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Introduction

On behalf of the International Capital Market Association (ICMA), we are pleased to provide feedback regarding "HM Treasury Wholesale Markets Review" consultation paper. Primarily, ICMA's response is from ICMA's MiFID II transparency taskforce but a few responses also take into account ICMA's other working groups and committees, such as repos and primary markets. ICMA is grateful for the opportunity to respond to HMT's consultation paper. The ICMA MiFID II transparency taskforce member response is based on consensus view from a varied group of buy-side and sell-side investment firm bond trading participants, representing EU 27 countries, the UK and the US. There is a unique value in conveying a broad view from across buy-side and sell-side communities and we hope this response is informative and useful. Taskforce members welcome the efforts of HMT to seek out stakeholder views concerning a review of wholesale markets. However, this response is solely in relation to cash bonds. The following is a summary of ICMA's response.

Regarding regulatory perimeter when dealing with tech/software providers, ICMA's transparency taskforce supports HMT's proposal to adopt a flexible approach to the trading perimeter, in order to continue supporting innovation and remove any potential barriers to entry.

ICMA suggests the SI regime for bond trading should be removed. It is clear the SI regime in bond markets is complex to implement, understand and certainly does not achieve it's original (equity-based) intention. If the SI regime for bonds is not removed, ICMA recommends de-coupling post-trade transparency from the SI regime and adding 'Super Reporter' at entity and asset-class level, creating greater certainty for buy-side clients (identifying the SI status of their counterparties and whether they will or will not carry out post-trade transparency requirements for them).

ICMA has observed bond market participants are <u>not</u> using MiFIR pre-trade transparency data. Instead, buy-sides are using 'market' pre-trade transparency for price discovery such as axes and inventory. For instance, when trading an illiquid bond, the buy-side will search for axes (pre-trade pricing quotes) and inventory and negotiate bilaterally with a counterparty to trade. Instead, the focus should be on post-trade transparency and the consolidated tape (CT). Resulting in bond market participants benefitting from liquidity provider cost savings

ICMA is pleased to see the HMT has split out corporate bonds by high yield and investment grade. Instrument credit rating is an embedded everyday routine concept in bond markets and a key variable in determining liquidity, and thereby any sensible future transparency regime.

ICMA further considers the best way to determine the scope of transparency is to first aggregate the bond data into one single centralised consolidated tape and see how much transparency the current regime is bringing to the market. Then once there is visibility, it will be easier to better review and analyse the data to determine the most appropriate deferral regime, keeping in mind sensible variables that reflect liquidity status such as amount outstanding and trade size based on high yield (HY) and investment grade (IG) credit ratings.

Balancing simplicity and complexity in a post-trade transparency regime is key to a workable post-trade transparency regime. Overcomplicating the transparency regime is unproductive while the

same is true for oversimplifying the transparency regime. The Taskforce would like HMT to keep in mind bond markets are not black and white they are more nuanced, when determining any future post-trade transparency regime.

ICMA's transparency taskforce agreed HMT should take action to drive forward the development of a CT by reaching out to data providers who have declared an interest in becoming a CT provider in the UK. ICMA also believes it is essential that the responsibility for data feed provision should be changed from the CTP's obligation to 'obtain' data, to stating that trading venues and APAs have an obligation to 'provide' data to the CTP and extended to self-reporting firms, where applicable. Furthermore, ICMA considers there should be a form of a partnership where the FCA has oversight responsibilities but not day- to- day operation of the CT. The key is to have FCA and industry interaction through the 'DEAG' (see below), creating a form of public/private utility.

Data Expert Advisory Group "DEAG"
The bond consolidated tape will require a Data Expert Advisory Group (DEAG) to be part of the operating model of the chosen bond consolidated tape provider. The 'DEAG' would consist of buy-side, sell-side, trading venue and APA market participant experts and meet on a semi-annual basis to review and look back at the transparency situation from the previous six months. This expert group will recommend to FCA to either increase/decrease/hold thresholds based on real market experiences.

- ***If there are found to be negative market liquidity impacts, perhaps from reduced sell-sides balance sheet risk provision then thresholds could be modified to provide less transparency. If the market is working well with current thresholds and the 'DEAG' agree there would not be any undue risk to increasing transparency, then thresholds could be changed to increase transparency.***
- ***This 'DEAG' would also in times of crisis (e.g., Covid) recommend necessary changes to thresholds/deferrals.***
- ***No transparency threshold modification should be considered, without (analysis-based) agreement from the 'DEAG'.***
- ***The 'DEAG' buy-side and sell-side market participant representation should include a balance of natural transparency preferences. APAs and trading venues will advise on data quality and market operator experiences from the last six months.***
- ***Recommendations from the 'DEAG' should be considered 'actionable'.***

ICMA's European Repo and Collateral Council (ERCC) contributed to this response with specific comments on question 94 about the reporting of repos and other securities financing transactions (SFTs) concluded with EU central banks which are currently reported under MiFIR. As further explained in our response, ICMA believes that MiFIR is not an appropriate transaction reporting framework for SFTs. We therefore ask the HMT to review the current approach and to exclude all types of SFTs from MiFIR reporting. This would affect SFTs with EU central banks but also with the Bank of England which are currently both reportable under MiFIR

<u>**HMT - Consultation Questions w/draft responses**</u>

Chapter 2: Trading Venues

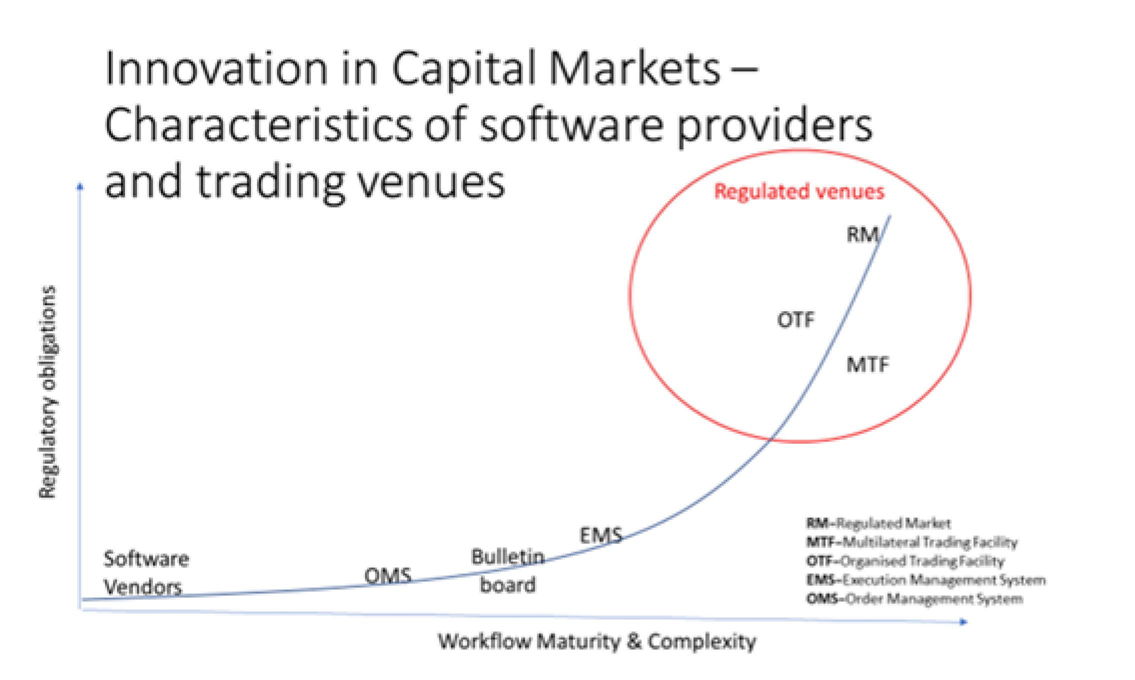
1. Where do you think the regulatory perimeter for trading venues needs to be clarified?

