Brussels, 5 September 2019

EACB Answer
to ESMA's consultation paper on the:

'MiFID II/MiFIR review report on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments'

September 2019

The **European Association of Co-operative Banks** (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4,050 locally operating banks and 58,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 210 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 79 million members and 749,000 employees and have a total average market share of about 20%.

For further details, please visit www.eacb.coop

Introduction

The EACB welcomes the opportunity to participate in ESMA's consultation on three mandates for the European Commission to review the MiFID II/MiFIR rules with respect to Article 52(7) of MiFIR, Article 90(1)(g) of MiFID II and Article 90(2) of MiFID II. We note that these mandates cover the development in prices for pre- and post-trade transparency data from regulated markets, as well as, the functioning of the consolidated tape (CT) for equity instruments.

The relevant topics of market data and consolidated tape were one of the main objectives of MiFID II in increasing market transparency. However, the EACB notes that due to the complexity of the regulation, issues of data availability, poor data quality, and the increases in the costs of market data, this objective has not been achieved.

Therefore, our members strongly support the need for a CT and a comprehensive analysis of the transparency rules with respect to market data.

Please find our feedback in this regard as set out below in our answers to the questions in Annex 1 of ESMA's consultation paper.

Responses to Questions on 'Disclosure requirements for inducements permitted under Article 24(9) of MiFID II'

Q1 Have prices of market data increased or decreased since the application of MiFID II/MiFIR? Please provide quantitative evidence to support your answer and specify whether you are referring to equity and/or non-equity instruments.

Our members have definitely recorded rising costs of market data in the EU over the recent years, which are creating inefficiencies in the use of trading data by firms and investors. Due to reasons of competition law, the EACB steers way from collecting prices of market data, and hence, is not in a position to provide quantitative evidence to support this claim.

However, we note a statement made last June by Steven Maijoor (ESMA Chair) whereby he acknowledged that *"Following the application of MiFID II, we were made aware of substantial increases in the costs of market data, reaching at times up to 400% compared to prices charged prior to 3 January 2018".*

Q2 If you are of the view that prices have increased, what are the underlying reasons for this development?

The rise in prices is being seen as compensating the revenue losses at trade execution services by exchanges. One of the causes for this is the fact that certain market structure features are not supporting the 'reasonable commercial basis' principle which was put in place with MiFID II. This principle refers to the provision of market data at fees that are based on a reasonable relationship to the cost of producing and disseminating that data.

Another contributing factor to the elevated price level is the ability of venues and data vendors to bundle their services into a single product offering. This means the client is 'forced' to pay for trading, messaging and/or data services in one package. In addition,

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within the data offering, clients often have no choice but to pay for all the streams of data, whilst they would typically only use a comparatively small set.

Finally, MiFID II brought with it the multiplication of ISIN with around 2 million ISIN codes having been created in Q4 2017 alone. There is around 280,000 ISIN for IRS (Fixed to Floating). This massive number of ISIN makes reporting ineffective. For example, if you trade a standard 10Y EUR IRS Fixed vs Euribor 6M, the 03/04/2019, one specific ISIN will be provided, but you will get another ISIN if you trade it the day after. As the ISIN code is linked to the maturity this multiplies the number of ISINs, which is why there is a massive number of ISINs and the list keeps on growing on a daily/weekly basis.

Based on the above reasoning, we call that the vast majority of market data should be considered as a monopolistic commodity by nature, which in turn warrants policy objectives and regulatory tools to be set accordingly. We agree that market data should also be based on a reasonable commercial basis, and ideally, only the supply of raw data should be regulated in order to ensure competition on value-added data.

Furthemore, the characteristics of the transaction generating ISINs codes should be revised in the aim to avoid an exponential growth of those ISINs. The European Commission should launch a targeted consultation to address this issue.

Responses to Questions on 'Costs and charges disclosure requirements under Article 24(4) of MiFID II

Q16 Please explain what CTP would best meet the needs of users and the market?

In our view, an EU consolidated tape provider should be non-profit and centrally organised by ESMA (but could also be performed by a third-party provider). It is important that this CTP function in EU shall not be run by a third-party provider which considers CTP data to be another source of income to that of a centralized data provider. For example, in US markets you can find this kind of association, the CTA, and non-professional investors can have their data with the CTA for a really low 1USD/month/network. The price is higher for broker-dealers but there is a price cap. EU should look at the way markets and prices are developed there and have the best and lowest fees practices possible for all market participants. According to this US association's website: *"Millions of professionals and nonprofessional investors have access to real-time prices via the consolidated tapes. Most non-professionals do not pay fees because the low cost allows for brokerage firms to include real-time prices as part of their service"*. The consolidated tape provider should aim for a hundred percent coverage in order for participants to gain full benefits from it.

Q22 Would you be supportive of an industry-led initiative to further improve data quality and the use of harmonised standards or would you prefer ESMA guidance? Please explain.

The EACB is concerned that the current data quality is too low, and is wary that the lack of reliability/accuracy of FIRDS (Financial Instruments Reference Database System) creates a major impact on investment firms' 'ability to comply with MiFID II/MiFIR. We would encourage ESMA to do an in-depth analysis of implementation issues in both

FIRDS and FITRS (Financial Instruments Transparency System), in close dialogue with the market. In particular, we take the view that the concept of 'traded on a trading venue' (ToTV) is applied and whether there is a need to do further calibration for different asset classes.

Contact:

The EACB trusts that its comments will be taken into account.

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