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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services and the Banking Union (MiFID-MiFIR)
Subject:	MiFID: Questionnaire following the MiFIR/MiFID working party meeting of 12.09.2022 (Agenda WK 11318/2022) Replies from 24MS

Questionnaire MiFIR/MiFID working party meeting on 12.09.2022. *Deadline for comments:* ***20 September 2022***

Replies from: SK, LV, BE, FI, BG, PL, DK, EE, IT, SI, LT, AT, RO, HU, CY, HR, NL, LU, IE, PT, DE, ES, FR, EL

Presidency questions	**Comments**
Consolidated Tape for Shares	
Technical setting of the parameters and opt-in	
MiFIR/MiFID questionnaire after the meeting held on 12. 09. 2022 Please also indicate, for every question, any technical comments that you would have and that were not included in your previous written comments.	
Q.1. Do you agree with the proposed opt-in mechanism and the setting that small and non-fragmented trading venues (that are currently significantly dependent on the revenue from data sharing) should have the possibility to contribute their data to the CT only on a voluntary basis ("opt-in")?	SK: Opt-in proposal seems technically more appropriate towards smaller market venues however in our view it is still not in line with the goals of Capital market union. We should take into account cross-border trading and liquidity. In order to make the introduction of CT as smooth as possible we recommend to start with the shares of the biggest companies where is sufficient liquidity and which are traded on several stock exchanges – this will be allowed by opt-in mechanism. LV: The proposal of a voluntary opt-in framework for smaller venues as an alternative to the revenue-sharing model to compensate for their revenue losses is neither in line with the idea of a consolidated tape for Europe nor the CMU. If there is a European tape, all European markets should be on it. While we appreciate the consideration to find a solution for smaller venues, the voluntary opt-in framework will create second-class markets that will lose the visibility that they have now.

	The focus must be instead on the core issues of a CT: the data content and the latency of the CT. It is decisive to build a CT, which works for all stakeholders and delivers on the CMU objectives, including a strengthening of Europe's public capital markets so they can continue to maintain a local ecosystem so vital for SME financing. Only a well-calibrated CT will constitute a source of high-quality market data, levelling the playing field in the market. However, there are some concerning proposals like including pre-trade data in the CT. This would lead to the emergence of a flawed de facto reference price and will create a situation where latency could be easily exploited by the most technology-savvy market participants to the detriment of retail investors. The right option for EU markets is a CT disseminating post-trade data from all venues with a short delay. This model will fulfil the CT objectives with cost-effectiveness, without latency and arbitrage issues, and without any undue impact on smaller exchanges. BE: The proposed opt-in mechanism is considered an acceptable proposal as long as the opt-in section of the overall market remains small enough not to impact the overall functioning of the CT on equity. FI:

	We are open to discuss further on this possibility, though we are not quite convinced on the criteria for opt-in to capture the right composition especially regarding trading venues as part of a group. BG: We appreciate the Presidency efforts to accommodate the legitimate concerns of the small markets. We support the inclusion of an opt-in clause. Nevertheless, we should strive to establish a well-calibrated CT that would work for all, including a well-functioning revenue redistribution model. We maintain our position that pre-trade data should not be included in the CT. The CT should include post trade data with a short delay. PL: Poland shares the objectives of the MiFIR review to increase transparency and liquidity within the EU, to enhance the level-playing field between execution venues, and to foster the competitiveness of capital markets. We also understand the importance attached to the creation of a consolidated tape, as a reliable source of trading data. However, we believe that **a delayed CT** covering all venues and execution mechanisms would provide a good enough consolidated view of the market. In our opinion a delayed CT will represent a cost-effective and simple solution, without latency and arbitrage issues, and meet the needs of most market participants. And it seems to be the most pragmatic approach to delivering a CT meeting the goals of investors, at the least disruption to the industry. The length

	of the delay period is to be established – initially a 15-minutes delay was proposed, but its shortening to 5 minutes or even 1 minute could be considered. However, in case such a proposal is not found acceptable, we can allow for an opt-in mechanism – as a compromise solution. It's essential for us not to force non-fragmented trading venues to participate in the mechanism they are not willing to. And a necessary part of the mechanism should be its permanent nature. We would not be satisfied with an opt-in mechanism considered as a temporary one, and subject to extension at the first opportunity. Having in mind the most preferable result – a delayed CT, we could agree with the opt-in mechanism proposed as a compromise solution. We believe non-fragmented trading venues should have the possibility to contribute their data to the CT only on a voluntary basis. However, a crucial part of the solution would be its long-term nature. We would not be satisfied with an opt-in mechanism considered as a temporary one, and subject to extension during the nearest review. DK: Denmark does not support the proposed opt-in solution. We would prefer a pre-trade opt-in solution that applies across all trading venues and post-trade mandatory contribution that also applies across all venues. The main challenges for EU equity markets, in our view, is how liquidity in smaller venues (with shares trading there solely) can be improved. I.e. how we can shape the landscape such that the shares on these venues become more visible

	to market participants and thereby increase investor opportunities. Fragmentation is not the main concern for the equity markets in the EU in our point of view. Fragmentation is most pronounced for the highly liquid shares, i.e. there is a positive correlation between the liquidity of a share and how fragmented trading in it is. We still regard those hyper liquid stock as easy to trade – even if an investor only has access to trade on the primary market. EE: We would rather prefer the mandatory contribution regime for all trading venues, but in the interest of compromise, we would be open to the opt-in regime. IT: We are not in favor of the proposed opt-in mechanism. We do not believe that it is the best way forward to solve fragmentation data issue and other features of EU market as the CMU ask. We can understand the Presidency's good intentions, but we are on the view that the introduction of an opt-in (i.e. participation on voluntary basis) will introduce further divisions in the EU markets, and mainly for this reason we support the mandatory contribution in terms of market data to the CT. We are also on the view that it is not ascertained that only the small and non-fragmented trading venues will lose significant revenues and further discussions and analysis would help to resolve better this issue. Then, in case of the

	voluntary participation is agreed, the revenue sharing mechanism should compensate the entities that are under mandatory contribution. SI: We appreciate Presidency's proposal regarding the "opt-in" solution for smaller venues. As Presidency pointed out in the non-paper, small and non-fragmented trading venues are currently significantly dependent on the revenue from data sharing and therefore, should have the possibility to contribute their data to the CT only on a voluntary basis ("opt-in"). In general, we think the "opt-in" solution is an interesting proposal (as well as the criteria to qualify for the "opt-in") and we are prepared to support it for the sake of the compromise. However, our preferred solution is still a delayed CT and all our comments referring to questions below should be read in this context. LT: Considering the goals of CMU and the initial COM proposal on MiFIR/MiFID, we believe that a delayed CT covering all venues and execution mechanisms would be the best solution. A delayed tape would not only meet the CT goals of investors, but would also be least disruptive to the industry. Ideally, the length of the delayed tape could be of 15 minutes, however, shortening to 5 minutes or even 1 minute could also be considered. However, for the sake of compromise we could support the opt-in mechanism for small and non-fragmented trading venues. As regards the initial goals of

	MiFIR/MiFID proposal, we consider that opt-in mechanism may reduce the competition of small trading venues and the visibility of their financial instruments. AT: We appreciate the consideration to find a solution for smaller venues, but it is also of utmost importance to protect them in the long-term from possible negative economic effects of the CT. It is therefore decisive to build a CT which works for all stakeholders and delivers on the CMU objectives, including a strengthening of Europe's public capital markets so that they can continue to maintain a local ecosystem so vital for SME financing. We believe that only a well-calibrated CT will constitute a source of high-quality market data, levelling the playing field in the market. We are therefore still **reluctant** about the proposal **to include pre-trade data or even just pre-trade elements like the EBBO** into the CT. We are afraid this could lead to the emergence of a flawed de facto reference price and might create a situation where latency could be easily exploited by the most technology-savvy market participants to the detriment of retail investors. In our view the right option for EU markets would be a CT disseminating **post-trade data from all venues with a short delay of 1 minute.** In our opinion this model would be best able to fulfil the objectives of the CT with cost-effectiveness, but without latency and arbitrage issues, and most importantly for us, without any undue impact on smaller exchanges.

	We can also go in-line with an **opt-in** solution. As regards the criteria for the opt-in, there are currently two proposals under discussion: • ECON draft report (as laid out on page 5 in the CZ Presidency's non-paper on the CT for shares) and • The Czech presidency´s (see page 6 in the same non-paper) Having reviewed the data basis for both proposals, we would like to note firstly that the total value of equity trading on the Vienna Stock Exchange, Vienna SE) is currently at 0.67 % of the EU average daily trading volume and therefore clearly under the 1 % threshold. As a result, we find the **ECON´s proposal more favorable**. In contrast, we are less favorable of the CZ presidency´s proposal, as it would entail the following problems for us: ▪ Point a) says "either the RM ... is not part of a group or having close links with an RM … ". These "close links", if not properly defined (e.g. owning a share) could become problematic for the Vienna SE as the trading system of Deutsche Börse (Xetra) is used there. Although this has nothing to do with the data business, it might nevertheless be considered as a "close link".

	▪ It is also not clear for us, whether as soon as one exchange within a group is over the 1 % threshold, if all other exchanges within the group are then automatically rated as being over the 1 %? This should be defined more clearly. When it comes to the decisive data as a basis for the opt-in criteria, we believe that it should be ESMA's task to provide for the information as regards the volume that is traded daily on average in the EU as ESMA would have the best up to date overview and knowledge of the respective data trading volume in the EU. Opt-in aside – which is after all only a temporary measure which allows for a longer transition period – we would like to stress that the focus should also be on the core issues of a CT: the data content and the latency of the CT. RO: We believe that the existence of the CT is indisputable, at least for shares, in order to maintain a competitive EU market worldwide. Therefore we still favor a mandatory contribution regime to build a consolidated market overview and increase visibility, especially for the small trading venues with low fragmentation levels. In our view, the CT should contain as close-to-real-time as technically possible information, to represent a commercially viable solution. However, for the sake of the compromise we can support the opt-in mechanism and the possibility for small TVs to join the CT only on a voluntary basis.

	HU: Our first preferred option would be having a post-trade tape with short delay and covering all trading venues. We would be open to move towards a 1-minute delayed tape. We still believe that pre-trade data should not be included in the CT. Nevertheless, as a compromise, we are open to accept the proposed opt-in mechanism for small and non-fragmented trading venues as well. CY: Yes we agree with the proposed opt-in mechanism, providing therefore time to small exchanges to decide HR: Yes, we agree with the proposed opt-in mechanism and the setting that small and non-fragmented trading venues (that are currently significantly dependent on the revenue from data sharing) should have the possibility to contribute their data to the pre-trade CT only on a voluntary basis ("opt-in"). We would prefer it to be set up as a long-term instead of a temporary solution. If an opt-in mechanism is not possible we would prefer a delayed post-trade CTP. NL: We are very pleased to read the Presidency's proposal for a post-trade close-to-real-time Consolidated Tape (CT) for shares, that includes pre-trade quotation data published and post-trade transaction data. We believe that this is an economic

	and commercially viable option for the shares-CT, that will provide a consolidated view of trading activity and allow market participants to better assess liquidity. This will allow the mobilization of private capital and stimulate investment activity, necessary for the sustainability and digital transitions, thereby contributing to further deepening the Capital Markets Union by making our capital markets more transparent, competitive, and attractive for investors, both from within the EU as well as from outside the EU. For the development of the CTs, we should be ambitious, but also be realistic. While the goal of a full consolidated view of the EU capital markets should be maintained, we are supportive of a more gradual approach to the establishment of the CT for shares. Therefore, we support to allow for flexibility for smaller venues to opt-in to contributing market data to the CTP. LU: We remain of the view that a solution should be sought to create a post-trade CT that works for all stakeholders and meets the objectives of the Capital Markets Union by truly integrating EU capital markets in their entirety. It is crucial for the success of the CMU that investors get a full overview of EU's fragmented trading landscape. However, in the spirit of compromise, we are open to exploring the possibility of an opt-in mechanism for small venues. IE:

	Our strong preference is for a mandatory contribution to the equities CT from all trading / execution venues across the EU. While capturing most of the value of the equities market would be a step forward, the opt-in approach would see half of MS outside a CT and this would undermine the requirement for a golden source. Furthermore the overall success of the tape and of certain issues like establishing an EBBO are best supported when the maximum number of venues contribute to the tape. We have concerns that an opt-in approach would make the significant gap in trading volumes between small markets and large markets worse and create in legislation a 'two speed' EU capital market. This is because small markets would not benefit from the advantages and positive outcomes associated with the CT and so they risk falling further and being siloed away from EU liquidity and market attention. In the spirit of Capital Markets Union, we should not foster initiatives that will lead to a two-speed trading system. We believe the focus should be on supporting the data remuneration of those very small markets to alleviate their fears and risks. In this regard, we continue to support the previous revenue sharing proposals and working to increase payments to smaller venues. Such is their small relative size compared to the overall EU market that even significant increases in remuneration under the CTP for small market would still not overly affect the revenues accruing to larger markets. It is worth noting that smaller markets will continue to sell market data even if part of the CT. Exchanges provide low latency data feeds to e.g. high frequency traders

	and this will continue to be the case as the CT will not be sufficiently quick for HFT purposes. A key part of the CTP project is also increasing reporting standards and data quality from venues. Without being in a CT it is very difficult to see how a venue will be incentivised to increase standards and quality. Furthermore there it is unclear how standards can be enforced and checked if the venue is not sending data to a CTP. This risks making the standard of operations for smaller venues worse, compared to those in the CT. PT: PT would like to highlight that the main objective of the consolidated tape (CT) is to make available all-inclusive and comprehensive view of trading across venues (TV) and Systematic Internalisers (SIs) and this goal should be primary and kept unchanged. Coherently, we do not favor this proposal. Although we do not favor this approach, if it is ultimately adopted by the Council, we consider that this regime should be based in an "opt-out" mechanism, which would determine the mandatory contribution to the CT as a default regime. In this context, the TVs, including the smaller ones, would be mandatory contributors, being allowed to "opt-out", when they do not meet certain requirements. DE:

