not accessible for all types of investors.

We need to better define how execution quality is measured, before PFOF models expand further.

Regarding the introduction of a CT, the evidence shows that introducing a CT in less transparent markets, such as bonds, can be a significant improvement. On the other hand, it is not clear at this stage if the equity CT will have sufficient demand.

In my opinion, the equity CT will not solve in itself liquidity fragmentation. But, more importantly, the tape will not be a silver bullet to improve the execution quality. The EU best execution regime needs much more than a tape to fix retail execution quality. Models relying on payments for order flow, among other techniques, are actually bringing worse execution quality to EU retail investors. While the tape would definitely help professional investors to assess the execution quality they are getting, I doubt very much that retail investors would make any use of the tape to check, ex-post, if they obtained the best possible results.

For that, we need detailed rules on how best execution should be measured and assessed for retail clients. The current rules only require a periodic review. But how to do that is left open to firm and national discretion, bringing supervisory divergence and putting investors at risk. We need to define better, more detailed criteria of how execution quality is measured in the EU, and we need it now, before PFOF models further expand cross-border.

The potential of a pre-trade CT is to my mind still unclear. A pre-trade CT is an appealing idea, but it could create a false sense of liquidity and show a picture of the market which would be delayed in comparison to private data feeds, creating differences in latency. Retail investors may not be able to access many of the quotes shown in a pre-trade CT as brokers do not offer connectivity to all venues in Europe and SIs can discriminate between which investors they do and do not offer access.

In any case, when developing the tape, we need to ensure that ESMA has enough leeway to adjust and configure the project, without being put in a straightjacket. This is a complex project that will require flexibility to be implemented and very probably will only be doable in a staggered manner: starting with bonds and building the next steps from there.

EVA WIMMER

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The MiFIR review should strengthen trading on transparent securities markets

The MiFIR review offers the opportunity for the EU to take a major step forward towards achieving the goals of the Capital Market Union (CMU). The CMU aims to improve the transparency, reduce the fragmentation and foster the competitiveness of EU capital markets and to increase retail participation in these markets. Key proposals made by the European Commission in the MiFIR review include the creation of a consolidated tape for bonds and shares, measures to limit share trading on non-transparent venues and by systematic internalisers, the harmonisation and simplification of the waiver regime on EU corporate bond markets and a ban on payment for order flow (PFOF).

To achieve the goals of the CMU, the MiFIR review should seek to strengthen trading on transparent securities markets, and the proposed measures should be conducive to that objective. It is crucial to strike the right balance.

In this regard, it should be reconsidered whether the proposed general ban on PFOF serves the objective of strengthening trading on transparent markets or the wider CMU goal of increasing retail client participation on these markets. PFOF reduces the costs of execution and allows retail investors to execute orders free of charge or at very low order prices. In Germany, it plays a key role in boosting the participation of retail investors on securities markets. Furthermore, several studies for the German market show that prices achieved at venues that use PFOF are similar to or better than prices on the reference market. Against this background, a general ban would appear to be disproportionate. It would be better to enhance the transparency of PFOF and to observe whether specific risks emerge that have not yet been addressed.

Another measure that needs further scrutiny is the consolidated tape for shares. While the level of transparency in EU corporate bond markets is low and the creation of a consolidated tape for bonds is therefore warranted there, share trading on EU stock exchanges already has a high level of transparency. In EU equity markets, the creation of a consolidated tape must therefore be carefully assessed, and the interests of all stakeholders, including stock exchanges, need to be properly balanced. The most feasible way forward at the present stage would be a consolidation of post-trade data. The possible consolidation of pre-trade bid and offer prices should be decided upon at a later stage. Proposals to limit the equity tape to the largest markets in the EU would run counter to the objective of achieving an EU-wide internal market for share trading and the wider goals of the CMU.

MiFIR review should seek to strengthen trading on transparent securities markets.