ICMA considers no further clarification is needed.

2. Do you think it would be more appropriate for changes to be made to the definition of a multilateral system in legislation, or for the application of the existing definition to be clarified through FCA guidance?

ICMA supports HMT's proposal to adopt a flexible approach to the trading perimeter question, in order to continue supporting innovation and remove any potential barriers to entry.

ICMA considers if the FCA decides to clarify multilateral system definition, they should do so through guidance using the existing definition (clarifying further as suggested below) and after proper consultation with the industry. ICMA also believes it is important for the FCA to consider this issue holistically and on a 'case- by- case basis', where the FCA engages with tech providers to ensure they have the right permissions in place.



ICMA taskforce members view the main characteristics of multilateral as 'many to many' with interaction (bringing multiple buying and selling interests together, allowing interaction of those interests). In bond markets, the interaction in software is on a bilateral basis, as in any EMS or OMS, which routes trades bilaterally.

ICMA doubts that technology (software, routers, networks, billboards, email, chat messaging and voice etc.) is intended to be object of regulation by the HMT, unless it happens to somehow be 'making the decision to trade' through automation. It should be recognised that usually the decision to trade is taken between firms who are themselves regulated.

Furthermore, ICMA would like to point out that, if the FCA does not provide clarifying guidance with a clear distinction as to where the boundary begins, this will lead to ambiguity as to where the line would be drawn. For instance, if a billboard, or an EMS or OMS that is wholly under the control of a trader, is to be regulated, what is the point of difference in the regulatory perimeter between the telephone, chat or email?

FCA guidance should be based on the design of the system, the role the software provider assumes, their involvement, and the responsibilities in the day-to-day operation. Also, the type of protocols and interactions between participants within them should be evaluated to determine authorisation as a trading venue or not.

ICMA considers an entity should seek authorisation with the FCA to operate as a trading venue - OTF, MTF or RM where the three following conditions are met (all three not any of the three):

a) trading is conducted on a multilateral basis,

b) the trading arrangements in place have the characteristics of a system, and

c) the execution of the orders takes place on a discretionary basis (OTF) through the systems or under the rules of the system.

Potentially forcing software and technology providers, incorrectly, to become trading venues could result in limiting competition in the bond market, and ultimately leading to worse outcomes for UK end-investors. Equally important, if a fixed income software and technology provider is aggregating bilateral indications and allowing multilateral interaction with those aggregated indications, creating a 'many to many' marketplace but is not forced to be authorised as a multilateral facility, this could cause an unbalanced playing field and disadvantage MTFs, OTFs, RMs regulated trading venues.

Fintech arrangements and innovation should be promoted in the UK, making the UK an attractive place to do business. Therefore, any fintech arrangements should be treated carefully. As mentioned above, potentially forcing software and technology providers, incorrectly, to become trading venues could result in creating an unlevel playing field, stifling innovation and limiting competition in the bond market, ultimately leading to worse outcomes for UK end-investors. Nonetheless, if software and technology providers are not forced to be authorised as trading venues when they are behaving as a trading venue, this too could cause an unbalanced playing field. This is clearly a nuanced operation making it important for the FCA to investigate and enforce permissions on a 'case-by-case basis'.

3. Should the current restrictions on matched principal trading by a multilateral trading facility (MTF) be retained?

ICMA not responding.

4. Should the current restrictions on the operation of an SI within the same legal entity of an organised trading facility (OTF) be retained?

Yes, the ICMA agrees the restrictions on the operation of an SI within the same legal entity of an organised trading facility should be retained.

5. **If you answered no to question 4:**
Should new rules and disclosures be introduced to address the specific conflicts that MTFs and OTFs would be exposed to when providing matched principle trading (MPT) or operating a systematic internaliser (SI)?
N/A

6. **Do you think that OTFs should be allowed to execute transactions in packages involving derivatives and equities under their rules and systems?**
N/A

7. **What would be the risks and benefits of allowing this approach?**
N/A

8. **Do you agree that the existing regulatory requirements for disclosure at admission to trading (for MTFs and SME Growth Markets) are disproportionate for small-sized issuers?**
ICMA not responding

9. **What principles and/or types of information should be considered when developing requirements for disclosure at issuance to ensure requirements are proportionate?**
ICMA not responding

10. **How far should these be determined by the venue operator versus regulation, and what other features may provide proportionate assurances around the quality of issuers admitted to a venue (e.g. role of advisors in process)?**
ICMA not responding

11. **Would the creation of a new category of trading venue be an appropriate means to facilitate access to public markets for very small firms? What size of firms would be appropriate for a new trading venue?**
N/A (from an institutional bond trading perspective)

12. **If you answered no to question 11:**
Would the facilitation of the creation of new market segments be a more suitable intervention?
N/A (from an institutional bond trading perspective)

13. **If you answered yes to question 11 or 12:**
What should the market cap of companies that can trade on the new trading venue and/or segment be?

N/A (from an institutional bond trading perspective)

14. **Do you believe intermittent rather than continuous trading would increase liquidity?**

N/A (from an institutional bond trading perspective)

15. **Do you think that additional measures, such as new funds structure are needed to stimulate institutional investors to invest in SMEs?**

N/A (from an institutional bond trading perspective)

16. **What, if any, further forms of investor protection do you deem appropriate for this proposed new category of trading venue?**

N/A (from an institutional bond trading perspective)

17. **Do you believe that regulatory or industry guidance about how venues should operate and what they should communicate during an outage would be useful?**

N/A (from an institutional bond trading perspective)

18. **Do you have views on a fail-safe mechanism to ensure that the market has access to the key closing benchmarks during an outage in a primary exchange? What role do you see UK authorities playing to deliver this?**

N/A (from an institutional bond trading perspective)

19. **What other steps do you think UK authorities could take to ensure market resiliency in the event of an outage?**

N/A (from an institutional bond trading perspective)

Chapter 3: Systematic Internalisers

20. **Do you agree that the definition for SIs should be based on qualitative criteria?**

ICMA considers the SI regime for Bonds to be flawed and does not reflect the reality of bond markets today. The Taskforce believes the extension beyond equities was unnecessary.

The ICMA transparency taskforce agrees that the definition should be based on qualitative criteria rather than the current complex calculations.

However, this criterion will need to be well thought through and the Taskforce suggests the HMT or FCA could consult further on this to determine the best approach.

If the FCA determines TOTV is still a consideration for scope, the SI scope should on be on TOTV instruments.

21. **If you answered no to question 20:**
    Do you think the definition should be amended in another way?

N/A

22. If you answered yes to question 20:
Do you think that regulatory guidance should be used to support the definition in legislation?

ICMA transparency taskforce members believe that for Bond markets, the SI concept is redundant and should be removed.