	We are generally skeptical towards exempting smaller trading venues from mandatory contribution to the consolidated tape for shares. The idea of distinguishing between venues contradicts the very idea of an EU-wide internal market and a Capital Market Union. In addition, in particular shares traded primarily at smaller venues should benefit from increased visibility via the tape. ES: The proposal raises very interesting ideas and we believe that it may be a good option in order to reach a consensus with Member States concerned about the effect that CT may have on their market revenues. However, we believe that this proposal can create divisions in the EU markets and can lead to a double tier market structure that would harm the main goals of Capital Markets Union. Besides, regarding post-trade CT, this opt-in mechanism proposal seeks to respond to a problem of revenue loss by small markets, a problem that should not necessarily exist. For this reason, we support the creation of a post-trade CT with a 1-minute delay, or more. First, current regulatory requirements regarding real-time publication of post-trade information permit a delay of up to 1-minute. Therefore, 1 minute can be seen as the lower bound in the delay of any real-time CT. A CT with a lower latency could show an unrealistic picture if some trading venues send their post-trade flow in real time and others only do it after some seconds or in 1 minute as allowed by RTS 1. The sequencing of the trades will be distorted.

	Second, a post-trade CT with 1-minute delay has practically the same use cases as a near real-time CT, acknowledging that trading will not be the CT's principal objective. In this sense, it could be used by issuers, for asset allocation, portfolio and investment management, investor pre-trade analysis for monitoring purposes, post-trade analysis, risk management, for performance and measurement or for academic research, among other possibilities. So far, hardly any additional use cases have been detected for a real-time CT compared to a CT with a one-minute delay, which would cover a large part of the needs of different investors. However, those needing real-time information would always be able to access it through the services of trading venues. While there is a latency difference between a close to real-time post-trade CT and a 1-minute delayed post-trade CT, most of the use-cases identified for a close to real-time post-trade CT could be met by a 1-minute delayed post-trade CT. Third, the creation of a CT with one-minute delay would hardly interfere with these data selling services through direct connection to the trading venues, which is a good source of their revenues. Trading venues would be able to keep their revenues from these services largely intact, as banks, brokers and liquidity providers will take data feeds directly for trading venues or seek data vendor real-time solutions, regardless of the latency of the CT. For this reason, this design would eliminate concerns about the loss of revenue for small markets associated with the creation of a real-time CT. This is an important point as it would avoid the problems associated to a CT partially based on voluntary contributions that

	could not show a complete picture of the market if one or more trading centers choose not to participate in the CT. We support the creation of a post-trade TC with a 1-minute delay, or more, based on mandatory contributions from all trading centers. This instrument would be technically feasible, it would provide a complete view of the liquidity in the EU, it would keep virtually all the use cases of a real-time CT intact, it would not undermine revenues from data sales (coexisting with the trading venues' data sales business model) and, for all these reasons, it is the most pragmatic approach and the one that could elicit the most commitment from all the players involved and from the Member States. FR: In our view, one of the key objectives of the consolidated tape project is to foster the integration of European equity markets. Any form of opt-in/out solution runs counter to this objective. Besides, we are in favor of the consolidated tape being used as a reference to determine (ex post) the quality of order execution (more specifically the implicit cost of execution in relation to the best prices available). This requires the consolidated tape to be exhaustive in terms of market coverage. The consolidated tape should also be made attractive so that, even if an opt-in mechanism was to be agreed upon, venues would willingly contribute their data.

	If an opt-in solution ultimately proves necessary to obtain a general approach, it should apply only with respect to the requirement to transmit post-trade data in real time. Please note that the introduction of an artificial delay in the consolidated tape should only apply to a very limited number of venues and only if there is no other option to progress towards a compromise. EL: We have strong reservations regarding the opt-in mechanism, since there is the risk that this mechanism will create competitive disadvantage for the opt-out exchanges. It is strongly preferable to find a compromise solution that will be mandatory for all venues.
Q.2. Do you agree with the proposed cumulative criteria to qualify for the "opt-in"? If not, what other criteria would you propose?	SK: Opt-in regime should be stipulated generally, we are open to discuss the criteria. We support permanent opt-in regime. LV: See answer to Q.1. BE: The proposed cumulative criteria are considered proportionate. A potential additional element to analyse as to its potential impact on the intended result, is to take into account a per-ISIN check of the level of fragmentation of the

	shares listed/traded on a particular RM/MTF; this would aim to analyse the impact on the overall trading if, for instance, one or more highly fragmented shares would also be offered for trading on such small RM/MTF that would be allowed the opt-in regime under the cumulative criteria proposed in this paper. FI: It is one possible way to look at the criteria. BG: The trade with BG shares is concentrated in the trading venues in the country and there is no fragmentation. We agree that the data should be on annual basis. In our view the criteria should be clear and easy to calculate. We could support the proposed criteria but in our view it should be further discussed if we could use only the percentage of trading in share in the given venue compared the overall EU trading in shares. In addition, in order to have a clear up-to-date picture of the market during the negotiations, the data for the overall EU trading in shares should be updated. PL: We could agree to the criteria proposed. However, as the numbers from the Oxera report are based on 2018 data, we think the main threshold should be exceeded. So we believe the main threshold should refer to the total value of equity value traded on a trading venue not higher than 2% of the total value of equity value traded within the EU.

	It also seems to us that **an update** of the Oxera report data **should be done by ESMA**. Worth noticing, it is impossible to make your own calculations regarding the share of total value of equity value traded on a trading venue in the total value of equity value traded within the EU without a fully reliable data on the latter value. DK: As mentioned in Q1, Denmark does not agree with the proposed opt-in solution. We do not believe that an opt-in solution should be based upon specific criteria for becoming eligible to opt-in. We would prefer a pre-trade opt-in solution that applies across all trading venues and post-trade mandatory contribution that also applies across all venues. EE: Agree. IT: We support the mandatory contribution, but in case opt-in mechanism will be agreed, we might accept the cumulative criteria. **However, we would be grateful to receive further clarifications on the proposed approach and the parameters for the identification of thresholds.** SI: We could agree with the proposed cumulative criteria to qualify for the "opt-in".

	LT: Yes. However, we propose to seek for guidance from ESMA on the concrete threshold. AT: See above. RO: Yes, we agree the proposed cumulative criteria to qualify for the opt-in mechanism. HU: We agree with the cumulative criteria, however we think that the 85% annual trading threshold (point b) is too high. The calculation should exclude either all non-lit volumes, or the threshold should be substantially lower (eg. 50%). Also, the data should be updated on which basis the thresholds have been calculated. CY: Criteria seems reasonable and we remain open to them. HR: Yes. However, there is one dilemma about the thresholds to be further clarified. Should a situation arise, for example, if only one of the shares from the TV, that

	is a voluntary contributor, crosses the thresholds, will the same result in a situation that such a TV automatically becomes a mandatory contributor? As the numbers from the Oxera report are based on 2018 data we think that a new analysis is needed to set the appropriate threshold. NL: We agree that the relative market share and trade fragmentation level are relevant factors to take into account in determining what constitutes a small venue. However, we would like to reserve a scrutiny reservation on these criteria, as we are still assessing their impact. It is important that the criteria are sufficiently clear, unambiguous and don't result in a too broad exemption from mandatory contribution, hampering the build-up of a proper consolidated view of the EU capital markets. LU: In the scenario where the proposed opt-in mechanism is retained, the suggested cumulative opt-in criteria seem appropriate. IE: No – the data contribution should be mandatory. PT:

	Please take into consideration our overall preference for a CT encompassing all TV within the Union. Against this background we suggest increasing the threshold concerning the average annually traded volume of shares. DE: It is currently not clear how many venues would benefit from the exemption and how much trading volume would be outside the CT on equities. We would appreciate more information on the implications of the proposed exemption regime. ES: See answer to Q.1. No strong view on this point. FR: At first glance, the criteria seem well thought out and reasonable. However, we would be inclined to make them more restrictive (e.g. 0.5% instead of 1% of EU average daily trading volume) so that the opt-in solution eventually applies to a smaller set of venues. EL:
Q.3. Do you agree that the scope for the opt-in mechanism would be trading venues, meaning RMs and MTFs, rather than only RMs?	SK: Yes, we support the broadest scope of trading venues.

	LV: See answer to Q.1. BE: The scope should indeed include MTFs as these may also be platforms for primary listing (e.g. SME Growth Markets). FI: Possibly yes. BG: We agree that MTFs, especially SME growth market should be in the scope of the opt-in mechanism. PL: We agree with the proposed scope of the opt-in mechanism. We think both regulated markets and MTFs should be included. The more that we should take into account price forming nature of some MTFs, which makes them as eligible to use the mechanism as regulated markets. DK: DK favours an opt-in solution that applies to all trading venues regardless of their size and regulatory status.

	EE: Agree. IT: We support the mandatory contribution, but we could agree on question 3 if the op-in mechanism is established. SI: We could agree with the proposed scope for the opt-in mechanism. LT: Yes. AT: We believe that the scope should just entail RM. RO: Yes, we agree. HU: Yes, we agree, both RMs and MTFs should be included, as both have a price forming nature. CY:

	Yes we agree. HR: We agree with the proposed scope of the opt-in mechanism. We think both regulated markets and MTFs should be included. NL: Yes. LU: Yes, in such a scenario, both RMs and MTFs should be eligible. IE: No – data contribution should be mandatory. The idea of scoping out markets also was focused on primary listings and so we cannot see why MTFs are therefore included. PT: Although PT does not favor the establishment of an opt-in approach as described in the Presidency Non-Paper on the Consolidated Tape for shares, we do not object to the proposed scope, since it would not be reasonable to distinguish between Regulated Markets (RMs) and Multilateral Trading Facilities (MTFs). DE:

	Any exemption should be limited to venues with a listing function such as regulated markets or SME growth markets. We would be reluctant to exempt MTFs without primary listings. ES: See answer to Q.1. Although we believe opt-in mechanism is not the best option, it should include both RMs and MTFs. FR: If there was an opt-in, it should be as limited as possible. We are therefore not in favor of provisions that would extend its scope (in that case to MTFs). We remain open to hearing arguments that would justify the inclusion of certain MTFs in the opt-in. EL:
Q.4. Do you agree that trading venues should be responsible for the opt-in decision?	SK: Yes, prerequisite is that trading venues are technically prepared to join the consolidated tape for shares. LV: See answer to Q.1.

	BE: We agree that it seems logical that in a case of "opt-in", the final choice would be in the hands of the trading venues themselves, as is the case for systematic internalisers. FI: Yes. BG: We agree that the trading venues should be responsible for the opt-in decision as this is a business decision because the participation in the CTP will require resources from the trading venues, will incur costs and loss of revenues. PL: We agree. The opt-in decision is one of the business decisions of a respective regulated market or MTF operators. DK: While Denmark does not agree with the proposed opt-in solution, we would agree with the principle of trading venues being responsible for the opt-in decision. EE: Agree.

	IT: We support the mandatory contribution, but we could agree on that if the op-in mechanism is established. SI: We could agree that trading venues should be responsible for the opt-in decision. LT: Yes. AT: Yes RO: Yes, we agree as far as they will conduct the mandatory criteria assessment with a certain frequency. HU: Yes, we agree, it should be a business decision of the trading venues. CY: Yes, this should be a business decision HR:

	Yes, we agree that trading venues should be responsible for the opt-in decision. NL: Yes, operators of trading venues that fall within the criteria to be considered a small venue should decide whether they want to opt-in to contributing to the CT for shares; not others such as Member States or supervisors. LU: Yes, the respective trading venues should be responsible for their opt-in decision. IE: At the very least it should be an 'opt-out' model. Venues should have to make active business decisions to not join the CT, not passive decisions. PT: We reiterate our preference for a comprehensive CT in the Union. However, if the proposed approach is ultimately adopted by the Council, we consider that it would be preferable that, instead of determining that TVs would decide on whether to contribute or not, such decision should be left for Member States (MS). This is the only solution that ensures that all stakeholders' interests are taken into consideration, rather than solely the interests of market data providers. DE: Yes, the opt-in decision should be taken by the respective trading venue.