With a view towards strengthening trading on transparent markets, this discussion on the consolidated tape for shares should be seen as part of a broader discussion on the appropriate level of transparency, and the appropriate structure, for the EU equity market as a whole. The benefit of a consolidated tape requiring venues that are already highly transparent to further enhance accessibility to trading data would appear to be limited in a market where trading has shifted to a large extent to non-transparent venues and to systematic internalisers that offer lower levels of transparency. Instead, it is crucial to increase the overall level of transparency in EU equity markets and to establish a level playing field for trade execution.

Thus, the Commission's proposal to raise the thresholds below which systematic internalisers should be subject to full pre-trade transparency goes in the right direction. An option should be added that the threshold can be raised further based on analysis conducted by ESMA. In addition, the threshold for using the reference price waiver, which allows venues to rely on prices provided by reference markets, should be increased accordingly.

The objective of strengthening transparent trading should also be kept in mind when reviewing existing limitations on share trading at non-transparent venues, such as the double volume cap (DVC) mechanism. An abolition or suspension of the DVC mechanism seems therefore not warranted.

If our aim is to strengthen European capital markets, it is essential to avoid steps that might have a negative impact on the liquidity of transparent venues.

PIERRE CHABROL

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The MiFIR Review: progress made but still divergent visions to bring together

After six months of French presidency, it is a good time to take stock of the state of the MiFIR negotiation. As you may remember, the Commission proposed at the end of November 2021 a text revising the regulation governing the European markets in financial instruments. We like to distinguish three pillars of this text: i) the amendments intended to ensure the creation of a European consolidated tape (and more precisely of a single private consolidator for each of the main asset classes, namely shares, exchange traded funds, bonds and derivatives), ii) an update of our existing transparency regimes for both equities and non-equities, and iii) a proposal to introduce an EU-level ban of payment for order flow arrangements between retail brokers and execution venues.

This proposal was an excellent working basis for initiating discussions in the Council under our presidency at the beginning of 2022. It quickly became apparent that we would need time to set up the discussion on a good conceptual basis, ask ourselves the right questions - particularly in a context of regulatory divergence from the United Kingdom and the pressing need to advance the Capital Markets Union to meet our common challenges in terms of financing innovation and the energy transition – and eventually bring together views which were sometimes divergent between Member States on some key topics.

Each of the three pillars mentioned above indeed raised specific and difficult questions. Regarding the consolidated tape, especially for shares, what should be the appropriate latency to make it a useful tool for market participants? Should data on quotes (known as "pre-trade data") or only transaction data (so-called "post-trade data") be included? How should we build a revenue sharing mechanism to make it palatable to data providers, especially stock exchanges, while limiting the administrative constraints that could discourage potential service providers from applying to the tender run by ESMA?

Going forward, we want our market structure policies to become increasingly evidence-based. Above all, this requires good quality data and that is one of the reasons why the consolidated tape is such an important project.

With regard to transparency regimes, how to find the right balance between the need to preserve a diverse and competitive trading ecosystem in the EU and the desire to encourage more trading on transparent protocols which play a more central role in the price formation process? And finally, on payments for order flow, what are the dangers of this business practice for retail investors and for our market structure as a whole and what can be the possible advantages – if any - in terms of competitive pressure and innovation in the retail brokerage space when properly regulated and supervised? Therefore, should we go as far as an outright ban or rather consider regulatory safeguards likely to suit everyone and ensure equal treatment of market participants and retail investors in the EU?

The discussions were rich and sometimes revealed opposing visions. Now, what is the state of the negotiation and what can we expect? On the transparency regimes, we believe that we are close to an agreement subject to a few technical adjustments. We have proposed to simplify midpoint trading rules and the tick size regime to make European markets more competitive worldwide. Besides, we plan to entrust ESMA with determining the size below which dark trading will be severely limited. To this end, ESMA should run a controlled experiment over a few months window to ensure that the beneficial effects outweigh any negative ones from an investor and market quality perspective. We thought that we did not have sufficient inputs to adequately define a binding size limit in the level 1 text as initially proposed by the Commission. Going forward, we want our market structure policies to become increasingly evidence-based.