23. Do you currently opt-in to the SI regime?

Most ICMA transparency taskforce liquidity provider members opt-in to the SI regime, because the SI regime allows these Taskforce members to carry out the post-trade transparency requirements for their clients, and also not to have to carry out the quarterly SI determination calculations.

24. Should SIs be determined at entity level instead of on an instrument by instrument basis, for reporting purposes?

Yes, ICMA's transparency taskforce agrees the SI status could be determined at entity level. Perhaps, entity + asset class level would be more appropriate, for firms only active in some asset classes.

For post-trade transparency reporting, the Taskforce agrees the current reporting framework is unnecessarily complex, burdensome, and therefore expensive. For example, in the case of post-trade transparency, for every trade, the eligibility rule needs to define the bond type related to the ISIN and that has to go through the SI Industry Registry, which is defined over three levels (bond type / sub-asset class, issuer, ISIN). This is similar for transaction reporting in the case where the seller is a SI, particularly when seeking out the appropriate SI MIC code.

Therefore, ICMA recommends

1) **In relation to bond markets, remove the obligation for SI pre-trade transparency as market participants are not using.**
2) **Decouple the Post-Trade Transparency (PTT) reporting rules from the SI regime status.**
    a. **The PTT reporting would continue to be carried out by large firms using the new notion / reporting rule of "PTT Super Reporter", which firms can register to become. This concept should also be valid for UK branches of third country firms.**
    b. **Registration could be through the existing industry solution, 'SI Industry Registry', which is used today by the majority of APAs.**
        i. **Note that UK APAs are already using this SI Industry Registry, and are they are supervised by the FCA.**
        ii. **This set-up would only need to be extended / used by APAs that are not using the 'SIR' yet.**
    c. **This PTT 'Super Reporter' could be set (i) either at entity level or (ii) at entity and asset class level e.g. sovereign, corporate etc (balanced between simplicity and flexibility).**
    d. **The proposed reporting hierarchy:**
        i. **Super Reporter firm facing a non-Super Reporter firm = Super Reporter reports**
        ii. **Super Reporter firm facing Super Reporter firm = seller reports**

iii. **Non-Super Reporter firm facing non-Super Reporter firm = seller reports.**

3) **Remove the entire concept of SI regime for bond markets, including pre-trade transparency. As stated in Q.20, the SI regime for bonds is flawed and does not reflect the reality of bond markets today.**

25. What would be the risks and benefits of adopting such an approach?

ICMA considers there are no risks to bond markets and that in fact, there are plenty of benefits to both regulator and bond market participants:

- **The need for quarterly transparency calculations of SI thresholds that regulators carry out would be removed.**
- **The need for quarterly transparency calculations of SI thresholds that investment firms carry out would be removed.**
- **The need for firms not wanting to opt in the SI regime will not have to monitor quarterly calculations in order to remain under SI thresholds. This burdensome process would be removed.**
- **The simplification of execution for all market participants (remove need to worry about exchanging SI MIC and ISINs). This simplifies the workflow for buy-sides as well.**

To summarise:

	Bonds	**Benefits**
(MiFIR) Pre-Trade Transparency obligations for bonds	Remove	Investment firms, buy-sides, corporates and retail investors are not making any use of pre-trade MiFIR bond data today. Removing this burdensome, complex obligation for liquidity providers to provide pre-trade quotes for both SIs and non-SIs, will allow bond market participants to benefit from liquidity provider cost savings.
Post-Trade Transparency	Decouple Post-trade transparency from SI regime Add – 'Super Reporter' at entity and asset-class level	Simplification and greater certainty for buy-side clients (identifying the SI status of their counterparties and whether they will or will not carry out post-trade transparency requirements for them); In transaction reporting, removing the SI MIC will remove a number of unnecessary

		complex scenarios around venue SI MIC / XOFF. Leading to a simplification of reporting collection, control, monitoring and supervision by regulators.
SI Regime for bonds	Remove	The SI regime for bond markets is flawed and is not an accurate reflection of bond markets. Since the extension beyond equities into bonds was unnecessary, the SI regime should be removed. This will streamline and optimise bond market functioning.

26. Do you agree with the government's proposal to allow SIs to execute at the midpoint for all trades, provided the executed price is within the SI's quoted price?

N/A (from an institutional bond trading perspective)

27. Do you think any other changes are needed to increase the effectiveness of the SI regime?

ICMA transparency taskforce members believe the SI rules under Article 18 goes above and beyond those required on multilateral venues as it also imposes additional obligations on SIs such as requiring SIs to make the firm quotes 'available to other clients' (Article (18(5)) and 'enter into transactions' under the published conditions with clients to whom the quotes are made available (Article (18) (6)).

In addition, ICMA transparency taskforce member firms agree, there is a lack of anonymity for individual SI quotes as compared with trading venues where published quotes are at the venue level rather than the individual risk-taker level. ICMA members believe if the SI regime is retained for bond markets, SIs should have the possibility to anonymise their quotes should they wish to. Also worth noting, the SI pre-trade reporting could only be anonymised if the additional obligations under Article 18 (5), Article 18 (6) and Article 18 (7) are deleted.

Furthermore, ICMA transparency taskforce member firms find the requirements in relation to SI quotes in illiquid bond instruments complex and difficult to apply in practice. It is not very clear what article 18 (2) in MiFIR was trying to achieve. ICMA members would prefer for this requirement to be deleted from MiFIR altogether.

On the basis of these and other examples, ICMA again suggests the SI regime for bond trading should be removed. It is clear that the SI regime in bond markets is complex to implement, understand and certainly does not achieve it's original (equity-based) intention.

28. Do you think that the double volume cap (DVC) should be deleted?

N/A (from an institutional bond trading perspective)

29. Do you think alternative incentives are needed to encourage lit trading?

N/A (from an institutional bond trading perspective)

30. Should reference price systems be able to match orders at the mid-point within the current bid and offer of any UK or non-UK trading venue that offers the best bid or offer, to aid best execution?

N/A (from an institutional bond trading perspective)

31. Do you consider SIs quotes useful?

N/A (from an institutional bond trading perspective)

32. Do you think that the ability of SIs to execute clients' orders at mid-point would incentivise SIs to provide meaningful quotes?

N/A (from an institutional bond trading perspective)

33. If you answered yes to question 32:
What incentives could UK authorities introduce to encourage you to report more trades, while maintaining fair competition with market operators?

N/A (from an institutional bond trading perspective)

Chapter 5: Fixed Income

41. Do you agree that the scope of the derivative trading obligation (DTO) should be revised to bring it in line with the scope of the clearing obligation following the changes introduced by the European Market Infrastructure Regulation (EMIR) REFIT? What risks/ benefits do you see with this approach?

N/A (from an institutional bond trading perspective)

42. Do you think that all post-trade risk reduction services should be exempt from the DTO?

N/A (from an institutional bond trading perspective)

43. If you answered yes to question 42:
a) Do you think that there should also be an aligned exemption from the EMIR clearing obligation for trades resulting from post-trade risk reduction services?

N/A (from an institutional bond trading perspective)

b) What conditions do you think should be met for the exemption to be applicable?

N/A (from an institutional bond trading perspective)

44. Do you think the FCA should be given the power to modify or suspend the

DTO quickly under certain circumstances, on a permanent rather than temporary basis?