	ES: See answer to Q.1. Although we believe opt-in mechanism is not the best option, eventually trading venues should be responsible for the decision. FR: Yes. It should nevertheless be specified at what level of the legal structure the decision would be taken. In the case of venues controlled by a foreign entity (e.g. the Prague stock exchange), would the decision be taken at the level of the entity in Prague or by the controlling entity in Vienna? EL:
Q.5. Do you agree with the proposal that RMs and MTFs shall conduct the mandatory criteria assessment as a one-off exercise, on a specific cut-off date (i.e., the regulation's date of application)?	SK: Our view is that the threshold should be related only to RMs, whereas MTFs should be fully under opt-in regime without any threshold. LV: See answer to Q.1. BE: We agree that RMs and MTFs should conduct the mandatory criteria assessment themselves, under the supervision of their national competent authorities. ESMA

	should equally be given a role in this process to ensure correct EU-wide data is used for the original assessment. However, we believe that a re-assessment of the criteria should be conducted at least every three years (similar as is currently the case for the qualification as an SME Growth Market). Again, the role of ESMA in this process should be considered. Such re-assessment could then also take into account the impact/role of newcomers on the market, as well as the individual growth/extension/merger of some RMs and MTFs. FI: No we consider this assessment should take place frequently at least yearly. BG: We do not agree that the assessment should be made by the trading venues themselves as data for the trades in the EU would be required. We propose ESMA to make the assessment or at least, after a cut-off date is specified, ESMA to publish the necessary data at EU level so that the trading venue can make the calculation. In our view the fulfilment of the criteria should be reassessed with a periodicity of 3 years as in our view it could not be expected the situation to change in the short term. PL:

	We agree with the proposal that the mandatory criteria assessment should be conducted on a specific cut-off date, as a one-off exercise, as the value of equity value traded on a venue do not change overnight DK: As pointed out in Q2, we do not believe that an opt-in solution should be based upon specific criteria for becoming eligible to opt-in. EE: Agree. Specific cut-off date at the time of the regulation's date of application would be suitable. IT: Subject to the nature of our comments above, we think that the evolution of liquidity and market structure would better fit a periodic exercise. SI: We could agree with the proposal that RMs and MTFs shall conduct the mandatory criteria assessment as a one-off exercise, on a specific cut-off date. LT: Yes. Specific cut-off date at the time of the regulation's date of application would be suitable. AT:

	Yes RO: No, we do not support a one-off exercise for the assessment of the cumulative criteria to qualify for the opt-in mechanism. HU: Yes, we agree that the assessment shall be a one-off exercise. CY: Still analysing HR: Yes agree with the proposal that RMs and MTFs shall conduct the mandatory criteria assessment as a one-off exercise. NL: No, given the expected effects of the CT (i.e., more visibility of especially smaller venues), it is likely that the assessment of the criteria will evolve over time. Therefore, we deem it of importance to regularly check whether the opt-in eligibility assessment is still valid. For example, annually or biennial. LU:

	The assessment should be carried out at specific cut-off dates, but on a more regular basis (e.g. annually, as proposed by some delegations in the last working party). IE: No – we do not support one-off assessments. Any assessment period should be frequent such as every 1 - 2 years. PT: As well as the objection to the establishment of an "opt-in" mechanism, PT has reservations regarding the preferred option for the assessment of the criteria, more specifically as a one-off exercise, on a specific cut-off date. In our view, if ultimately the Council decides to adopt this approach, we consider that the one-off evaluation carried out on a specific date could create an unleveled playing field between TVs. For this reason, we suggest a more flexible approach namely by publishing the list of trading venues that fulfil the criteria to "opt-in" on the ESMA's website. This flexibility would also allow for a more frequent update (at a yearly basis, for instance). DE:

	No, the assessment should not be conducted as a one-off exercise because in this case new markets developments could not be taken into account. Instead a revolving assessment, e.g. on a yearly basis, could be considered. ES: See answer to Q.1. FR: No. There should indeed be a cut-off date for conducting of the initial evaluation but it should be repeated at a frequency specified by the legislation in order to take account of future developments (e.g. M&A, organic growth, etc.). We would be in favor of an annual reassessment, carried out in an ESMA report on the progress of the consolidated tape. EL:
Q.6. Do you agree that the list of RMs and MTFs that fulfil the criteria should be part of the regulation's Annex, with the power of the EC to review it after 5 years?	SK: We do not see any merits in such proposal. All participating subjects are supervised entities, they already appear on the specific lists of RMs or MTFs, therefore all these subjects should have the right to opt-in to the CT. Furthermore, there is no reason why the EC should review the list since it will contain only participants on the consolidated tape. Furthemore, it is also not SK: clear what further action may be adopted by the EC based on the review of the list of RMs and MTFs. Instead of list of of RMs and MTFs the participants should be named

	on the website of the CTP, this should be required from CTP to publish this list on its website. LV: See answer to Q.1. BE: A financial market is typically evolving rapidly. A fixed list that would only be reviewed after 5 years, would not allow for the inclusion of, for instance, new RMs and MTFs on the market, nor their individual extension or merger with other entities. At least every 3 years an updated list should be established. The competence of publishing such a list could be given to ESMA (similar as is now the case for the publication of SME Growth Markets) FI: Updating the list as a part of the regulation would be burdensome and time consuming process. We would not support list published by ESMA. BG: No, in our view this is not necessary. PL: We agree with transfer of power to the Commission to conduct a review after 5 years, as long as it would concern conditions check, rather than revision of the

	general rules of the opt-in mechanism, that is the establishment of entirely new conditions or extension of the mandatory scope of participation in the CT. As for the list in the form of the regulation's Annex, we wonder if it guarantees the necessary flexibility – the possibility to join at any time. There is also a question whether the list would contain eligible regulated markets and MTFs or would rather contain those of the eligible, which decided not to contribute their data to the CT. DK: As pointed out in Q2, we do not believe that an opt-in solution should be based upon specific criteria for becoming eligible to opt-in. EE: Do not agree. It is unclear how the inclusion of the list of RMs and MTFs in the regulation Annex would work in terms of voluntary opt-in mechanism. If there would be no opt-in mechanism, then the list would be of little practical use. IT: See above. SI: We could agree that the list of RMs and MTFs that fulfil the criteria should be part of the regulation's Annex, with the power of the EC to review it after 5 years. LT:

	We doubt that such a list would have an additional value, especially when the trading venues should be responsible for the opt-in decision. AT: We are not quite sure why a list is needed at all as fixed criteria would be established in this regard RO: Yes, we do. HU: We agree with the review in 5 years, but we are not convinced about the necessity of a list in the regulation's Annex. CY: Still analysing HR: Yes, we agree that the list of RMs and MTFs that fulfil the criteria should be part of the regulation's Annex, with the power of the EC to review it after 5 years. However, the Commission review should be limited to condition checks and not to the review of the whole opt-in mechanism especially the extension of the mandatory scope of participation. The powers of the Commission regarding the

	review should be set in Level 1. It should also be considered if the Annex permits a large degree of flexibility to change the list in a situation of an opt-in decision. NL: We are supportive of the idea to introduce a regular check whether the criteria still apply to those that have not yet decided to opt-in. This should in our view be done annually or biennial, rather than after five years. A list in the level 1 Annex would not allow the necessary flexibility for this regular assessment. LU: No, it does not seem necessary to list RMs and MTFs in the Annex to the Regulation, as such a list would risk becoming outdated quickly. IE: No – we do not believe rigid lists should be set out in Level 1 text. A description of criteria is enough. Any review period should be much shorter such as every 2 years. PT: Please see our comments to the previous question (Q.5.). DE: No, an up-to-date list of venues fulfilling the criteria could be maintained at ESMA level.

	ES: See answer to Q.1. Although we believe opt-in mechanism is not the best option, we are not supportive of including a list of RMs and MTFs in regulation's Annex. FR: No, see above. ESMA should be responsible for running this assessment and publishing a list of eligible entities. EL:
2.4 The Presidency proposal of the revenue allocation mechanism	
Q.7. Do you agree with the above-proposed hierarchy of individual data groups reflecting the informational value of data? If not, what do you suggest as an alternative? - Can you think of any other criteria that one should consider to determine revenue distribution among data contributors? - Would you provide a financial incentive also to other entities with some specific market function?	SK: The idea to differentiate market data contributors is in line with their potential impact on CT, however the introduction of hierarchical system which will influence whole revenue sharing model, seems unclear for the time being. There is no reason to differentiate whether data were provided voluntary or mandatory, and revenue sharing mechanism should remunerate likewise in both cases. Size of provided data, traded volume combined with threshold for smaller stock exchanges are relevant criteria as input to the revenue sharing mechanism. LV: A revenue model should provide more certainty to both the CTP and the market data providers. However, given the fundamental uncertainty around the future

	revenues of a CT without mandatory consumption, a payment upfront to market data providers for the contributed data would be beneficial. As a general rule, when redistributing revenue, trades that provide price formation (and are correspondingly flagged based on appropriate data standards) should be compensated at a higher rate than other trades, non-price forming trades should not be compensated. Trades in less liquid shares should also receive higher compensation BE: We agree with the proposal. FI: We consider the proposed hierarchy well-argued but making the model complex. We are also of the view that price formation should be given preferred status in revenues. We are still analysing the model. BG: In our view first the scope of participants should be agreed – the opt-in and if the MTFs and SIs would be included. The type of data should be agreed as well, as we maintain our position that no pre-trade should be included in the CTP. It is not clear if the hierarchy would rank the data itself or the type of venue that is providing it, or both.

	Financial incentives should be provided to small trading venues with listing function. Provision of information on trades in less liquid shares should also receive higher compensation. PL: We agree with the opinion, that the hierarchy of individual data groups should reflect, first of all, informational value – by which we understand the level of a particular venue contribution to price formation. Adjusted, according to the general rule, in favour of small trading venues. Therefore, in our opinion, post trade data from regulated markets and MTFs that do generate quotes (which are included in point iv) should be assigned a greater weight than mandatorily provided data from MTFs that do not generate quotes (which are included, among other, in point ii). DK: Denmark believes that there should be some sort of hierarchy that benefits lit trading, and trading contributing to the price formation process. We do not think opt-in vs mandatory contributors should be part of the revenue allocation method as stated here. But we agree that a preferential status to smaller venues should be given, which should provide incentive for smaller venues to opt-in under a universal opt-in regime for pre-trade.

	EE: Agree. IT: We think that the design of the proposal of the revenue allocation mechanism must be mainly focused on compensating for the loss of revenues in an equitable manner (or at the most, with a minimum incentive for the smaller exchanges), avoiding penalizing all those contributors that manage primary listing venues in the face of significant and crucial activities for the European market, and which could have losses from the mandatory contribution terms of reduced profits. SI: We could agree with the proposed hierarchy of individual data groups reflecting the informational value of data. LT: We agree with the hierarchy of individual data groups reflecting the informational value of data. Revenue sharing model should be clearly defined in the Level 1 text in order to provide more certainty for trading venues. Smaller trading venues for which market data revenues are essential to their viability should have preferential treatment. Also we agree that revenue sharing should reflect the nature of the data. AT:

	We believe that the proposed approach with a fixed hierarchy of data is far too complex and might lead to uncertainties when applied in practice. RO: We support the mechanism to favor the smaller RMs/MTFs and the functions deemed important (e.g. listing), as well as to incentivize the "opt-in" venues to join the CT. HU: Yes, preliminarily we agree with the hierarchy of data groups. CY: Still analysing HR: Before setting a revenue allocation mechanism, first of all we have to decide which data will the CTP collect and distribute. All contributors that provide real-time data should participate in the revenue-sharing mechanism. However, we are also aware of the downside of spreading the revenue sharing scheme across too many contributors, as this runs the risk of benefiting none of them. While we agree with this proposal, we propose the following:

	1. taking into consideration the CZ PRESS BBO/EBBO non paper pre-trade data contributors should provide data on a voluntary basis. The pre-trade CTP should not be mandatory 2. The ranking of voluntary contributors of pre-trade data should be 1, i.e. they should have the largest weight in the distribution of revenue. 3. The ranking of voluntarily provided data from smaller RMs or MTFs (i.e., that have been identified as such according to the opt-in mechanism) if they decide to opt-in should be 2. 4. Other participants from the markets that are not considered mandatory contributors should send their data with a 15-minute delay, as regulated by MiFIR. This shall make them visible and would not result in loss of revenue to the extent that the same would occur with real-time data. 5. SI that would provide near real time data be it pre or post trade should also participate in the revenue distribution. NL: We agree that we should ensure that market participants are incentivized to contribute their market data to the CT-provider. Therefore, a fair renumeration scheme is necessary. Moreover, we should ensure there are sufficient incentives to provide more valuable data to the CT. Therefore, we consider it important that the CT renumeration scheme more explicitly rewards market data that contributes to the price-discovery process.