Above all, this requires good quality data and that is one of the reasons why the consolidated tape is such an important project. Unfortunately, there were still too many dissensions on this topic to conclude the negotiation at the end of our presidency. Two groups face each other with incompatible views for now: one in favor of a real-time pre- and/or post-trade consolidated tape and the other only ready to accept a deferred post-trade only tape. We will collectively have to find a solution that allows us to converge on common ground. We strongly believe in the relevance of a European consolidated tape, so this negotiation should not be another missed opportunity for lack of common ambition.

To conclude, we have read the European Parliament's report with interest and were glad to see that, on many important aspects, it follows a rather similar approach to the one that we have instilled in the Council during our presidency. We will now continue these discussions under the Czech Presidency with the aim of reaching a general approach at the Council by the end of 2022.

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Wake-up call? A fit-for-purpose MiFID has never been more pressing

When we came together during the last Eurofi in Paris, especially Covid and the post-Brexit realities were high on the agenda. At least until the outbreak of the war in Ukraine overshadowed discussions, marking a serious turning point in European history and the world order. Meanwhile, prices have skyrocketed with new realities around high inflation and the overall outlook has darkened dramatically, leading to a reshuffling of priorities.

With new constraints around monetary policy and public finances, paired with a picture of high debt levels and an increasingly constrained banking system, the new realities also mean that the capital markets agenda of the EU is turning into an urgent "must-have", rather than a "nice to have". Even more so, as key financing challenges, such as around ESG or digitalisation, are not going away.

Therefore, the need to progress on strategic autonomy, the broader CMU, as well as global competitiveness has never been more pressing! And: We should remain ambitious, building on a new reality around financial stability as the sustainable basis for economic growth, notably injected via the regulatory reforms since the global financial crisis.

Safeguarding stability and competitiveness are two sides of the same coin, catering for the vision of an open, multilateral, and rules-based global economy. However, time has come to step up the game when it comes to boosting the growth contributing capacities of EU capital markets.

This becomes even more urgent when benchmarking EU capital markets at global level, where key proxies continue to highlight the unleashed potential. Out of more than 2600 IPOs globally last year, 60% went live in the US and Asia, only 12% in the EU. The market capitalisation of any one US GAFA company is bigger than all of the German DAX combined. And: The EU's markets are significantly more fragmented with roughly 500 registered execution venues, a trend particularly pronounced in equities.

While the UK is already adapting to the post-Brexit realities with a series of changes aimed at boosting the City's attractiveness, the EU' review of MiFID II/ MiFIR runs the risk of missing the chance to make the framework truly fit for purpose, especially in light of new geopolitical realities. If we are serious about our strategic autonomy and competitiveness, we cannot miss the opportunity to deliver on the MiFID II/ MiFIR review as the centre piece of EU capital markets legislation.

The EU's strategic autonomy will be boosted by uniting rather than dividing our markets.

With Commissioner McGuinness clearly articulating the need to "strengthen EU FMIs", we should not lose sight of the need to redesign our market structure to match political objectives and ultimately societal ambitions. Transparency is a major issue in this regard, where the picture around the EU's bonds markets is only the tip of the iceberg in underlining that the rules simply do not deliver on the promised objectives.

The counterproductive implications of the MiFID II/ MiFIR market structure realities are also observable in other spheres, let's look at ETFs. Originally an innovation driven by exchanges, marked by higher performance and lower fees if compared to many of the active alternatives, only about 30-40% of the EU's ETF trading is actually happening on exchanges. The reason for this is simple: Higher spreads and arbitrage in the off-exchange world – to the detriment of end-investors.

On equities, the proposed tweaks around order sizes, transparency waivers, and the single volume cap will unlikely result in significant changes to the current picture on transparency. In conjunction, they would only allow dark venues not subject to those restrictions to grow. Increased transparency requirements for SIs are a step in the right direction – but for a well-functioning market structure, SIs should be used for what they were intended – executing large institutional orders.

Proper monitoring of SI activities and enhanced enforcement of rules remains critical. This is particularly true when it comes to data quality where the lack of enforcement and accuracy from the non-lit execution venues continues to constitute a serious problem.