N/A (from an institutional bond trading perspective)

45. **Do you think that the current transparency requirements support price formation and open, competitive and fair markets? Please separate your answers by fixed income (please treat sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (please distinguish between OTC and exchange-traded derivatives (ETDs) where relevant).**

Reference corporate bonds, ICMA is pleased to see HMT has split out corporate bonds by high yield and investment grade. Instrument credit rating is an embedded everyday routine concept in bond markets and a key variable in determining liquidity, and thereby any sensible future transparency regime.

Re sovereign and corporate bonds, ICMA transparency taskforce members believe that pre-trade MiFIR transparency is not useful or relied on today. Market participants view pre-trade price formation information through axes and inventory, not MiFIR pre-trade transparency. ICMA goes on further to recommend that MiFIR pre-trade transparency should be removed and that the focus of MiFIR transparency should be on post-trade transparency, using the aggregated data found in future bond consolidated tape.

Regarding post-trade transparency, transparency taskforce members believe that the current post-trade data, which is accessed through the various fragmented APAs, is useful for assessing best execution and transaction cost analysis (TCA).

However, bond market participants have found while they can access the post-trade APA data processing the post-trade data into a useful format has proved time and resource draining. Bond market participants have to aggregate the post-trade data, on an individual basis, in order to get an overview of the bond market. The formats of the reports are inconsistent and not standardized e.g., some APAs publish the data in a pdf file while others in XML and access to the data in time dependant. Market participants purchase aggregating tools from providers, in addition to the, already paid for, APA data, making this an expensive exercise. Many have chosen not to commit to such an additional outlay and would rather wait until the consolidated tape is finally launched.

Areas to improve for transparency are around data quality and ambiguity. For instance, there is ambiguity around the definition of a price. It is spread, price, yield? or either? What is addressable liquidity? Trades done for risk management should not be reported for post-trade transparency and should only be flagged in transaction reporting. These ambiguities lead to data quality issues and inconsistencies in the way the data is reported.

For high yield or investment grade corporate bonds and sovereign bonds, industry provided aggregation tools have proved useful for bond market participants. Important to note, these are not MiFIR-based tools. MiFIR pre- and post-trade data does not assist price formation. In pre-trade, only axes and inventory assist price formation. Whereas, in post-trade space, there is no consolidated tape so there is no MiFIR based aggregated overview. Instead, individual firms aggregate the fragmented data themselves or purchase aggregation tools.

46. **Do you think that using traded on a trading venue (ToTV) is a useful criterion**

for determining the scope of transparency requirements for non-equity instruments, and in particular OTC derivatives? Please separate your answers by fixed income (please treat sovereign bonds, high-yield bonds and investment grade bonds separately) and derivatives (please distinguish between exchange treaded and OTC derivatives).

Most sovereign, HY and IG bonds are TOTV. The challenge really lies with derivatives. So TOTV for determining scope in bonds, is not a problem. It is clear what is and is not TOTV.

However, ICMA believes TOTV is too widely scoped. It may be worthwhile for the HMT (or FCA) to investigate narrowing the scope for bonds. ICMA is ready to assist the HMT in any exercise to define the bond universe with a narrower approach. E.g., bonds streamed on venues, components in indices etc. This could be through a FCA consultation.

47. **If you answered no to question 46:**
    Do you think the concept of ToTV should be removed for OTC derivatives, and the scope of the transparency regime determined on the basis of whether the instrument is cleared? If so, what definition of 'cleared' should be used?

N/A (from an institutional bond trading perspective)

48. **Do you think there is another option to determine the scope of the fixed income and derivatives transparency regime? Please separate your answers by fixed income (please treat sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (please distinguish between exchange traded and OTC derivatives).**

As mentioned in the answer to question 45, ICMA is pleased to see HMT has split out corporate bonds by high yield and investment grade. This indicates HMT (and the FCA) welcomes the fact that instrument classification is an embedded everyday routine concept in bond markets and a key variable in determining liquidity, and thereby any sensible future transparency regime.

The first step is to aggregate the bond data into one single centralised consolidated tape and see how much transparency the current regime is bringing to the market. Once we have that visibility, we would then be able to better review and analyse the data to determine the deferral regime, keeping in mind sensible variables that reflect liquidity status such as amount outstanding and trade size based on HY and IG credit ratings.

Two areas that will also need to be factored into any future transparency regime are, implementation, and ongoing operation. This raises critical questions. Will the benefit of a new transparency regime outweigh the cost of implementation for market participants? Will the FCA have the resources on an ongoing basis to perform any calculation work? Decisions will need to be taken 'in the round' to determine the level of complexity for any new transparency regime.

Balancing simplicity and complexity in a transparency regime is key. It is widely believed MiFIR is too complex and operationally burdensome e.g., the liquidity assessment calculations. However, the Taskforce strongly believes that it would be unwise to swing the pendulum in the opposite direction of an overly simplistic regime, such as: "a single LIS based threshold that separates

immediate price publication from deferred price publication", which has been touted by other jurisdictions. Liquidity of the instruments should remain a central element of the transparency regime.

The liquidity profile of instruments should remain a key component of the UK's transparency regime. HMT has already indicated in corporate bonds, high yield and investment grade instrument classifications are key components for trade size. Amount outstanding is also a key component for liquidity and all of these components working together should be a part of any future transparency regime.

49. **What instruments do you think should be in scope of the fixed income and derivatives transparency regime? Please consider fixed income (please treat sovereign bonds, high-yield bonds and investment-grade bonds separately) ETCs, ETNs, structured finance products, emission allowances and derivatives (please distinguish between exchange traded and OTC derivatives).**

N/A (from an institutional bond trading perspective)

50. **What changes do you think are needed to enable liquidity calculations to work effectively? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds) and derivatives (ETDs and OTC derivatives).**

Any future transparency regime should be data-led. The first step is to aggregate the bond data into one single centralised consolidated tape. Then review and analyse the data to determine deferral regime, keeping in mind sensible variables that reflect liquidity status such as amount outstanding ad trade size based on HY and IG credit ratings.

Two areas that will also need to be factored into any future transparency regime, implementation, and ongoing operation. This raises critical questions. Will the benefit of the new transparency regime outweigh the cost of implementation for market participants? Will the FCA have the resources on an ongoing basis to perform any calculation work? Decisions will need to be taken 'in the round' to determine the level of complexity for any new transparency regime.

ICMA is ready to assist the HMT/FCA regarding the transparency regime methodology. Simplifying the regime, while keeping sensible bond market variables in mind (amount outstanding, trade size based on HY/IG), is key to enabling the transparency regime day- to- day operation to work effectively.

51. **Do you think it would be preferable to move away from regular liquidity calculations towards a mix of qualitative and quantitative criteria? For example, on a sectoral basis? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).**

See previous answer.

52. **How do you currently use pre-trade transparency? Is pre-trade information on bonds and derivatives valuable? Please differentiate between fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives), and each trading method (for example RFQ, and order book).**

    ICMA has observed bond market participants are not using MiFIR pre-trade transparency data. Instead, buy-sides are using 'market' pre-trade transparency for price discovery such as axes and inventory. For instance, when trading an illiquid bond, the buy-side will search for axes (pre-trade pricing quotes) and inventory and negotiate bilaterally with a counterparty to trade.

    It is important to note that the market is evolving. Since MiFID II/R came into effect, there has been a clear trend for previously traded OTC trades to trade on trading venues such as, MTFs or OTFs. In addition, small and mid-sized trades are observed to be trading on venues, using MTF/OTF algorithmic tools. For large or illiquid trades, execution is generally taking place OTC.