	Rather than the complex proposed hierarchy of groups of contributors, we would prefer a renumeration scheme that, firstly, is based on the weights of certain types of market data dependent on their relative contribution to the price-discovery process. In other words, higher weights applied data of pre-trade transparent trading protocols, or multilateral trades. Secondly, on top of that, the scheme should consist of a few multipliers to reward certain types of data contributions. For example, multiplier for opt-in contributors and a multiplier for data of trades in shares initially listed on the contributing venue. The combination of these multipliers, that apply differently to different data contributors, would result in higher renumeration for some venues, accordingly to the parameters we consider relevant. We agree that smaller venues could be allegeable for preferential treatment, to ensure an appropriate transition phase. However, to ensure that the renumeration scheme is based on the contribution to price-discovery data, it should in the long run not matter whether data is mandatory submitted or 'voluntarily' submitted by a venue that has chosen to opt-in. Therefore, we could envision that the multiplier for opt-in contributors (i.e., small venues) would decline in the longer term, after, for instance, smaller venues have grown due to their increased visibility to investors by their appearance on the CT. LU: In general, the principle of rewarding more price-forming trades (and trades in less liquid instruments) and giving preferential treatment to small venues and

	those that perform a listing function is to be welcomed and encouraged. However, given that discussions are still ongoing regarding the scope of information to be included (especially with regard to pre-trade data), it seems premature to discuss the exact hierarchy of remuneration of the different data groups. In any case, the revenue model should not be too complex and should be structured in such a way as to provide certainty for both the CTP and the market data providers, with the aim of providing a clear incentive for all stakeholders to participate in the tape. IE: We believe the criteria are overly complex and prefer the previous simpler models which are based on a square root formula with a base payment per venue based on data inputs to the CTP coupled with fixed/known multipliers for small venues (RMs and MTFs). This would be much simpler to administer and would allow industry much greater certainty/predictability on any payments they could receive. We reiterate our continued support the previous revenue sharing proposals and that we should focus on increasing payments to smaller venues. PT: PT is open to support some elements of the proposal of establishing a hierarchy of information value in the revenue sharing model, namely if this approach allows to:

	(a) Increase market transparency; and (b) Improve the price formation process, while ensuring specific benefits for smaller trading venues. Still on what regards the hierarchy proposed, we have concerns regarding the revenue allocation determining that the highest criteria considered in relation to the revenue allocation ("voluntarily provided data from smaller RMs or MTFs"), since it does not take into consideration the quality of the information provided to the CT (i.e. listing function). Furthermore, this approach would overly benefit TV with similar dimension than those that are incorporated in a group and for that reason cannot befit from the opt-in/opt-out regime. Additionally, PT deems important that revenue sharing mechanism ensures that smaller TVs and the business models currently in place are particularly compensated for contributing to the CT. Please note that, in relation to the present business models, the contribution to the CT will likely result in loss of the revenue mainly obtained from of primary listings. Finally, on this regard, we would appreciate a clarification in the text that the revenue sharing mechanism will not be calculated at group level but rather at TV level. DE: In general, it appears to be premature to discuss the details of the remuneration mechanism before an agreement on the scope of the CT on equities has been

	achieved. We principally agree to the prioritization of entities in the revenue-sharing model as laid down in part 2.2 of the non-paper. However, the revenue allocation mechanism in part. 2.4 of the non-paper appears to be complex and might benefit from further streamlining. With regard to MTFs it is not clear to what extent or in which cases they fulfil a listing function. ES: See answer to Q.1. Although we believe opt-in mechanism is not the best option, the objective of proposed hierarchy of criteria seems appropriate. In the event that a mechanism such as the one proposed eventually exists, the criteria for the redistribution of CT revenues should be prioritized, giving more weight to information that contributes to transparency and price formation. More concretely, we want to emphasize the importance of the listing function of some trading venues and, therefore, we believe that it should be the first of the two criteria when it comes to income redistribution. Trades in less liquid shares should also receive higher compensation. FR: We appreciate the granularity and relevance of the proposal. We nevertheless believe that we should stick to a more limited number of categories. We are not convinced that an additional criterion based on the 'listing function' is necessary (in other words in addition to the criterion based on the degree of transparency) insofar as the operators providing listing services are also those operating the most transparent trading protocols (CLOB). These two criteria may therefore seem

	redundant. We agree to provide an additional incentive for small venues to join the project. However, this incentive should not take the form of a guaranteed income (which could jeopardize the commercial viability of the consolidated tape, thereby limiting the number of prospective consolidators in the call for tenders) but rather be based on a formula that would remunerate smaller contributors proportionally better than large ones (e.g. via a square root function rather than a linear one). EL: Firstly, we note that it is essential to agree on the scope of the Proposal. Nevertheless, with the exception of (i) which we do not agree on (see above) and (iii) which according to our previous position does not have an added value, we believe that the delayed-post trading data ii, iv, v and vi are in the right sequence. Regarding (i) we believe that it should be mandatory, again for delayed post-trading data (trades). (iii) should be omitted.
Q.8. Do you agree with the specification of individual data groups and the hierarchy determination of these groups in the Level 1 text?	SK: We will support specification of the hierarchy stipulated in the L1 text. The hierarchy at level 1 may contribute to better legal understanding of whole CT mechanism. LV:

	While it is difficult to foresee the effects of a given revenue model, a hierarchy based on the informational value of the data seems appropriate. BE: We agree with the proposal. FI: BG: We agree that those should be specified at Level 1 text but the formulation of the groups and there ranking should be further discussed after the determination of the scope of participants and the types of data. PL: We do believe both the specification of data groups and the hierarchy determination of these groups should be included in the Level 1 text. DK: We support an ESMA mandate to define the factors that should be included in the revenue allocation mechanism, and that ESMA can define the actual mathematical formula.

	Level one should state the broad political lines that is to give smaller venues a preferential status, and that the allocation method should rank lit trading, and trading that promotes price formation highest. This, as we believe some further analysis of contribution to price formation should be conducted. EE: Agree. IT: Taking into account our premise under Q.7, we could agree on principle with the proposed hierarchy, but – in the case of opt-in - we would prefer that the first two places to be reversed at the least, favoring the entities which provide mandatorily market data instead of the ones doing that on voluntarily basis. In conclusion, the hierarchy might benefit of a fine-tuning to assign higher importance to the value/amount of data submitted by mandatory trading venues to the CTP SI: We could agree with the specification in the Level 1 text. LT: Yes.

	AT: See above. RO: Yes, we do. HU: Yes, we agree. CY: Still analysing HR: Yes, however with minor changes as answered in the previous question NL: Given the political nature of the decision to give preferential treatment to certain market data contributors, we support a level 1 specification of the various types of multipliers that are to be applied to the renumeration scheme. The level 1 text should further provide a bandwidth or indication of the magnitude of the proposed multipliers. The precise calibration could however be left to ESMA, given their expertise and to allow for enough flexibility. LU:

	Yes, sufficient guidance should be included at level 1 to provide the necessary certainty for all stakeholders. In this respect, a hierarchy based on the informational value of the data seems appropriate. IE: No – see comments above. PT: PT is open to support the proposal. DE: See above answer to questions 7. ES: See answer to Q.1. Although we believe opt-in mechanism is not the best option, we consider that the specification of hierarchy criteria should be determined in the Level 1 text. FR: Yes. EL:
Q.9. Do you agree with authorizing ESMA to determine specific multipliers?	SK: Yes. We agree with ESMA authorisation.

	LV: Authorising the authority to determine multipliers is a good proposal as ESMA should have a say in the calibration of the model. BE: We agree with the proposal. FI: Yes. BG: PL: We agree with authorizing ESMA to determine specific values of multipliers. DK: Yes, cf. our answer to Q.8 above. EE: Agree. IT: Yes, we agree. **We would support ESMA's empowerments for the final determination of these technical specifics of the legislation.**

	SI: We could agree. LT: Yes. AT: No. RO: Yes, we do. HU: Yes, we agree. CY: Yes, we agree to authorise ESMA with a mandate in Level 1. HR: Yes, we agree with authorizing ESMA to determine specific multipliers. NL: See our answer to Q8.

	LU: Yes, the competence to determine the specific multipliers, provided sufficient guidance is provided in the Level 1 text, could be given to ESMA. IE: No – the multipliers are a policy decision and must be set out at Level 1. PT: Yes, we agree with granting ESMA the power to determine specific multipliers for this purpose. DE: We agree that the detailed calibration of multipliers could be left to ESMA. ES: See answer to Q.1. Yes. FR: We are not convinced that this calibration should be left to ESMA since we believe this is more a political decision than a technical one. EL: We could see a role of ESMA.

Q.10. Are you in favour of increasing the multiplier cumulatively if a data contributor provides high information value data falling into multiple individual data groups (i.e., the respective multipliers would be added together)?	SK: Specific multipliers may be set by ESMA, considering current trading situation and stage of development of various market venues. BE: We are in favour of the idea that the providers needing more incentives to contribute should be paid more as should be the case for the parties that can provide the most useful information. FI: We need to consider the possible multipliers also in the context what will be the total amount to be shared, so that the result should be reasonable for all parties. In general, we can support the use of multipliers. BG: As stated in Q7 the proposed ranking is not clear and should be further discussed. PL: We agree with the idea of increasing the multiplier cumulatively in case a specific trading venue contributing data falling into multiple individual groups. This would, in our opinion, further reward venues providing high information value data.

	DK: We believe this should be addressed as be part of an ESMA mandate as it follows the principle of ESMA defining the actual mathematical formula for the revenue allocation mechanism, cf. our answer to Q.8. EE: Agree. IT: We would need further details to better explore this proposal. SI: We could agree. LT: Yes. AT: Yes RO: Yes, we do. HU: CY:

	Still analysing HR: We are in favour of increasing the multiplier cumulatively if a data contributor provides high information value data falling into multiple individual data groups. However, we are aware of the downside of this and the financial impact it would have on the CTP. Our concern is that the interest for providing this service will be limited. NL: Yes, see our answer to Q7. LU: IE: Yes but our preference remains for a simpler square root model. PT: At this stage, we do not have a final position, on this regard. DE: See above answer to question 7. ES:

	See answer to Q.1. No strong view on this point. FR: No, we believe that the method used to calculate the remuneration of data providers should remain as simple as possible. EL:
The European Best Bid and offer (EBBO) at the time of execution	
Q.1. Could you support the proposed option 1 as a preferred solution for the BBO in the post-trade CT?	SK: We are still analysing Option 1. LV: No, both Option 1 and 2 would be detrimental for European markets. First, a CT disseminating best bids and offers (pre-trade data) is a pre-trade CT, referring to "BBO in the post-trade CT" may be confusing. Second, and most importantly, a CT which publishes pre-trade data, data before a trade is completed, would create an illusory view of the market. This is due to the fact that it would create a false sense of liquidity and show a picture of the market that is delayed in comparison to direct venue data feeds, creating differences in latency. Even if supposedly not meant for trading, a pre-trade CT would lead to the emergence of a flawed, easily gameable European Best Bid and Offer (EBBO) or de facto reference price benchmark. Slight delays from the market data sources would distort the EBBO and the differences in latency would be exploited by sophisticated investors with

	knowledge of a better available price not yet incorporated into the CT. For example, for liquid instruments, even under the 100 milliseconds window, multiple quotes and trade executions take place in different European venues. Harmful forms of arbitrage become possible in such a scenario since these market participants may guarantee execution for retail investors at the CT reference price while they themselves will trade at a better price at the expense of retail investors. In addition, retail investors would not be able to access many of the quotes shown in a pre-trade CT as the broker intermediaries that they use to trade have no obligation to offer connectivity to all venues in Europe. Furthermore, they would have no access to SI liquidity given that SI's can discriminate between the investors to which they do and do not offer access. This means that a retail trader looking at the CT may see liquidity that their broker simply cannot provide, and given this would not necessarily be obvious to all retail investors, it would damage the credibility of the service and of the market more broadly. In view of the above, alternative CT models must be considered. One option would be a post-trade CT delivering data at the fastest possible speed. Current regulatory requirements regarding real-time publication of post-trade information permit a delay of up to 1-minute (MiFIR RTS 1 Art. 14). Taking this into account, the worst performer in a real-time CT could deliver 1-minute delayed data and the fastest delivery speed of a CT will amount to 1-minute. Therefore, 1 minute can be seen as the de facto lower bound in the delay of any real-time CT. Last but not least, considering commercial viability aspects, as outlined in a study by Oliver Wyman a slightly delayed post-trade solution would meet needs of both retail and institutional investors (risk management, investor pre-trade analysis for

	monitoring purposes and investor's in-flight execution management). Brokers, on the other hand, will likely take data feeds directly from trading venues, regardless of the latency of the CT. This is due to the heavy competition between them to attract order flow and improve the performance of their executions. Such a CT would also resolve most of the concerns about business viability that some venues have. BE: We support the proposed option 1. Additionally, it could be consider whether the EBBO and BBO data published by the post-trade CT could be purchased seperately by market participants. FI: In general, We would very much like to enhance market efficiency and transparency in the EU, which we consider the pre-trade information, would do especially in regard of liquidity view. However, we find formulation of the question little confusing while it is combining the EBBO and BBO. As a possible solution to somehow give the liquidity view instead of full pre-trade CT, we would be open to study further option 1. BG: No, we maintain our position for a post trade CT, no pre-trade data should be included in the CTP.

	For us BBO in the post-trade CT is confusing as a concept. It is not clear when this BBO should be sent and with what latency the information from the BBOs would be consolidated to calculate the EBBO. It is also not clear if this has been requested by the future users of the CT. It is not clear what would be the use cases for such data. BBO or EBBO could not be used for assessing best execution because of the latency, the fact that best execution is not assessed only based on price and taken into account that investment firms are not obliged to ensure connectivity to all trading venues and SIs. PL: Unfortunately we could not support any of the options presented. Moreover, we would welcome a more detailed explanation of specific purposes for which the information provided should include the pre-transaction data elements, as proposed in the options in question. DK: Our previously stated concerns regarding a pre-trade tape are less with the proposed de-scoping. Revenue impact would be much less in our view, the solution would not give rise to latency arbitrage, and SIs could not establish a reference price, which would have the potential to move trading away from lit venues.