In light of the need to establish a consolidated tape, we should ensure that the starting point to this project, reliable and high-quality data, is being guaranteed. Otherwise, the tape will either lead to a misleading picture for investors or, in the absence of being able to integrate the data, lead the whole project ad *absurdum* by not providing a 100% overview of the EU's markets.

The latest ideas around a division of the EU's internal market, based on the degree of artificial fragmentation injected via MiFID since 2006, occurs not only highly discriminatory towards exchanges but also questions the EU's vision for the future of the internal market in financial services and notably capital markets. At this critical juncture of European history, it occurs that the EU's strategic autonomy will be boosted by uniting rather than dividing our markets.

NICHOLAS
BEAN
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MiFIR, transparency and the subjectivity of what success looks like

When debating transparency requirements within EU securities markets there are divergent views on both the objective of future amendments and the success of the current framework.

If meeting the international commitments in relation to transparency made at Pittsburgh in 2009 is taken as a benchmark for policy success, then the EU has exceeded expectations. The relevant non-equity derivatives are now largely executed on Trading Venues (TVs) and MiFIR went further by also encouraging greater corporate bond execution on TVs. These non-equity TVs provide popular 'at time of trade' competitive price transparency (via negotiation-based trading systems) and perform very well regarding post-trade transparency obligations versus non-TVs (see AMF paper, April 2022, 'Summary of bond post-trade transparency').

Yet despite this positive outcome, frustration persists about a perceived failure of MiFIR transparency. Amongst other things this likely stems from expectations that transparency would also, i) lower market data costs, and ii) encourage a 'harmonised' price stream/market - but such expectations may be misplaced.

Market data costs

To lower market data costs policymakers will have to lower the revenue of the beneficiary of its sale. This being the TV producing the data who, in effect, is a market data vendor.

The value of market data is correlated to its youthfulness for it is 'perishable information'. Pricing information 'perishes' at different rates across asset classes – no more significantly than across shares and corporate bonds. This reflects the differential of execution frequency between these asset classes. The frequency of execution for a given share may occur in milli or microseconds. For a corporate bond it may occur in hours or days – or even beyond. As such pricing information for shares is highly relevant to the next pending order, yet this is not the case for corporate bonds as the last executed price may bear only limited relevance to the next. In essence corporate bond pricing information 'perishes' easily.

> **Pricing information 'perishes' in value at different rates for different asset classes.**

Consequently, TV revenue for corporate bond pricing data is significantly less lucrative than for shares. Typically, a non-equity TV makes the bulk of its revenue from execution fees, whereas a notable amount of an equity TV's revenue comes from being a market data vendor. Therefore, if policymakers anticipate that a corporate bond Consolidated Tape (CT) will meaningfully lower market data costs then they will be disappointed. On the other hand, a shares CT holds out the prospect of the inverse - if there is legislative appetite to address the impact on a key revenue stream of equity TVs.

Harmonised traded price stream

A CT provided by a Consolidated Tape Provider (CTP) will have benefits beyond the provision of the CT itself, however it should not be strictly necessary to form a harmonised price stream. Market participants should be using the 'free' data published by TVs and APAs after 15 minutes to form their own harmonised price stream, i.e. an 'in house' CT. At MiFID II go live there were three blockers to this, i) technical collection, ii) data standards, and iii) licensing. At the time of writing technical collection (machine readability) is largely resolved (thanks to ESMA guidance), data standards look likely to be addressed as per the proposals contained in the MiFIR review, yet the licensing blocker is never really mentioned.

From a practical perspective 'free' data is not 'free' but 'licensed'. It is 'loaned' by the vendor subject to the license conditions. If data was truly 'free' and unburdened by licensing then a FinTech provider would be selling software to collect and aggregate this data which would enable their customer to consume and utilise that data in any manner they may choose.

Such a solution for corporate bonds would not notably impact the revenue of APAs and TVs. As observed corporate bond TVs make the bulk of their revenue on execution fees and not as a market data vendor. In a similar vein the relevant APAs make the bulk of their revenue on the 'inbound' services (data ingestion and associated services – such as waiver and deferral calculators) and not selling 'outbound' pricing information.