    A good example of why pre-trade transparency MiFIR obligations should be removed is article 18 and article 8. The Pre-Trade Transparency provisions of article 18 and article 8 (TV) don't cover any market need nor do they bring any benefit to bond market participants.

    As Investment firms, buy-sides, corporates and retail investors are not making any use of pre-trade MiFIR bond data, the Taskforce again recommends removing the obligation for liquidity providers to provide pre-trade quotes for both SIs and non-SIs. Instead, bond market participants can benefit from liquidity provider cost savings. Bond market participants are witnessing fellow participants in varying degrees of adopting ICMA industry guide to definitions and best practice for bond pricing distribution. An industry-led initiative to improve practices in the pre-trade space is a clear indication of how bond markets are evolving.

53. **Is there a case for removing MiFID II pre-trade transparency requirements for any asset class? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).**

Yes, ICMA's transparency taskforce supports the removal of the pre-trade MiFIR transparency obligations for bond markets.

ICMA industry guide to definitions and best practice for bond pricing distribution is being implemented in the bond market, more or less replacing MiFIR pre-trade data (as observed, MiFIR pre-trade data is not being used in bond markets). Instead, buy-sides are using 'market' pre-trade transparency for price discovery such as axes and inventory. For instance, when trading an illiquid bond, the buy-side will search for axes (pre-trade pricing quotes) and inventory and negotiate as needed with relevant counterparties to trade.

54. **If you answered yes to question 53:**
Do you think that RFQ, bilateral negotiations and indications of interest provide sufficient information for markets to function effectively? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).

Re sovereign, high yield and investment grade bonds:
RFQs, bilateral and indications of interests (axes) are useful. The bond market can live without MiFIR pre-trade transparency but cannot live without RFQ and bilateral trading protocols, nor axe and inventory trading tools. It is important to note that, bond trading is mostly principal- based and therefore indicative.

Today, most trading venues provide RFQ facilities. Buy-sides can view 'street' prices, bids and offers, and streaming prices as well. Buy-sides then typically ask between three to five liquidity providers for an RFQ in 'comp' (i.e. notifying them that they are in competition with other liquidity providers) and then trade on the best price. For very illiquid bonds, buy-sides have the ability to RFQ up to even twenty liquidity providers. Basically, as many as they need to source the bond.

Buy-sides can also use electronic messaging for one- to one or even one – to five (comp). Also, a 'request for market' (RFM), which is two sided, can also be requested.

Messaging can be done bilaterally by phone, but it is not as efficient.

The bottom line, however, is RFQ, and bilateral trading protocols provide sufficient information. IOIs or indications of interest (which are axes in bond markets) are trading tools that are very useful. They have become more effective through the recent industry-led initiative, ICMA industry guide to definitions and best practice for bond pricing distribution.

55. **How do you use pre-trade quotes streamed by SIs? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment grade bonds separately) and derivatives (ETDs and OTC derivatives).**

For sovereign, high yield and investment grade corporate bonds: SI streamed quotes are accessed by market participants through bulletin boards or APIs using direct trading. Streamed pricing is not MiFIR-based.

Bond market participants are not using MiFIR pre-trade transparency data. Instead, buy-sides are using 'market' pre-trade transparency for price discovery such as axes and inventory. For instance, when trading an illiquid bond, the buy-side will search for axes (pre-trade pricing quotes) and inventory and negotiate bilaterally with a counterparty to trade.

It is important to note that the market is evolving. Since MiFID II/R came into effect, there has been a clear trend for previously traded OTC trades to trade on trading venues such as, MTFs or OTFs. In addition, small and mid-sized trades are observed to be trading on venues, using MTF/OTF algorithmic tools. For large or illiquid trades, execution is generally taking place OTC or with an SI.

56. For SIs, what impact do you think removing pre-trade transparency requirements would have on your business? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).

ICMA believes removing pre-trade transparency requirements will have a positive impact on market participants, saving money and time. This will provide dealers with greater balance sheet capacity as a result of less operational costs. Improving overall service to clients.

To make regulation more proportionate, ICMA believes it would be sensible to remove MiFIR pre-trade transparency, since no one is accessing the pre-trade SI quotes.

57. Do you have any other comments on the pre-trade transparency regime?

ICMA's transparency taskforce, as stated above, is supportive of the removal of MiFID II/R pre-trade transparency obligations. While removing these requirements for UK SIs should not present any particular obstacles, the Taskforce recommends the FCA engages with third country jurisdictions in order to ensure that the removal of the MiFID II/R pre-transparency obligations on UK trading venues does not interfere with existing or future trading venues equivalence decisions.

58. How do you currently use deferrals? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).

Re sovereign bonds, market participants never actually see the full trade details that occurred on a specific day as the trades are either aggregated on a weekly basis or the volume is omitted. However, market participants require full trade details on sovereign bonds, once the deferral period has lapsed. As such, delayed data is considered useful. For example, transparency taskforce members believe it would have been useful to observe what happened to the 30 yr bund during Covid.

Re high yield and investment grade corporate bonds, after 4 weeks, market participants can see bond data from APAs. Market participants then have to individually aggregate all the data from the various APAs and trading venues. Or purchase an aggregator tool from a provider. All very expensive. Also, cumbersome to aggregate on an individual basis. Many market participants, particularly buy-sides, have decided they would rather wait for a CT to be launched.

59. Which asset classes should deferrals apply to? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).

Re sovereign, high-yield and corporate bonds, deferrals should apply.

60. Do you agree that the deferral regime would benefit from being simplified?

Most ICMA transparency taskforce members believe the operation of the current MiFIR post-trade transparency regime is overengineered and complex. However, the Taskforce strongly believes it

would be unwise to swing the pendulum in the opposite direction of an overly simplistic regime, such as: "a single LIS based threshold that separates immediate price publication from deferred price publication", which has been touted by other jurisdictions.

However, it is important to remember the bond market is complex due to liquidity factors. Therefore, a properly calibrated deferral regime is required to reflect the protection of liquidity providers as well as the buyside from unnecessary market impact.

As the HMT has already indicated in corporate bonds, high yield and investment grade instrument classifications are key components. Instrument credit rating is an embedded everyday routine concept in bond markets and a key variable in determining liquidity, and thereby any sensible future transparency regime. Trade size will always be a factor, but it should be a variable only in combination with the others for the post-trade transparency regime.

However, balancing simplicity and complexity in a post-trade transparency regime is key to a workable post-trade transparency regime. As Taskforce members like to remind us, the best transparency regime is a regime that works. Overcomplicating the transparency regime is unproductive while the same is true for oversimplifying the transparency regime. The Taskforce would like HMT to keep in mind when determining any future post-trade transparency regime.

61. **What do you think the optimum deferral length is? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment grade bonds separately) and derivatives (ETDs and OTC derivatives).**

The first step to determining an optimum deferral regime is to aggregate the bond data into one single centralised consolidated tape. Then review and analyse the data to determine deferral regime, keeping in mind sensible variables that reflect liquidity status such as amount outstanding and trade size based on HY and IG credit ratings.

Two areas that will also need to be factored into any future transparency regime are, implementation, and ongoing operation. This raises critical questions. Will the benefit of the new transparency regime outweigh the cost of implementation for market structure participants? Will the FCA have the resources on an ongoing basis to perform any calculation work? Decisions will need to be taken 'in the round' to determine the level of complexity for any new transparency regime.