	It is important for us that there is no mandatory requirements to consume the CTP-data. It should be left to each investment firm to decide if they want to consume the CTP-data. EE: Yes. IT: We suggest to introduce a further option: Option 3 would make the CTP to publish only the EBBO at the time of execution for all TV trading the particular share; no BBO would be published compulsorily. However, please consider that as a preliminary view, as we would need further reflection on the proposal in question. SI: At this point we can not support Option 1 and we encourage that more technical details are provided in this regard. LT: We are leaning towards not supporting any of the proposed solutions. It is also not clear what would be the use cases for such data. AT: We are very reluctant to the inclusion of pre-trade data in the post-trade CT (see also our answer to Q.1).

	RO: We support option 1 as a preferred solution and we believe that the added information is the only solution to maintain the commercial viability of the CT for shares. HU: We do not support either option, we do not prefer having pre-trade elements in the CT. CY: Still analysing HR: We think this is just a way of establishing a pre-trade CTP that would be disguised as BBO and EBBO. In previous meetings establishment of a pre-trade CTP showing only the first best bid and ask was discussed. If this is a way forward, we believe that the delivery of these data should be on a voluntary basis rather than a mandatory one. However, we do not see any specific effect that such a voluntary CTP would have given that it would not receive all necessary information from all trading venues and thus the obtained BBO or EBBO would not show relevant information. EBBO's calculation method is quite vague. CZ PRES refers to the transmission of pre-trade data and subsequently in the text that the EBBO is calculated at the time of execution. It is not clear which data should be transmitted

	at any time. We feel that the setting-up itself is quite complicated. Also sending volume is pretty confusing. How would the EBBO be calculated if the volume was used? The best volume shown refers to the one at the best price or the best volume at all trading venues? The numerical data shown are not clear. NL: The Netherlands is in favour of an ambitious CT that not only provides post-trade transaction data but also the (more valuable) pre-trade quotation data, on a near-to-real-time post-trade basis. We therefore agree with the Presidency that including the BBO and EBBO would lead to a more valuable CT for sophisticated retail investors, asset managers and investment firms. The inclusion of a time stamp is especially relevant, given the natural milliseconds delay due to geographical distances. We acknowledge the benefits of BBOs and EBBOs such as price discovery and enhancing transparency for investors. The BBOs and EBBO provide different information, they are therefore complimentary, rather than substitutes. Therefore, we support the proposed option 1 where the BBO and EBBO are published both together at the time of execution. LU: We remain cautious about integrating EBBO and BBOs into the tape at this stage. While we recognise the increased visibility that pre-trade information provided ex-post could bring to market participants in terms of liquidity management and

	best execution control, there are drawbacks that should not be underestimated. These are mainly related to the creation of a benchmark that may not be fully representative, and furthermore to the fact that brokers often cannot offer connectivity to all trading venues represented in the EBBO/BBO. Finally, arbitrage risk needs to be analysed, in cases where sophisticated traders are able to trade at a better price than the displayed European benchmark. A post-trade-only CT would probably be the most efficient solution and would also ensure the commercial viability of small trading venues that rely on data revenues. IE: We welcome the proposal to establish an EBBO and transparent BBOs within the CT. We believe this is a compromise and minimal solution to incorporate some pre-trade element, in a post trade tape. We note this is a pre-trade element, not real pre-trade data, as it is a much simplified number that is from cleaned data that the viewer does not have access to. We believe that the EBBO would be enhanced with a published depth of order book data, not just limited to top of order book snapshot and would support having much more pre-trade data. An EBBO will also support retail investors and allow for a simplified understanding of complex market data.

	We note that the value and impact of an EBBO will be undermined if the relevant CT is not a golden source for data. As such we should ensure that the maximum number of venues contribute to the CT so we can have an EBBO with a solid foundation and a tape that is commercially viable. PT: While we are still assessing all the elements of this proposal, we are open to support the proposed Option 1, for the sake of compromise. In our view, this proposal may be an opportunity to achieve a right balanced compromise in the Council. However, it should be noted that this opinion is based on the following assumptions: (a) The EBBO determination will only consider the best bid and offer price, even if those prices are available in different exchanges; (b) The EBBO takes into consideration the volume of the respective transaction, hence it will always display information on a volume sufficient to conclude such transaction. We deem important that the wording of the proposal reflects these elements. We believe that including top-of-book data, at the time of execution, would contribute for enhancing transparency of information for investors, which would be able to compare offers across the EU and assess the quality of execution of transactions made by brokers, while, at the same time, improving the chances of

	having entities interested in developing the CT, since it boosts its commercial viability. DE: In principle, a solution based on Option 1 could be an appropriate basis for further discussion of a compromise where such a compromise would also encompass an adequate solution for PFOF practices. We would prefer to only publish the EBBO in the CT because this information seems to be most useful for investors. ES: Regarding the BBO/EBBO, we would like to ask the Chair for clarification on the substance of the proposal, as we continue to have doubts about the functioning of this mechanism. First, we would like to confirm whether, as we have understood, the BBO/EBBO would only publish information on quotes at the exact time of execution of trades, not including quotes prior to the time of the trade. Second, we would like to know the precise moment this information would be published, whether it would be in real time, close to real time, with several seconds of delay, etc. We understand that if, for example, a post-trade CT was created with a 1-minute delay, all this information about the quotations in the different markets at the exact moment of the execution of the operation would be published with a 1-minute delay and, therefore, the EBBO would be disclosed after 1 minute. Third, a technical question is whether the CT should receive and store all orders from all trading

	venues and, if so, whether an analysis has been carried out on the volume of information that would need to be stored, the associated cost and the minimum time that would be required for storage. At this stage, we are not particularly enthusiastic about the creation of the BBO/EBBO. However, if the information of this mechanism was to be published in the CT with a one-minute delay, or more, in principle we do not find any reason to oppose its creation, apart from some concerns that we will raise below. If the BBO/EBBO information was not published in real time or close to real time, this would eliminate the concerns that have been raised by many stakeholders about the arbitrage problems. However, if the publication is close-to-real-time we do see significant objections, as those players with the ability to access information faster than the CT could exploit this advantage in the form of arbitrage, to which should be added the technical problems of latency that would be very difficult to resolve. For highly liquid stocks, near real-time publication would open up the possibility for more sophisticated players with access to direct information from trading venues (which will always be closer to real-time) to use this small-time lag to arbitrage and benefit from their infrastructure. Moreover, CT would present a great technical complexity, since it would seek to publish as close as possible to real time but would simultaneously have to take into account the problems of information latency, especially the one coming from distant trading centers. If latency problems are to be solved, the publication of information will have to be further deferred, creating an even larger gap between

	the information coming directly from the trading centers and that consolidated in the CT. On the other hand, if the aim is to publish in real time, the latency problems could not be properly addressed, thus creating a dilemma that is difficult to solve. In addition, traders located closer to the CT will clearly benefit. In line with the statements previously posed, we believe that the only acceptable proposal at this point would be the consolidation of a BBO/EBBO published with a 1-minute delay, or more, and in no case close to real time. Nevertheless, we would like to point out that the CT operator would have real-time access to a huge amount of valuable information and data that could be used for arbitrage and selling purposes. For this reason, the debate on the status of the CT operator and how to handle conflicts of interest is of paramount importance. FR: We do think that it is important that the consolidated tape computes and displays both the BBO and EBBO. We would like to be certain that the EBBO would indeed imply that a snapshot of all the order books where a given stock is traded is taken at the time of the execution of a transaction on the stock in question on any platform where it is traded. Showing only the BBO would not be satisfactory since many stocks (especially the most liquid ones) trade on several platforms at the same time. EL:

	Still as we have reservations for a pre-trade data to the CTP at the first stage, and we do support a delayed post-trade consolidated tape, we have also reservations on EBBO at the time of execution.

Payment for order flow	
Q.1. Could you support the proposed solution to clarify and supplement the PFOF provision in Article 27(2) of MiFID II, instead of amending MiFIR by introducing Article 39a? If not, how would you propose to solve the discrepancy between Article 27(2) of MiFID II and Article 39a of MiFIR?	SK: We are of view that PFOF should be generally regulated by MIFID II, not MiFIR. We would also welcome the discussion concerning the introduction of „legal status“ of PFOF because this may lead to some complications in the future. Routing orders is always allowed, while PFOF as specific situation may be in certain business models considered as breach of the provisions on conflict of interest and best execution. The brokers are obliged always to act in the interest of their client. LV: No, looking at the available evidence, a PFOF ban is necessary. As stated by ESMA, PFOF poses serious concerns about investor protection and conflicts of interest. Despite the obligation to act in the best interest of its clients, the broker has an economic incentive to direct order flow to the execution venue that offers the highest payment instead. This economic incentive makes conflicts of interest virtually impossible to manage properly and the proposed legal amendments would not suffice.

	PFOF is also a detrimental practice for market efficiency and investors, as reported by the AFM and the CNMV. It may increase bid-ask spreads, distorts competition, and makes the price formation process less transparent and efficient. This creates adverse selection but also negatively affects market quality. Moreover, looking at countries like the UK where a ban on PFOF has already been in place for some years, studies show that the ban has not had detrimental effects on pricing but that retail investors benefit from a more competitive market. While we understand some of the concerns from the Presidency, for example, those around the determination of the PFOF scope, we consider that the European Commission proposed the right scope when delimiting the ban to a "fee or commission or non- monetary benefit […]". All things considered, the current proposal is not sufficient to counter the negative effects of PFOF. Under PFOF, the broker will always have an economic incentive to direct order flow to the execution venue that offers the highest payment and not the best execution. There are alternatives to the ban which are only second-best options but could also protect retail investors. One is limiting SI equity trading to above LIS. By the same token, PFOF could only be allowed in multilateral trading systems (trading venues), this would diminish the conflict of interest as it would preserve the competition of trading interests and price formation. However, the best option is a ban on PFOF. Retail investors share this assessment. BE:

	We still favour introducing a ban instead of amending Article 27(2) of MiFID II as suggested (for the reasons set out below). We however also believe that if a ban was introduced, Article 27(2) of MiFID II would need to be amended accordingly. FI: We are still of the view that the ban should remain and would support the Commission's proposal of introducing Article 39 a. This is because we would read the current MiFID Art 27 (1) (2) to imply that the best execution is decided case by case and could not be decided in advance as a permanent arrangement for all customers. BG: We prefer a complete ban. PL: All things considered, in our opinion, the current proposal is not sufficient to mitigate the negative effects of PFOF on the scope of retail investors protection. The solutions proposed will not mitigate the potentially negative impact of PFOF on the scope of retail investors protection. And the non-paper does not present sufficient data justifying the proposal.

	By the way, we would like to note that the solution proposed would require supervisory authorities, and the clients, to monitor data provided by the investment firms, in order to check whether investment firms are actually fulfilling their obligations under the law. Thus it would create an additional burden, and at the same time actually not preventing the conflict of interest between investment firms and the relevant trading venues. So, we continue to support the idea of prohibiting investment firms acting on behalf of clients from receiving payments or non-monetary benefits from trading venues for forwarding client orders for the reasons which were often mentioned during the meetings – concerns about investor protection and conflicts of interest; detrimental influence on market efficiency, increasing bid-ask spreads, distorting competition, and making the price formation process less transparent and efficient. DK: We still have a preference for an outright ban potentially complimented with the possibility of having some exclusions. We agree that there are activities, which are legal and of benefit to the markets, but could none-the-less be captured by an outright ban of PFOF without exclusions.