Therefore, if policymakers wish to make a corporate bond harmonised price stream available to market participants, then there are options beyond a CTP - presuming a common data standard and some lateral thinking in respect of the licensing challenge.

Conclusion

A narrative has been fostered that non-equities transparency is lacking, largely in relation to corporate bonds. This narrative persists because of comparisons to equity practices. Trading systems already offer 'at time of trade' transparency for corporate bonds. As such, given the lower frequency of execution for bonds, the value of post-trade transparency is in relation to price prediction models – and if 'free' data was truly 'free' then it could readily be used for such.

STEPHEN BERGER
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Strengthening financial markets and empowering investors with consolidated tapes

The MiFIR Review provides a critical opportunity to strengthen EU financial markets and meaningfully enhance transparency for all investors. While MiFID II laudably aimed to shine light on the historically opaque bond and derivatives markets, regrettably, the post-trade transparency framework has yet to deliver concrete benefits for investors. As the MiFIR Review proceeds, addressing implementation shortcomings and establishing post-trade consolidated tapes for non-equities are necessary course corrections that will materially benefit EU investors, capital markets, and the broader economy. Other leading global financial centers have embraced comprehensive consolidated tapes as a core element of building fair, efficient and resilient capital markets, and the EU must keep pace.

Establishing Consolidated Tapes

Consolidated tapes should be comprehensive, require mandatory contribution of both on- and off-venue transaction data, disseminate information immediately upon receipt, and allow only targeted and limited deferrals for larger sized trades. Prospective consolidated tape providers are already actively developing offerings and consolidating currently available data across asset classes in the EU – illustrating the viability of consolidated tapes once a framework is finalized.

First-hand market experience and a wide body of in-depth empirical research illustrate that increased post-trade transparency, in the form of real-time public reporting of transaction prices and sizes, narrows bid-ask spreads and enhances liquidity. First, this transparency empowers investors to accurately assess execution quality, demand accountability from liquidity providers, and obtain best execution.

Second, it removes information asymmetries and allows all liquidity providers to better manage risk, and in turn, more confidently quote prices, commit capital, and warehouse risk across all market conditions.

Finally, real-time public reporting makes markets more resilient, especially in times of stress, by ensuring that new information is efficiently assimilated and reflected in current price levels.

Empirical research illustrates the value and viability of well-tailored consolidated tapes.

While deliberations continue in the EU, other leading global financial centers are more ambitiously moving forward. In the UK, following its Wholesale Markets Review, HM Treasury stated in March 2022 that it was "priority to develop a consolidated tape for fixed income data." In the U.S. – where CTs are already in place for equities, ETFs, options, corporate bonds, municipal bonds, mortgage-backed securities, and OTC derivatives – measures to expand and further enhance these offerings have recently been put forward. Notably, in June 2022, the U.S. Department of the Treasury launched a consultation regarding the appropriate design of a potential post-trade consolidated tape for the U.S. Treasury securities market. Meanwhile, in August 2022, FINRA proposed shortening the timeframe for the reporting and attendant public dissemination of transaction-level data on corporate bond transactions from fifteen minutes to one minute.

Streamlining Transparency Deferrals

In addition to establishing consolidated tapes, the EU should also streamline post-trade transparency deferrals in the bond and derivatives markets. This is essential to leveling the playing field for investors and to creating the conditions necessary for a consolidated tape to emerge. Aged and stale data yields no tangible benefits for investors and, left unaddressed, would leave little meaningful data for a consolidated tape to publish.

Today, real-time pricing data is not available in vital markets for the vast majority of transactions. Specifically, real-time price data is not available for over 85% of trading activity in EU bonds and over 90% of trading activity in OTC derivatives, due to the large number of post-trade deferrals. Furthermore, this price data is often deferred for four weeks, meaning that there would be little non-equities information for a consolidated tape to publish under the current framework. The Commission's proposal would importantly harmonise and shorten the available deferrals, and allow price data to be published in advance of volume data for deferred transactions in order to provide investors with critical price transparency.