The FCA working with the CTP 'DEAG' (see DEAG details below) will analyse the aggregated data to determine the most appropriate deferrals that balance risk and exposure in bond markets.

Data Expert Advisory Group "DEAG"

The bond consolidated tape will require a Data Expert Advisory Group (DEAG) to be part of the operating model of the chosen bond consolidated tape provider. The 'DEAG' would consist of buy-side, sell-side, trading venue and APA market participant experts and meet on a semi-annual basis to review and look back at the transparency situation from the previous six months. This expert group will recommend to FCA to either increase/decrease/hold thresholds based on real market experiences.

- If there are found to be negative market liquidity impacts, perhaps from reduced sell-sides balance sheet risk provision then thresholds could be modified to provide less transparency. If the market is working well with current thresholds and the 'DEAG' agree there would not be any undue risk to increasing transparency, then thresholds could be changed to increase transparency.
- This ‘DEAG’ would also in times of crisis (e.g., Covid) recommend necessary changes to thresholds/deferrals.
- No transparency threshold modification should be considered, without (analysis-based) agreement from the ‘DEAG’.
- The ‘DEAG’ buy-side and sell-side market participant representation should include a balance of natural transparency preferences. APAs and trading venues will advise on data quality and market operator experiences from the last six months.
- Recommendations from the ‘DEAG’ should be considered ‘actionable’.

62. What are your views on the government’s proposal to delete the size specific to the instrument (SSTI), package order, and EFP deferrals? Do you think it would lead to more meaningful transparency? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).

The Taskforce considers deleting size specific to the instrument (SSTI) is sensible only if the post-trade transparency regime includes a transparency variable that takes into account liquidity, such as amount outstanding (working together with HY and IG credit rating- based trade size thresholds). Moreover, the FCA should have the power to change deferrals. This will be through the DEAG (see details below) which forms a working partnership to explore transparency related data issues, in order to determine any sensible modifications to the deferral regime. The DEAG could also work with the FCA to determine the bond deferral regime from the outset, if significant modifications are required.

The ‘DEAG’ would consist of buy-side, sell-side, trading venue and APA market participant experts and meet on a semi-annual basis to review and look back at the transparency situation from the previous six months. This expert group will recommend to FCA to either increase/decrease/hold thresholds based on real market experiences.

- If there are found to be negative market liquidity impacts, perhaps from reduced sell-sides balance sheet risk provision then thresholds could be modified to provide less transparency. If the market is working well with current thresholds and the 'DEAG' agree there would not be any undue risk to increasing transparency, then thresholds could be changed to increase transparency.
- This ‘DEAG’ would also in times of crisis (e.g., Covid) recommend necessary changes to thresholds/deferrals.
- No transparency threshold modification should be considered, without (analysis-based) agreement from the ‘DEAG’.
- The ‘DEAG’ buy-side and sell-side market participant representation should include a balance of natural transparency preferences. APAs and trading venues will advise on data quality and market operator experiences from the last six months.
- Recommendations from the ‘DEAG’ should be considered ‘actionable’.

63. **Do you think volume masking and/or aggregation helps to encourage real time publication? Please separate your answers by fixed income (sovereign bonds, high-yield bonds and investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).**

Regarding sovereigns, high-yield and investment grade bonds, the first step to determining an optimum deferral regime is to aggregate the bond data into one single centralised consolidated tape. Then review and analyse the data to determine deferral regime, keeping in mind sensible variables that reflect liquidity status such as amount outstanding and trade size based on HY and IG credit ratings.

Size deferrals/volume masking is there for a purpose. It protects market makers from risk and investors from negative impact. However, it is important when considering deferrals to note that price deferrals are nuanced as well as size.

Size is often 'baked' into the price, so if the price is published prematurely, alert market participants can determine roughly the size of the trade, even if the trade size has an attached deferral. This could end up defeating the purpose of the deferral in the first place.

Consequently, this is why there should be price deferrals for large and/ or illiquid bond trades as well as size deferrals. However, Taskforce members consider retail and/or small bond market participants could benefit from more immediate (+ 15 mins) publication of prices, providing the retail/small participant threshold is well thought through. Bond markets are not black and white, they are nuanced.

64. **What are the risks and benefits of allowing trading venues to calculate LIS thresholds for ETD post-trade reporting?**

    N/A

Chapter 7: Market Data

82. Do you agree that the government should take action to encourage the development of a CT?

ICMA's transparency taskforce agrees the HMT should take action to drive forward the development of a CT by reaching out to data providers who have declared an interest in becoming a CT provider in the UK. They should also make it easier for data providers to become a CT provider by acting quickly to change or add legislation that changes the legislation that declares the responsibility for data feed provision should be changed from the CTP's obligation to 'obtain' data, to stating that trading venues and APAs have an obligation to 'provide' data to the CTP.

It is also imperative there is one centralised single-source CT provider. Bond markets participants require an overview of bond markets; therefore, the only sensible CTP is a single provider. Otherwise, the bond market will have to do what they do today, which is purchase an aggregator tool to aggregate all the fragmented sources of post-trade bond data. Multiple CTs defeat the concept of a 'consolidated tape'.

For reference, please see EU Consolidated Tape for Bond Markets Final report for the European Commission .

If you answered yes to question 82:
83. Do you think a fixed income tape should be prioritised?

Yes, ICMA believes a bond consolidated tape should be prioritised. The benefits of price discovery and execution analysis are more available today within exchange traded asset classes. While today, bond markets do not experience the same benefits. If a bond CT is prioritised, the positive impacts would be to a greater degree.

For reference, please see ICMA's EU Consolidated Tape for Bond Markets Final report for the European Commission .

84. Do you think that it would be beneficial for a fixed income CT to include post-trade data only, or would there be value in a tape covering pre-trade data too?

ICMA considers a post-trade only bond consolidated tape is sensible for bond markets. As described in the answer to question 45. MiFIR-based pre-trade transparency would not bring any benefits to either institutional or retail market participants. Bond market participants use axes and inventory for price discovery and formation purposes. Bond price distribution practices have been tightened up recently through ICMA's EU Consolidated Tape for Bond Markets Final report for the European Commission . The industry is in varying degrees of implementing this. In addition, today, retail investors trade liquid bonds so any illiquid waivers that mask prices for pre-trade transparency would not be detrimental to retail end users. This underscores the reason why a bond pre-trade CT would be irrelevant to bond market participants.

Contrarily, ICMA views a post-trade bond consolidated tape is overdue for bond markets. Retail end users could have access to a consolidated view of prices in bond markets (possibly through a GUI) and institutional investors (API or GUI access as required) will have this important tool in its toolbox for price discovery, formation, and transaction cost analysis.

For reference, please see ICMA's EU Consolidated Tape for Bond Markets Final report for the European Commission .

85. Is there any value in a delayed data CT for fixed income markets?
Yes. Delayed data is valuable for fixed income market participants. We have to remember what the problem the CT is solving for.

In sovereign bonds, pre-trade pricing information can be sourced fairly easily for bond market participants. However, there is a challenge today in getting good reliable 'consolidated' post-trade data for execution analysis. This information today is not consolidated from a centralised source. Taskforce participants comment that for sovereign bonds, it is fine if this information is delayed as they have access to the pre-trade information they need. For example, a 2 - week delay in consolidated sovereign bond data (with full trade details) is helpful for execution analysis. It is also better than anything TRACE provides today, as TRACE only provides average prices.