	We also encourage following the development in the US where a ban is likely. DK believes that the idea of distinguishing between orders routed to SIs and lit markets is interesting, but we would welcome more detail on this option. EE: We support a total ban on PFOF. IT: We have to reiterate our preference for a compromise solution, as the Presidency has proposed in its non-paper, which follows our main idea of involving ESMA and, where possible, clarifying the current MIFID 2 framework. Indeed, our first answer is yes, given that the hypothesis behind the proposal seems to be to re-examine the existing legislation and possibly clarify the points of more complex application. **In this regard, we look forward to the draft revision of Article 27(2) of MiFID II for more detailed evaluations and proposals.**

	However - at the same time – we would like to state that, if there is no majority on that compromise proposal, then, for the sake of the negotiate and CMU objectives, as a second best, we will also support the ban, by regretting the impossibility to reach an overall compromise solution. We therefore would avoid misunderstanding in which our up to now "constructive" attitude to search a less draconian solution of a ban risks contributing to blocking or slowing down the whole negotiation. SI: As we indicated during the last WP under French Presidency, we are prepared to support a complete ban, as envisioned in the original EC proposal and the last compromise proposal. We understand that for some type of investors selling order flow can be beneficial from cost perspective but we see danger that anything but complete ban would overall undermine transparency. LT: In our view, the current proposal is not sufficient to mitigate the negative effects of PFOF on the scope of retail investors protection. We support the initial EC proposal to fully ban PFOF. AT:

	We would still prefer a total ban of PFOF in MiFIR as outlined in the original proposal of the Commission. In our view the benefit of the COM proposal for a total PFOF ban lies primarily in eliminating enforcement problems and creating a level playing field for all market participants. RO: We are rather in favour of the PFOF ban EU wide as a solution for the conflict of interest issue. HU: We do not support the modification of Article 27(2) MiFID II. We still prefer introducing Article 39a in MiFIR, we still favour a complete ban. On the one hand, we do not share the concerns about the appropriate distinction of PFOF from other incentives such as refund and rebate regime of stock exchanges. On the other hand, we believe the alternative solution can lead to the emergence of practices which in form may be in line with the less strict regulation, but in substance would undermine the original goal of eliminating such practices where the retail client pays the cost of trading in form of a less good spread instead of transaction fees. CY: We are open to the discussion of the proposed solution as an alternative solution to the complete ban since we consider that there is no sufficient

	evidence at EU level that PFOF practices are to the detriment of investors in Europe. We are open to consider specific drafting suggestions to this end. HR: Yes, we would prefer to clarify and supplement the PFOF provision in Article 27(2) of MiFID II NL: No, we see a clear case for prohibiting PFOF-practices in the Union. Currently, there is an unlevel playing field in the EU, with some countries allowing PFOF, while others don't. This gives room for regulatory and supervisory arbitrage and doesn't prevent uneven competition in the EU's internal market. Already today, numerous market participants have expressed their concerns about the lack of a European solution on this matter. Investment firms that do not receive PFOF of execution venues or market makers, are confronted with unfair competition from ones that receive PFOF. In the internal market, with increasing cross-border supervision of financial and investment services, this is undesired. Also in other jurisdictions outside the EU, PFOF bans apply or are considered by legislators. If we start to regulate PFOF in the EU, we fear that we

	potentially allow this undesired model to become the dominant model used by investment firms. Given the complexity of assessing best execution, due to the numerous factors involved in the price and costs, we do not consider it desired to shift the obligation for the choice of execution venue from the investment firm to the retail client. We are still in favour of a complete ban on PFOF to, on the one hand, protect the retail investor and guarantee that retail investors receive the best price; and on the other hand, to ensure a level playing field and fair competition in the Union. We are open to further clarify the proposed Article 39a, to ensure an appropriate calibration of the ban that only encompasses the PFOF-practices that we want to ban. A complete EU-wide PFOF-ban is still the most straightforward solution, also given the broad majority in the Council that is supportive of such a ban. We therefore cannot support the proposed alternative for a ban in the Presidency's non-paper. LU: IE:

	Ireland supports a ban on PFOF and again reiterates the need to add some clarifications to the current text to scope out certain practices and to reduce the risk of circumvention. That issue was identified several months ago in this WP. We believe a ban needs to be set out in a regulation so that we can have the greatest consistency across the EU but we are open to making changes in MiFID if they will have the same effect. Fundamentally, the proposals will not change the current situation regarding an un-level playing field as MS/ NCAs will have to make individual determinations. It will also regularise PFOF in law and this will inevitably result in arbitrage as firms shift parts of their operations to MS that allow PFOF and so PFOF will become a dominant market model as more firms and MS adapt to this dynamic. Other market activities, which we do not want captured by the PFOF ban, should be defined in legislation. PT: PT has been critical of the Commission's proposal to ban PFOF, notably because its negative impact is currently undocumented. Instead, some studies indicate that PFOF may facilitate the development of retail brokerage services.

	As emphasized by PT in previous comments, MiFID II already provides for rules to prevent conflicts of interests. Bearing in mind the concerns expressed by MSs who favor a PFOF's ban, especially those concerns related with possible conflicts of interest and / or the lack of transparency, we are available to support introducing further clarifications on Article 27, (2), of MiFID II, for the sake of compromise. Additionally, we see merit in a solution that distinguishes between situations when orders are routed and executed on lit markets and contribute to price-formation and other situations when orders are routed to SIs. As we see it, the increase in data availability may be particularly significant to assess how effective the PFOF's framework is (both the current rules and the eventual adjustments this proposal intends to introduce). However, in our view, to duly assess whether PFOF should be maintained or not, such evaluation should compare the price of transactions as well as the fees charged in transactions concluded through PFOF or not. DE: Yes, we are strongly in favour of a solution that would avoid amending MiFIR and avoid introducing a ban on PFOF. We think that a ban is not

	required and that potential conflicts of interest can be addressed by regulation. ES: See answer to Q.2. FR: If an alternative solution to the ban were to be explored, it should involve a strict and effective regulation of the practice. At a minimum an EU regulation of PFOF should involve: i) an obligation to execute retail orders *at least* at the EBBO informed by the consolidated tape, ii) a mandate for ESMA to supervise and enforce this (i)) requirement. Otherwise, we would strongly oppose having the European form of PFOF as it exists being offered to French investors since we do not deem the current practice in line with MiFID requirements. EL: We shall maintain on the same position expressed. We do not see merit on Payment for order flow, and we support a full ban.
Q.2. Could you support the proposed solution to enhance the management of conflict of interest and increase control over best execution?	SK: Yes. LV:

	No, the issues raised by PFOF are not resolved by a pre-trade CT nor by a system based only on disclosures on order routing practices, costs, and payments. The reasons for this are numerous and have to do with the fragmented nature of EU capital markets and the EU best execution regime. What's more, PFOF for non-equity instruments is not tackled at all in the latest proposal as it only covers equity. First, it would be prohibitively expensive for any broker to connect to the plethora of venues (regulated markets, multilateral trading facilities, systematic internalisers, …) in the EU market. There are more than 250 venues currently operating in equity instruments, and about 500 considering all instruments, each one charging connectivity fees. The EBBO for a given instrument at a given point in time could be located in any of those. Second, retail investors will not be able to access many of the quotes shown in a pre-trade CT not only because brokers do not offer connectivity to all venues but because some execution venues do not offer access to all types of investors. Third, the EU best execution regime goes beyond the execution price, factors like the fees, speed, and likelihood of execution must be considered. Under the proposal currently discussed, brokers would only have to report all this best execution information together with the execution prices referenced against the EBBO. It is doubtful that retail investors would have the sufficient know-how to access and interpret properly this information. Fourth, the emergence of a pre-trade CT promoting a visible EBBO could give market participants the illusion of achieving best execution, while creating an environment that is ripe for arbitrage. Some market participants with sophisticated

	network infrastructures will have knowledge of a better available price that has not been incorporated into the CT. Harmful forms of arbitrage become possible in such a scenario since these market participants may guarantee execution for retail investors at the CT reference price while they themselves will trade at a better price at the expense of retail investors. Lastly, studies find that even under the US market structure (with a number of venues that is an order of magnitude smaller), unified capital markets legal regime, and best execution regime (fundamentally linked to the execution price and the national Best Bid and Offer), retail investors are not always receiving the best execution. This is due to all the issues mentioned and the limitations of the national BBO. BE: No, we fail to see how the proposal improves the current applicable regime: transparency requirements are already in place and shifting the choice of the place of execution to the client is not appropriate and creates a risk of circumvention of the best execution rules. This risk was already stressed in ESMA's Statement on PFOFs ("*ESMA is aware that some firms receiving PFOF from execution venues present a list of execution venues to their clients and ask their clients to choose the specific venue to execute their orders. The execution venues providing PFOF are presented in a prominent or more appealing manner. In doing so, the order is supposedly executed according to the specific choice made by the client and thus the execution of the order would fall outside the remit of the firm's best execution obligations. ESMA*

	emphasises that this practice raises investor protection concerns. By presenting the execution venues providing PFOF to the firm in a prominent manner, clients are systematically induced to choose an execution venue that provides PFOF to the firm. In ESMA's view, such a choice does not constitute a proper specific instruction from the client.") (ESMA35-43-2749). In addition, increasing control on best execution will not in itself prevent shortcomings and potential investor's detriment. To our knowledge, the issue is not that article 27(2) of MiFID II is unclear but that best execution and COI provisions are interpreted differently in the different Member States and are difficult to supervise as currently drafted. Therefore we do not believe that the suggested approach will solve the issue. FI: We would not consider the Presidency proposal to ensure the retail investors interest. It would be difficult if not impossible for retail investors to compare different service providers costs and it would be very likely that retail investor would not spend the time studying how the best execution had been fulfilled in their transaction in the past. BG: We prefer a complete ban. PL:

	Unfortunately, we think the issues raised by PFOF are not resolved by the proposed solution. Also we think it would be difficult to draft provisions which would effectively ensure a sufficient degree of retail investors protection in this respect. DK: As noted in Q1, we would prefer an outright ban complimented with the possibility of having some exclusions. While we acknowledge the merit of enhancing management of conflict of interest and increase control over best execution, we are concerned about potential grey areas, making it difficult to enforcement in practice. An outright ban complemented by some exclusions leaves less room for grey areas and thus seems easier to enforce in a uniform manner across EU. EE: No. IT: In light of the multiple requirements applicable to PFOF in terms of conflict of interest, best execution, incentive regime and cost transparency, firstly it seems appropriate to clarify how to apply the already existing requirements to the various "PFOF-like" models and practices and then to

	assess whether it is necessary to strengthen the overall framework of existing rules. SI: LT: No. AT: See above RO: No, we are not supportive. HU: CY: HR: Yes, we could you support the proposed solution to enhance the management of conflict of interest and increase control over best execution NL:

	See our answer to Q1. LU: IE: No - the proposed approach pushes the responsibility down to the investor and that is not appropriate. The conflict of interest needs to be addressed 'up stream' between the broker and venue. Presenting PFOF information or alternative venue choices to retail investors is token transparency as the investor will almost always choose the minimally cheapest option, which will be PFOF. PT: Please see our comments to Q.1. DE: We support, in principle, the idea of benchmarking the trade execution at PFOF venues as compared to non-PFOF venues. While we do not think that for this purpose close-to-real time pre-trade data is needed, we would be open to further assess the proposal to extend the post-trade CT to top of the book bid and offer data. However, any extension could only be considered as part of an overall compromise solution including an appropriate solution of the PFOF issue.

	ES: In line with what has been expressed in recent meetings, we support a total ban on PFOF. However, to reach an agreement between those in favour of the ban and the blocking minority, we can consider an intermediate proposal that would have investor protection at its core to be acceptable. Regarding the possibility of using the EBBO as a benchmark to monitor best execution, we believe that this would only be possible with an EBBO based on mandatory contributions from all trading venues, and properly designed. Therefore, the post-trade CT (including the EBBO) with 1 minute deferral and based on mandatory contributions could be a good benchmark to monitor best execution, although it would not be enough. Along with the creation of a properly designed benchmark, it would be necessary to establish additional disclosure obligations for investment services firms receiving PFOF. Brokers should always and prior to the execution of the transaction inform investors that they are receiving PFOF and the conditions under which the transaction will be executed. In addition, so that the investor can make an informed decision on whether to execute the transaction with PFOF or in a different trading venue, the broker should inform of the commissions and any other additional costs associated with the operation. In this sense, it is necessary to remind that

	brokers do not have direct access to all trading venues and if they wanted to execute in certain trading venues, they should do it through another intermediary, and all these toll costs should be reflected and showed to investors. Consequently, in order to achieve a proper monitoring of the best execution, not only the execution price, but also all the additional costs of the transaction should be taken into account. If investors have this information, their protection will be guaranteed and PFOF practice will be under control. Finally, as we commented at the last meeting, we believe it is necessary to give a mandate to ESMA to develop the method for calculating and measuring best execution, including aspects such as the selection of trading venues and the minimum number to compare, how shares will be grouped to calculate the quality of execution, the periodicity of the analyses or how to incorporate explicit costs. FR: We must go further than the proposed solution as proposed above. EL:
Q.3. Are there any other safeguards you would like to add to MiFID II?	SK:

	We are of view that routing order should be generally stipulated just in MiFID II Directive. We consider PFOF as specific situation of routing client orders. LV: Alternatives to the prohibition like disclosures on order routing practices, costs, and payments are necessary but not sufficient and the emergence of an EBBO would not solve the problem of PFOF. However, there are second-best options. A way to protect retail investors could also be achieved, or at least complemented, by limiting SI equity trading to above LIS via Article 1(8). By the same token, PFOF could only be allowed in multilateral trading systems (trading venues), this would diminish the conflict of interest as it would preserve the competition of trading interests and price formation. BE: We suggest keeping the PFOF ban proposal and clarifying that the ban applies to any direct and indirect payment/receipt of PFOFs to avoid potential circumventions. The provision could be drafted as follows: "Investment firms acting on behalf of clients shall not receive, directly or indirectly, any fee or commission or non-monetary benefits from any third party for forwarding client orders to any third party for their execution". In addition we would clarify whether research referred to under art. 24 9a) of MiFID II fall under the ban or not.