Conclusion

The myriad benefits of asset class-specific consolidated tapes far outweigh their implementation costs. Further, the diverse beneficiaries far outnumber the limited cadre of trading venues and intermediaries who, despite casting doubt on consolidated tapes, remain well equipped to thrive even in a more competitive and transparent marketplace.

The EU should embrace the opportunity presented by the MiFIR Review to further strengthen and integrate EU capital markets and empower investors through comprehensive and real-time post-trade consolidated tapes tailored to each asset class.

JAMES HILTON
Head of Advanced Execution Sales EMEA - Credit Suisse

Successful European financial markets need continued focus on investor outcomes

The introduction of competition into European equity markets through the introduction of MiFID I was a resounding success for end investors, with the cost of trading during the continuous market significantly reduced both from an implicit and explicit perspective. MiFID I handed end investors a huge 20% decrease in implicit transaction costs according to our research. Competition has also brought innovation, delivering different trading modalities to suit different investor needs, without impairing price formation. An ongoing focus on delivering favourable outcomes for investors must be maintained even where this challenges commercial interests and long-standing constructs. The protection of legacy arrangements to the detriment of end investors is a short-sighted strategy that will not help but in fact will likely hinder Europe's place in the global financial eco-system.

The European Commission's efforts to facilitate the emergence of a fast consolidated tape in Europe would do much to democratise access to real-time trade data and to reinforce the understanding of European securities markets as a single market. All types of investors, institutional and retail alike, would instantly have a true overview of investment opportunities across Europe rather than the existing system, which favours those with the wallet and resources to piece the picture together. Both European companies and markets would instantly become more attractive to global investors, increasing funding and growth opportunities – growing the pie for all participants, including encouraging more primary market listings. With an appropriate revenue allocation model, the fear that the tape may be detrimental to smaller exchanges should be allayed, and in fact a strong model could accelerate their success.

It is imperative that a consolidated tape does not come at the cost of decreased competition in the execution space: on the contrary, the European economy would benefit from increased focus on areas of the existing framework where requirements or incentives are not optimally aligned with investors' and issuers' interests. Measures that seek to limit investor choice, such as restricting their ability to interact with different types of liquidity, should be re-considered. Such an approach appears designed to appease legacy constructs rather than delivering benefit to investors, who prefer to make their own judgement on the liquidity they wish to interact with in different scenarios.

A political aspiration to compete with other global financial centres is required.

It is crucial that policymakers focus on improving market-wide resilience during outages, which is one of the subjects raised in the recent UK FCA Consultation Paper, "Improving Equity Secondary Markets". As it stands today, trading venue outages (of which there were seven across Europe in 2020 and 2021) cause significant disruption to all market participants and put them at risk of financial loss. In order for European markets to thrive, technical issues on a single venue should not mean every other venue in Europe being prevented from trading: the richness and diversity of the European multi-venue marketplace should be allowed to provide increased resilience. The additional benefit of a consolidated tape is that it would help in outage scenarios by making it easier for investors to see clearly where trading is still available.

MiFID I delivered great benefit to the European economy by allowing competing trading venues. As these cheaper and more innovative venues have emerged, the commission rate paid by end investors has gone down significantly, but we believe there is more progress that can be made. Our cost of trading on primary exchanges (developed Europe, excluding Austria) is six times more expensive than trading on MTFs, and has gone up since MiFIDII, despite it being very difficult to distinguish the service offering; we believe there are other more structural issues that are preventing competition from working effectively.

First, the cost of trading services should be easy to understand through simple trading cost schedules, rather than the documents that run to 20-30 pages, requiring a team of people at every bank and broker to decipher.

And second, the same trading costs should apply across both the continuous trading period and the closing auction: the closing auction is a near monopoly because investors need a single closing price to use to benchmark their funds.. Pricing schedules that appear to take advantage of this situation should be abolished.

Much has already been done to improve the functioning of EU equity markets, but there are some big opportunities that would deliver significantly more. Albeit complicated, these challenges are not technically insurmountable, but will require a political aspiration to compete with other global financial centres, rather than regress towards.