The real problem the CT is solving for is pre-trade price formation for corporate bonds. This is where market participants struggle with accessing post-trade price information for pre-trade decision making. If there ends up being one threshold for corporate and sovereign bonds, possibly based on HY and IG, this will not negatively impact sovereign bonds as even with delayed sovereign bond data the post-trade execution analysis is useful.

Furthermore, for sovereign bonds that trade only a few times per month, delayed data is useful as it is a good indication of the pricing of those more illiquid bonds.

For reference, please see ICMA's EU Consolidated Tape for Bond Markets Final report for the European Commission.

86. Is it valuable for an equity CT to include pre- and post-trade data?
N/A (from an institutional bond trading perspective)

87. Is there any value in a delayed data CT for equity markets?
N/A (from an institutional bond trading perspective)

88. Should the government amend legislation to enable a market-led private sector CT to develop, or do you think UK authorities should be actively involved in creating a CT?

In ICMA's view, a successful CT will be characterised by a tape which is delivered at a minimum cost for users, with good regulatory oversight and governance structure. Therefore, ICMA's view is that there should be a form of a partnership where the FCA has oversight responsibilities but not day- to- day operation of the CT. The key is to have FCA and industry interaction through the 'DEAG', creating a form of public/private partnership, as described in Q.61 answer.

ICMA considers that the legislation should be changed to enable a market-led bond CT to emerge. ICMA believes it is essential that the responsibility for data feed provision should be changed from the CTP's obligation to 'obtain' data, to stating that trading venues and APAs have an obligation to 'provide' data to the CTP. This obligation would be extended to self-reporting firms, where applicable.

In addition, there should not be mandatory 'consumption' of the tape. Good quality, comprehensive post-trade data is only one component in evaluating best execution in bond markets. The best execution process is a complex matrix of pre-trade decision making and post-trade tools and much more than looking at just post-trade execution 'prices.'

Any legislation modification should also take into account data ownership and consider the issue about whether entities should be allowed or prohibited from 'licensing' the reported post-trade data to the CTP.

Legislation should be introduced that allows the CTP to collect the raw data from APAs, trading venues and self-reporting firms (as applicable). The CTP will then make it available to all market participants, through a minimum-cost model.

Firms and/or vendors (including the CTP) should be permitted to purchase the (intraday, one week or full historical) 'raw' post-trade data at a reasonable price and for some, possibly a discounted price, in order to repackage/enrich the raw data for client use or to sell as a value-added service. Tiered pricing based on usage (or proportion of usage) will apply. For example, the tiered pricing could be based on API access. Access to the tape would be available for retail users at no or a very low cost.

In addition, it is important to note that the 'raw' data version of the CT is in an easily analysed useful machine- readable format to ensure the tape can be a utility for all market participants (Enriched data set based products, which use the raw post-trade data, could for example be broken out by tenor, credit rate etc.). The FCA would need to monitor data availability, access and reasonable pricing through oversight and supervision of the CTP.

For reference, please see ICMA's EU Consolidated Tape for Bond Markets Final report for the European Commission.

89. What are the legislative barriers for a private sector-led CT to emerge? Do you agree with the legislative changes identified above? Are there additional changes that UK authorities should be considering?

One of the reasons a CTP has not emerged today is the restrictive legislative scope of the CTP. The percentage scope the CTP has to cover, along with penalties involved, disincentivised private companies from coming forward. ICMA stands ready to work with the HMT or the FCA to assist in regard to any exercise around scope definition.

Three elements need to be in place in order to make a CTP attractive to the private sector. First, it is essential that the responsibility for data feed provision be changed from the CTP's obligation to 'obtain' data, to stating that trading venues and APAs have an obligation to 'provide' data to the CTP at no cost. This obligation would be extended to self-reporting firms as applicable.

Second, in order to attract private sector potential CT providers, the user fee charge model will need to be m and not complex. It is vital the day-to-day operation of the CT by the CT provider is uncomplicated. This means, no complex audit rights in order to manage and administer data ownership, CT individual usage profiles etc. Any potential CT provider will also be looking closely at the level of revenue sharing required from data providers who aggregate post-trade data. In order to set up a CT on a reasonable cost basis, the CT provider could adopt a cost recovery model, with time limited revenue sharing, based on data quality scorecard scores. Theoretically, the idea is that after five years, APAs and trading venues will have been reimbursed for the related costs for changing their business and operating models, from acquiring data to transmitting the post-trade data to the CT provider.

Again, focusing on simplicity, tiered pricing based on usage (or proportion of usage) should apply. For example, the tiered pricing could be based on API access. Access should be available for retail users, at no or very low cost. This keeps the fee model simple, and more importantly, the administration of the fee model simplified.

Thirdly, the FCA will need to be actively engaged with any private CT provider that is set up. The FCA will have reference data that the CT provider may need. Furthermore, the FCA is the supervisor of investment firms, trading venues and APAs. Therefore, the FCA is positioned best to make sure trading venues, APAs and self-reporting firms are meeting their mandatory contribution post-trade CT obligations. Ultimately, this would mean that the FCA will have oversight of the full lifecycle of post-trade transparency.

For reference, please see ICMA's EU Consolidated Tape for Bond Markets Final report for the European Commission.

90. Do you see any risks with removing the obligation for CTs to provide data for free after 15 minutes?
No, ICMA sees no risks from removing the obligation for a CT to provide post-trade (post-deferral) 'raw' data free after 15 minutes.

91. What are the potential advantages and disadvantages of multiple private sector CTs for each asset class?
ICMA believes that the concept of multiple CTs would run counter to the objectives of creating a consolidated tape. The main objective of a 'consolidated tape' is to aggregate the 'raw' post-trade bond data into a single centralised source, in order for bond participants to have a holistic overview of the bond market. Multiple CTs would defeat the purpose of a CT and multiple bond CTs would fragment the already fragmented post-trade space further.

As mentioned, ICMA does not consider multiple private sector CTs a good idea in bond markets. ICMA considers the optimum model for a CT is a public/private utility. For example, the FCA could 'own' the CTP but they outsource the technology operation to a private CT provider.

If there were multiple CTPs, the APAs, trading venues and self-reporting firms would all have to connect to the multiple CTPS. The FCA would have to monitor the contribution from those entities to the CTPs, vastly increasing their workload.

ICMA agrees, there should be one CT per asset class. However, the governance should be as described in the paragraph above, a public/private utility. This will provide a CT that understands the nuances of the asset class it serves. For too long, bond trading has suffered from the 'equitisation' of bond trading through MiFID II/R. These two asset classes function quite differently. This is an opportunity to re-set and have a public/private utility that serves its asset class, in this case bond trading.

92. Do you have any suggestions on further areas that UK authorities should be considering when making changes to market data, especially in relation to requirements that are set out in legislation?
ICMA considers it is important for the FCA to monitor any rising costs of market data in the bond asset class.

Chapter 8: Reporting
93. Where do the current regulatory reporting regimes for wholesale markets contain duplicative reporting requirements?
ICMA not responding

94. Is intervention needed to mitigate against duplicative reporting for firms undertaking securities financing transactions (SFTs) with members of the European System of Central Banks?