	FI: BG: We prefer a complete ban. PL: DK: EE: Not at this time. IT: **None at this stage. We look forward to the draft revision envisaged at Q.1 and Q.2 for more detailed evaluations and proposals.** SI: LT: Not at this point of time. AT: No. RO:

	No comments. HU: CY: HR: We agree that additional requirements should be considered that would further frame PFOF practices and introduce more transparency instead of a clear cut ban. We mostly agree with the presidency proposal; however, we have additional proposals to the presidency solution: BBO/EBBO – we believe that a post-trade consolidated tape with the EBBO/BBO shown for equities would not provide enough information to help determine and monitor best execution. The best possible result shall be determined in terms of the total consideration, representing the price of the financial instrument and the costs relating to execution, which shall include all expenses incurred by the client which are directly relating to the execution of the order, including execution venue fees, clearing and settlement fees and any other fees paid to third parties involved in the execution of the order" which would not be implemented (only) in the prices shown by the CTP. The BBO/EBBO would be a reference price for the broker however it is not of particular importance to the client.

	"Trade-at" rules - Payment for order flow arrangements create conflicts of interest because they can result in the payment recipient directing a client order to the market intermediary that provides the best incentive rather than the best execution outcome for their client. The client may receive a worse overall outcome as they typically do not receive the payment for order flow and the execution price does not capture sufficient price improvement. This problem can be solved by implementing so called "trade-at" rules. These rules require a stock trade to occur on a public exchange unless a significantly better price was available elsewhere. One more advantage of this approach would be that it would provide incentive to SIs to provide better prices instead of losing volumes that would be moved to lit markets. Canadian and Australian regulators implemented novel restrictions that require dark trades to provide meaningful price improvement relative to the best quotes at transparent exchanges so called trade-at rules. These rules have its pros and cons but the cons can be mitigated by reductions in tick sizes. More transparency - Make publicly available each month/quarter/semi-annual/annual a report on the firm's order routing practices to include the aggregate amount of any PFOF received and a description of any arrangement for PFOF1. Clients specific instruction

	Where a financial intermediary receives a payment from a trading counterpart in exchange for ensuring the execution of client trades, it should be ***incompatible with the principle of best execution that such financial intermediary accepts any specific instruction from its client which would prevent him from achieving the most favourable result for his client.*** *A financial intermediary should therefore not nudge its client to specify a given venue for the execution of its orders among a set of venues pre-selected by the financial intermediary. Likewise, the financial intermediary should not enter into a contractual relationship with a client under terms whereby some or all orders received from that client will be deemed to be orders with a specific instruction regarding the venue where such orders shall be executed*. As regulated by Article 27. of MiFID an investment firms shall take all sufficient steps to obtain, when executing orders, the best possible result for their clients taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order. **Nevertheless, where there is a specific instruction from the client the investment firm shall execute the order following the specific instruction**. Although we agree the client should not be channelled towards a particular trading venue by the investment firm, he should still have the option of choosing the trading venue. Even now we have a situation where a client

	chooses the TV, especially in case of cross-listed financial instruments. Maybe the price on the PFOF TV would be better and the investment firm offers the client to execute the order at that venue, but the client prefers to trade at a lit venue. The client should be given a choice to choose the venue he wants to trade at from the set of venues the financial intermediary is able to trade at. While it is essential to regulate that investment firms do not direct a client order to the market intermediary that provides the best incentive rather than the best execution outcome for their client there are situations, which would be covered by the client specific instruction, that would comply with the MiFID requirements regarding the obligation to execute orders on terms most favourable to the client regardless of the price aspect taking into account the clients wish. NL: See our answer to Q1. LU: IE: We would like to see text to ensure the PFOF ban cannot be easily circumvented.

	PT: At this stage, PT does not have any suggestions on any other safeguards. DE: With the introduction of a consolidated tape on equities based on top of the book bid and offer data, in particular retail investors will be able to benchmark trade execution at PFOF venues on a continuous basis. In our view possible concerns on PFOF practices would be adequately addressed by this amendment. We do not think that additional safeguards are necessary. ES: See answer to Q.2. FR: See above. EL:
Wholesale Market – additional features for consideration in the MiFIR reform	AT: Possible implications of the UK financial market bill for EU legislation should be assessed carefully in order to avoid potential unintended consequences for the EU market and its participants. We therefore believe this topic needs further reflection

	and detailed discussion, also with regard to possible equivalence decisions of the COM on this behalf RO: We understand the concerns related to the changes that are expected in the UK market and we are open to further looking and certain calibrations that need to be implemented in the EU market.
Q.1. Could you support removing the STO as inspired by the UK Bill?	SK: Yes, european capital markets should not have competitive disadvantage in comparison to UK. LV: No, the STO remains necessary and is an important element in ensuring and enhancing the efficiency, resilience and integrity of financial markets. The obligation of investment firms to ensure that the trades they undertake in shares admitted to trading on a regulated market, or traded on a trading venue, take place on a regulated market, MTF, SI, or an equivalent third-country trading venue is fundamental for capital markets. However, for the STO to be fully functional, changes proposed in the Commission's MiFIR review text are necessary. These define the STO perimeter as shares with an EEA ISIN and remove the exemption for trades in shares which are non-systematic, ad-hoc or irregular and infrequent. BE:

	We would not support a full removal of the STO. FI: We are not aware of any major problems regarding STO, that would need further actions like removing the STO. Would support to keep it. BG: PL: DK: Some general remarks related to UK development: - Denmark believes that the established processes for EU-legislation should be followed. To make decisions without proper impact assessments and due analysis is not without risk and could potentially jeopardise the overall structure and aim of regulation in a field. Moreover, it would be counter to the principles of better regulation as set out in the EU. Furthermore, a radical change of the text would imply that MS need to adjust their political mandate, thus prolonging the current negotiations further. - Market structure differs between the EU and the UK. That means that the best legislation is not necessarily the same. UK is more driven by the very large investment banks whereas trading venues in the EU play a more prominent role.

	- To follow the UK would for some trading scenarios provide a better price but with less transparency, which could be detrimental to price formation process. We are not convinced that relaxing transparency rules in EU is the best way forward for European markets. We note that such a move would be a change in the direction as it is directly in opposition to the objectives of MIFIDII and MIFIR, which was to improve transparency. Finally, we also note that the UK Bill is in draft format and changes may still arise during the UK legislative negotiations. Hence, it would essentially be amending EU rules according to a moving target which we find cause for concern. EE: We still have a scrutiny reservation for the issues described in Q1-Q7, but we are leaning towards supporting the amendments as proposed below. IT: **We would preliminarily observe that the simultaneous deletion of the STO on the UK market and the retention of the regime in the EU might incentivise trading on EU trading venues with respect to UK venues.** We would express a preference for maintaining the currenct exception or for the introduction of alternative measures of flexibility in order to cope with any potential future and unexpected issue with the current fixed list, given the leaway and usefulness of this exception in the Brexit case. **In any case we believe that the UK developments as well as**

	the collateral impacts on the EU markets would better be further investigated before taking any decision about a possible alignment. Therefore, as we undertand the rationale behind a possible removal and we are open to discuss on such an issue. However, we recognize the rationale behhind a possible removal and we are open to discuss on such an issue. SI: LT: We still have a scrutiny reservation for the issues described in the following questions, but we are leaning towards supporting these amendments. AT: RO: HU: CY: Still analysing

	HR: We agree with the previous Commission proposal to clarify in the level 1 the scope of the Share Trading Obligation, limiting it to instruments with a European Economic Area (EEA) ISIN. NL: Our answers to the questions on the UK Bill are still preliminary. In general, regarding these additional features for consideration, we argue that it is important to keep in mind and follow closely the developments in the UK, given the competition aspects. However, we should be cautious in our decisions whether to follow a similar path as the UK on these topics. This could be detrimental for investor protection, market integrity, market structure, transparency and the competitiveness on the EU capital markets. It could furthermore lead to a race to the bottom, which is undesired. We are open to further discuss these topics in upcoming Working Parties. Regarding the first question on the STO; No, we support the (initial) Commission's proposal to limit the STO scope, in line with the ESMA recommendations.

	LU: We are reluctant to abolish the STO altogether, which has proven its benefits in strengthening the integrity of EU capital markets. The changes proposed by the Commission's proposal and contained in the last Presidency's compromise text limiting the STO to EEA ISIN shares seem reasonable. IE: No, Ireland does not support mimicking the UK approach on STO. STO was not designed primarily as a means to limiting trading on third country venues but on limiting trading off-venue via OTC. We could be open to examining measures to allow those subject to an EU STO to trade on certain third country venues though this would seem to overlap with the issue of equivalency. In any case we do not support measures that might increase the scope and scale of OTC transactions that might have taken place on venues otherwise. PT: PT is open to support removing the STO, as inspired by the UK Bill. DE:

	The EU STO ensures that trading of EU shares takes place at EU trading venues and should therefore not be removed at the present stage. ES: No, the STO in the terms agreed in the new text is correctly designed and responds to the objectives of the CMU and the MiFID/MiFIR reform. The elimination of the STO would cause serious damage to European markets, would harm transparency and could lead to a flight to RU markets. FR: Before embarking on this path, a detailed analysis by the Commission of the anticipated costs/benefits would be required. EL: The UK Financial Services and Markets Bill (the Bill) introduces proposals for a simpler and less prescriptive regime that aim to growth and competitiveness of UK markets, at a direction opposed to the one already maintained by the EU legislations the preceding years. We acknowledge the issue of EU competition, and the effect of these proposals to EU markets should be taken into account regarding the competition of EU investment firms and markets. However, in case some of these proposals are implemented in EU, their effect on market transparency and investor

	protection should be also be taken into account. We would welcome an impact assessment before proceeding with these amendments.
Q.2. Could you support the changes in pre-trade transparency for equities and the removal of double volume cap similar to what is proposed in the UK Bill?	SK: Yes, we support this proposal. LV: No, a volume cap on dark trading is necessary given the negative effects of dark trading on price formation. The balance between dark trading (for example on SIs, OTC, and on venues under waivers from pre-trade transparency) and transparent trading needs to be reframed appropriately by regulation. Dark venues may serve as useful execution venues for certain purposes. Nevertheless, they are potentially harmful to the quality of trading through the deterioration of the price formation process as trading in dark venues limits the information available for price formation and fragments the order flow. BE: We would not support a full removal of the double volume cap. However, we could support a more flexible approach to amend existing regulation allowing to respond more quickly to market trends. FI:

	Yes we could support removal of double volume cap similar to the proposed in the UK. From the point of harmonized market practices we would not support different local/national regime regarding waivers. BG: PL: DK: The proposed changes to the pre-trade system would radically change the way the waiver system works and needs to be carefully analysed before a decision is taken, cf. our answer to Q1. Denmark cannot support a removal of the double volume cap. As previously stated, we would prefer a single volume cap in order to ensure that pre-trade transparency cannot fall under a fixed threshold. EE: IT: We are in favor of simplifying the system of exemptions provided for in the transparency rules, which seems to be very complex to apply, especially with reference to the double volume cap rule. Furthermore, we would express doubts on the possibility to completely delegate the waivers' definition to NCAs, as proposed in the UK, as it could lead to diverging

	approaches across EU Member States. A similar choice would also appear in contradiction with the proposal for the harmonisation of deferrals in the EU and its objectives. The proposal that refers to a single EU-wide threshold instead of two steps mechanism goes in the right direction since it simplifies monitoring the levels of dark trading and enforcing the suspension. At the same time, abolishing the venue specific threshold together with the lowering of the percentage of the overall cap seems to guarantee the effectiveness of the waiver mechanism SI: LT: AT: RO: HU: CY: Still analysing

	HR: We would be open to explore the option of suspending the volume cap mechanism for an initial period of three years before removing it following an evaluation by ESMA - It could be worth exploring if ESMA could be empowered with a mandate to determine trend indicators on the level of "dark trading" in the EU market where the continued use of this suspension may be detrimental to retail client protection and detrimental to the integrity of the EU markets (data on this could be included in the bi-yearly reports). - It could also be worth exploring which legal mechanism in the EU could provide us with a quick fix solution where we can "pull the break" on this suspension if we see a deterioration in market behaviour (i.e. as evidenced by ESMA reports). While it wold not be possible to provide ESMA with the power to end the suspension, there may be other options available: a) Member States could decide to have a quick-fix discussion to alter or discontinue the suspension (before the suspension expires) in case that major issues emerge. This type of legislative procedure could be slightly quicker than a comprehensive procedure but still requires a time-consuming discussion in the Council; b) granting the power to the Commission to end the suspension period prematurely, in case that major

	issues emerge (the legal vehicle for this would need to be discussed further). NL: No, we support the (initial) Commission's proposal to change the DVC to an SVC. LU: The simplification of the DVC regime, as suggested in the Commission's initial proposal, seems reasonable. Caution should be exercised regarding a possible complete abolition/suspension of this cap in the EU. IE: Ireland is supportive of the changes to the DVC as set out in the latest positions in the MiFIR Review (i.e. moving to a single volume cap). PT: PT supports the initial proposal presented by the COM of replacing the double volume cap by a single volume cap. DE:

	Pre-trade transparency requirements such as the DVC promote trading at transparent venues and should therefore be maintained. ES: No, a volume cap on dark trading is necessary given the negative effects of dark trading on price formation. The balance between dark trading (for example on SIs, OTC, and on venues under waivers from pre-trade transparency) and transparent trading needs to be reframed appropriately by regulation. FR: We would be ready to study the possibility of a temporary suspension of volume cap with a mandate given to ESMA to assess the causal impact of this suspension on market liquidity. EL:
Q.3. Could you support changes in definition of SIs similar to those proposed in the UK Bill?	SK: Yes, we support this proposal. LV: Clarifying the regulatory perimeter for trading venues is welcomed. However, some of the proposals, such as those basing the definition of SIs on qualitative

	criteria or allowing SIs to execute at the midpoint for all trades, are ill-suited for this purpose. There is merit in fostering a uniform understanding of the differentiation of multilateral and bilateral systems. To level the playing field, we would like the introduction of an authorisation procedure for SIs. Further, regulatory authorities should carefully monitor if systems registered as bilateral systems operate as such and do not engage in any multilateral activities. While SIs are regulated under MiFID II/MiFIR as execution venues providing bilateral trading, they provide less transparency than on-venue trading. This can be problematic when the distinction between purely bilateral and hybrid multilateral trading is blurred. The same scrutiny should apply to operators of multilateral systems. Should the authorities come to the conclusion that a clear identification of bilateral systems is not possible, they might want to consider introducing a definition of bilateral activities into the legal framework to clearly differentiate them from multilateral systems. BE: Further analysis is needed on the impact this modified definition would have on the SIs. FI: We would be open to discuss further on this possibility. BG:

	PL: DK: At this time, we cannot express support for this proposal. Moreover, we would welcome clarification as to whether the definitions would be set and interpreted by ESMA. EE: IT: We are still analysing the proposal. SI: LT: AT: RO: HU: CY: Still analysing

	HR: Yes The risk of enforcing a complete equalisation of transparency requirements between trading venues and SIs is that the increase in (nominal) transparency will have a limited (positive) impact on client benefits and liquidity, and almost certainly a negative impact on EU competitiveness in relation to developed third country markets. SIs are to be considered as entities trading on their own account, and providing liquidity, in particular for less liquid instruments. We are in favour of removing the restriction on midpoint crossing for systematic internalisers for all trades. As for the TV, we are in favour of the previous proposal already discussed at the previous WP i.e. to allow trading at the midpoint without tick size-related constraints above the threshold defined by ESMA. NL: No, our preliminary view is that these changes would result in less pre-trade transparent SI trading. LU: Yes, the simplification of the regime regarding the definition of SIs deserves further analysis.

	IE: Ireland is open to supporting practical and appropriate changes to MiFIR though we would like to see further detail on potential impacts. As we understand it the UK legislation leaves it to the FCA to interpret the new definition and this adds uncertainty as to what the EU may be trying 'shadow'. As a general principle we do appreciate that there is a need to ensure the competitiveness of EU venues vis-à-vis third country venues. However, we are also cognisant of potential impacts on price formation if there is a very permissive definition of SI. PT: In line with our overall view concerning the EU legal acquis on SI, we do not favour this approach, as we consider that the adopted approach should foster the level playing field between SI and TV. For this reason, we expressed a broad positive view concerning the amendments proposed in the COM original proposal on this regard. DE: Changing the definition of SIs would lead to decrease in the number of SIs which would reduce transparency in the markets. The fact that many investment firms have opted into the SI regime in order to offer reporting

	services to their clients could be addressed by creating a new category of "designated reporting entity" (see draft ECON report). ES: In order to adequately answer this question, we would need more information on the qualitative criteria that would be used to delimit the SIs. Quantitative criteria provide greater certainty, so a possible shift to a qualitative system could only be considered if the indicators were well calibrated and provided a reasonable degree of certainty. FR: We have no strong opinion on this point at this stage. EL:
Q.4. Could you support removing the restriction on midpoint matching as proposed in the UK Bill?	SK: We support this proposal. LV: No, midpoint orders are executed at the expense of participants willing to set or display a price and should be limited and only allowed under waivers. BE:

	We would favour an approach where all market parties comply with the same tick size regulation. FI: We would be open to discuss further on this too. However, we wonder what would be the motivation for trading venues to keep e.g. the current rules on tick sizes. BG: PL: DK: DK believes that EU legislation should ensure that SIs are not given a preferential status. If the reference price waiver (RPW) is capped to trades above certain size one can wonder where the flow that did not used to be capped will go. It is not a given that this non-transparent flow will go to lit venues. It is likely that it will lead to more SI-trading, especially if SIs can offer better prices, which would be the case if SIs are allowed to cross orders at midpoint for all trades. EE:

	IT: While we see the potential advantages of this proposal, we are still reflecting on its potential consequences. SI: LT: AT: RO: HU: CY: Still analysing HR: The risk of enforcing a complete equalisation of transparency requirements between trading venues and SIs is that the increase in (nominal) transparency will have a limited (positive) impact on client benefits and liquidity, and almost certainly a negative impact on EU competitiveness in relation to developed third country markets. SIs are to be considered as entities trading on their own account, and providing liquidity, in particular

	for less liquid instruments. We are in favour of removing the restriction on midpoint crossing for systematic internalisers for all trades. As for the TV, we are in favour of the previous proposal already discussed at the previous WP i.e. to allow trading at the midpoint without tick size-related constraints above the threshold defined by ESMA. NL: We are open to further discussing possibilities to allow for midpoint matching. The result should in our view reflect not only the competitiveness vis-à-vis the UK, but also the balance between various types of EU venues. LU: IE: Ireland is open to supporting the removal of restrictions on midpoint matching having regard to the competitive offering of EU entities subject to these restrictions and the potential to achieve better execution for investors. However, we would need to see further detail before coming to any conclusion on this. PT:

	We do not have strong views in relation to the tick size regime, but we recognize it should be reviewed, in light of the need to: (i) Strengthen the level playing field between TVs and SIs; (ii) Simplify the current transparency regime; and (iii) Maintain the competitiveness of European markets in a context of UK regulatory divergence. DE: In principle trading venues and SIs should be subject to the same requirements regarding the application of the tick-size regime. We would therefore be reluctant to follow the UK example. ES: No, we still support the alternative agreement on midpoint matching. FR: We would be ready to contemplate this possibility but would ask for a cost-benefit analysis from the Commission. EL:

Questionnaire MiFIR/MiFID working party meeting on 12.09.2022. *Deadline for comments:* ***20 September 2022***

Replies from: SK, LV, BE, FI, BG, PL, DK, EE, IT, SI, LT, AT, RO, HU, CY, HR, NL, LU, IE, PT, DE, ES, FR, EL

Q.5. Could you support the DTO exemption for risk reduction transactions as proposed in the UK Bill?	SK: This is very rational proposal. Risk reduction transactions should always have specific regime, the form of DTO exemption is possible approach. We support the DTO exemption for risk reduction transactions as proposed in the UK Bill. LV: In general, the MiFIR provisions for the DTO and the new scope of counterparties subject to the clearing obligation under EMIR Refit should be aligned. Any exemption on either the clearing obligation or the DTO should be reflected in the other. Given that the clearing obligation and the DTO should be fully aligned, a change of the DTO alone or a standalone suspension of the DTO should be avoided. BE: Further analysis is needed. FI: We would be open to discuss on this further. BG: PL: DK:

	We refer to our general reservations on making adjustments based on third country potential rules without in depth analysis of the EU-rules. EE: IT: Subject to further analysis, we would not in principle object to such proposal. SI: LT: AT: RO: HU: CY: Still analysing HR: We find that the portfolio optimisation/rebalancing are useful tools to manage risk in both cleared and uncleared portfolios. Exempting certain transactions that result from portfolio compression and rebalancing

	exercises would help to increase the use of these post-trade risk reduction services and contribute to reducing risk. NL: We are open to further discuss this issue and would be pleased to receive further clarification by the Commission or Presidency on the effects for the UK and, if we pursue this path, for the EU. LU: The granting of additional exemptions to the DTO regime for risk mitigation purposes deserves further analysis. However, care should be taken to ensure that the clearing obligation under EMIR is always fully aligned with the MiFIR DTO. IE: Ireland has no strong views on this issue. PT: While we consider that this matter requires a more comprehensive assessment, for the moment we consider that this approach could better ensure the alignment between DTO and EMIR clearing obligation. DE:

	We would be open to further assess the possibilities of an exemption from the DTO for post-trade risk reduction services. However, the approach would need to be aligned with the approach on the clearing obligation. ES: In principle, we have no objection to the elimination of the DTO for risk reduction transactions. FR: Before embarking on this path, a detailed analysis by the Commission of the anticipated costs/benefits would be required. EL:
Q.6. Could you support granting flexibility to ESMA to determine the deferrals for non-equities with the parameters set in Level 1 text as inspired by the UK Bill?	SK: We generally support ESMA involvement because deferrals for non-equities should be based on data from all European capital markets and ESMA is well acquainted with market practice in EU Member states. LV: As noted, the large number of exemptions from post-trade transparency requirements have made the rules complex and costly. Hence, the aim of this

	review should be harmonisation and simplification of the system. Adding five categories of potential deferrals might further complicate the system. The initial proposal from the Commission to delete the SSTI concept, leaving the LIS and illiquid waivers only, seem more reasonable. BE: We could support more flexibility. ESMA could indeed play a role in setting these parameters. FI: We could support granting ESMA powers to decide on deferrals within the parameters set in level 1. BG: PL: DK: We refer to our general reservations on making adjustments based on third country potential rules without in depth analysis of the EU-rules. EE:

	IT: Yes, considering that ESMA has already flexibility in fixing non-equity deferrals as set in paragraph 4 of the new article 11 of Mifir (compromise text), we would support ESMA's empowerments for the final determination of these technical specifics of the legislation. SI: LT: AT: RO: HU: CY: Still analysing HR: We feel that we have reached a high-quality compromise proposal in the previous working groups as regards to the deferral regime. However, we also consider that a distinction should be made between financial

	instruments and that the deferral regime for bonds cannot be applied to derivatives NL: While parameters should be set in Level 1, we are open to discuss whether we can mandate ESMA to calibrate certain particulars, to allow for some flexibility. LU: Yes, provided sufficient guidance is set at Level 1 on the deferral regime, the exact calibration could be left to ESMA. IE: Ireland is open to support this proposal. We have stated previously that fixed income and derivatives transparency regimes require a bespoke approach as they are not easily adapted from other regimes and the complexity of those markets warrants more tailored regulatory approaches. Setting out non-equities conditions for EMSA in Level 1 and allowing for limited ESMA discretions in Level 2 would seem to be an appropriate way forward. We do not support copying the UK approach very closely and fully delegating developing transparency regimes to ESMA without sufficient direction.

	PT: Yes, in order to simplify the current transparency regime for non-equities which is very complex and foresees a large number of exemptions and makes it difficult for the market to view actual traded prices, PT could support granting flexibility to ESMA to determine the deferrals for non-equities with the parameters set in Level 1 text. DE: We would be open to grant ESMA more flexibility on the deferrals for non-equities than is currently the case. However, the basic parameters would need to be set at the level 1. ES: Please, see our answer to deferrals for non-equities. FR: Yes. As a general principle, the articulation between Level 1 and Level 2 and 3 standards should be thought through since calibration of thresholds rarely fits well in Level 1 standards, since it is then difficult to adapt them to how market players react, where liquidity moves, etc. EL:

Q.7. Could you support granting flexibility to ESMA to determine the particulars for the CT as inspired by the UK Bill?	SK: These particulars should be mentioned at level 1, then is possible to grant also some flexibility to ESMA. LV: Whilst the Level 1 text should define the basic framework for a CT, ESMA should be actively involved in the setup of the infrastructure. The authority should be given flexibility in aspects like establishing the revenue model, governance and authorisation framework, data standards, or the sequencing of the CT. BE: Further analysis is needed. FI: Yes, we could support ESMA powers here too. BG: PL: DK: We refer to our general reservations on making adjustments based on third country potential rules without in depth analysis of the EU-rules.

	EE: IT: As mentioned above, we would support ESMA's empowerments for the final determination of these technical specifics of the legislation. SI: LT: AT: RO: HU: CY: Still analysing HR: We consider this impossible to implement at EU level in the light of the problems arising from the CTP requirements, especially in terms of mandatory contributors. Some flexibility could be granted to ESMA. However, it should be discussed in which area, would it be in setting the

	multipliers or the whole revenue participation mechanism, data quality or a list of mandatory data ect. NL: We support continuation of our discussions in Council on the scope, renumeration and other particulars of the CTs. When discussing these aspects of the CT, we are open to assess whether certain specifics are better to be set at Level 2 by ESMA. However, given the Commission's proposal, certain aspects will need to be decided at Level 1 by the co-legislators. LU: It is not entirely clear to us what exact flexibility could be granted to ESMA in the context of the CT, therefore we cannot formulate a definitive opinion on this matter. However, in general, we consider that the main cornerstones of the CT should be defined at Level 1. IE: We would need to see further detail on this approach before we could indicate our support. While we support allowing ESMA to determine certain technical elements of CTs and CTP operations many issues have become politically sensitive and there is a role for MS in determining certain criteria and making certain decisions in Level 1.

	PT: We are not open to support an approach that empowers ESMA to set the requirements that consolidated tape providers should comply with as we consider that this should solely result from legislation. DE: We would be open to grant ESMA flexibility on the details of the remuneration scheme (see above) with the basic parameters to be set at the level 1. ES: FR: We would need to understand what these "particulars" would refer to before sharing any feedback. EL:
End	**End**