Yes. As noted in paragraph 8.6., the FCA and the Bank of England have used the TTP to temporarily exempt SFTs concluded with EU central banks (ESCB members) from SFTR reporting requirements. However, these transactions have been included in the scope of MiFIR reporting requirements through art.2(5) of RTS 22 as onshored (as are SFTs concluded with the Bank of England). Once the TTP expires on 31 March 2022, SFTs with ESCB members would therefore have to be reported under both SFTR and MiFIR. This duplicative reporting requirement should be avoided.

As a general rule, ICMA members believe that SFTs should not be reported under MiFIR, but, where appropriate, under SFTR. SFTR was designed specifically to capture repos and other SFTs, taking into account their unique structure and features. MiFIR was not. The logic of MiFIR reporting therefore raises numerous issues. ICMA developed a proposed reporting approach for SFTs under MiFIR which had been submitted to the FCA and ESMA in November 2019 and circumvents some of the practical problems. However, the resulting report is still far from meaningful given the fundamental logical problems with the rules, which mean that SFTs simply do not fit the relevant reporting template. For these reasons, we believe that the appropriate approach in relation to SFTs concluded with ESCB members would be to amend RTS 22 in order to remove these trades from the scope of MiFIR reporting, as they will be subject to SFTR reporting once the TTP expires. This would mean that firms will have to adjust their reporting systems accordingly which will create costs. However, we believe that these costs are more than outweighed by the benefits of a more consistent long-term solution for both reporting firms and UK regulators. This would also facilitate re-use reporting, as firms are currently required (according to the ESMA SFTR Guidelines) to exclude SFTs concluded with ESCB members from the reuse calculation.

For very similar reasons, we believe that SFTs with the Bank of England (whether as part of the Sterling Monetary Framework (SMF) or not) should equally not be subject to MiFIR reporting and should be excluded from the scope of RTS22. In the case of SFTs with the Bank of England the exemption under art.2(3) SFTR would mean that they are not reportable under SFTR either. In our view this is appropriate and in line with the initial political decision taken under SFTR to exempt these trades from the reporting requirements, supposedly reflecting the fact that the details of these trades are known to the Bank of England and can therefore be easily made available to regulators. The subsequent inclusion in the scope of MiFIR reporting was in our view an anomaly which was inconsistent with SFTR and which should be corrected.

In conclusion, ICMA recommends redrafting article 2(5) of the onshored MiFIR RTS22 to exclude all types of SFTs from MiFIR reporting. More specifically, this would mean deleting the penultimate paragraph of article 2(5). As a result, SFTs concluded with ESCB members would be reported under SFTR (consistent with SFTs concluded with other third country central banks). SFTs with the Bank of England would not be subject to SFTR reporting, but this is justified by the fact that the information is readily available to UK authorities. We would also note that we recommended the same approach in the context of the ongoing review of MiFIR in the EU, e.g. in response to ESMA's September 2020 consultation on the *MiFIR review report on the obligations to report transactions and reference data*.

95. Do you think the 10% loss reporting rules for portfolios and contingent liability transactions offer effective investor protection? If not, how do you think the rules in this area should be revised?
ICMA not responding

96. Do you think electronic communication should become the default means of communication for disclosures and reporting to retail clients, and, if so, what protections are needed for retail clients around such a change?
ICMA not responding

97. Are there any other changes to the conduct rules in the MiFID delegated regulation that you think could be made to reduce costs whilst continuing to offer meaningful investor protection?
ICMA not responding

98. Do you think other changes are needed to ensure that the reporting regime correctly balances investor protection and transparency?
ICMA not responding

99. Have you experienced any issues with the utilisation of International Securities Identification Number (ISINs) as identifiers?
ICMA not responding

100. Do you have any suggestions on how the use of identifiers could be improved?
ICMA not responding

Chapter 9: Cross Cutting Issues
101 What further steps can UK authorities take to enable firms to take advantage of technological innovation in capital markets?
N/A

102 What further steps can UK authorities take to support the wholesale markets sector as we move towards a low carbon economy?
N/A

103. How do companies harness retail investment whilst ensuring investor protection?

ICMA is only able to comment from a bond market perspective, where regulation has been one significant incentive behind the reduced availability of international bonds to direct retail investor participation (initially with the introduction of the European prospectus regime and then the convoluted retail summary requirements introduced in its 2010 review, but notably recently with the PRIIPs and MiFID2 product governance regimes). See further:

- **the end of #41 on p.61 of ICMA's May 2015 response to the Commission's Prospectus Directive review consultation noting ICMA *"aware that some issuers who might have previously prepared a base prospectus with the flexibility to make non-exempt offers of securities might choose to prepare a base prospectus that only allows exempt offers to be made, in order to avoid the additional burden imposed by [the then current summary requirements]. This of course reduces the number of issuers able to offer securities to retail investors in Europe."*;**
  - **data at p.29 of the 2018Q2 edition of the ICMA Quarterly Report;**
  - **data at p.36 of the 2018Q4 edition of the ICMA Quarterly Report;**
- **ICMA's** December 2019 report MiFID II/R and the bond markets: the second year **reference (at p.7) noting that PRIIPs has "led many issuers to refuse to produce a KID and instead restrict placement of *newly issued bonds to non-retail investors in the EEA"* and that MiFID2 product governance has also *"caused many EU-originated issues to curtail altogether placement of bonds to retail investors"* and so overall having *"a reduction in retail access to the bond markets"*; and more generally**
- **#91-#103 at pp.16-19 of ICMA's 2015 CMU green paper response and #64 at pp.14-15 of ICMA's 2017 CMU mid-term review response.**

Implementing certain alleviations (especially on product governance and PRIIPs, following on the 2017 Prospectus Regulation's attempt to improve the prospectus regime's 2010 retail summary requirements), may help improve direct retail access over time (beginning with more knowledgeable and wealthier investors). However, many corporate borrowers have got used to seeking funding away from EEA retail investors and so administrative burden alleviations will not necessarily cause mass retail bond markets to return. (Government bonds tend to be exempt from many regulations in any case.)

It is possible that equity markets have not been so affected because their regulatory burdens are relatively less significant (despite being heavier in some respects on an absolute basis): more detailed prospectus requirements are offset by a public company's equity being generally initially offered just once, in scale and thereafter being traded mainly in exchange, with perhaps just the odd subsequent rights issue (whilst a company may issue different bonds in smaller sizes very frequently). Furthermore, the PRIIPs regime does not apply to equity, whilst there has been some historic ambiguity as to whether some relatively vanilla bonds might be within the scope of the PRIIPs regime (ICMA is responding to the FCA's distinct consultation in this respect).

104. How do companies take advantage of the globalisation of information to reach investors?

At least from a bond market perspective, retail offerings are very much subject to local regulatory requirements in investor jurisdictions. Compliance with such requirements is more of a

consideration in reaching retail investors than 'informational reach' (including any 'new technology' improvements).

105. Is there a role for UK authorities to play to facilitate retail access to capital markets, while continuing to offer high standards of investor protection?

ICMA is able to provide technical input in terms of relevant considerations around retail participation and on how the UK authorities might structure UK regulations to be proportionate in their operation regarding the bond markets. However, the recent wholesale focus noted in response to Q103, combined with international consistency drivers aligning compliance to the highest common denominator and ongoing low interest rates (making investment grade bonds less attractive to retail investors focused on absolute coupon returns), seems challenging. Ultimately the UK authorities may wish to focus on how functional retail participation might operate (e.g., whether mainly direct or indirect, which main product types…) and then work to facilitate such participation.