Comments

IOSCO Consultation on Market Data in the secondary Equity Markets

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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent more than 1,700 banks.

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Q1: Please identify the data elements that are necessary for investors and/or market participants to participate effectively and competitively and make informed trading decisions in today's markets. In your response, please consider:• The type of investor (e.g. retail or institutional) that uses the data;

• How orders are sent to a trading venue (e.g. electronic, manual, direct access by clients; and

• How orders are routed

Please provide the reasons why each element is necessary.

From GBIC's perspective it makes no difference whether the data is used for retail or institutional clients in the context of order sending and routing.

- Static data: Identifier (ISIN, CUSIP, SEDOL,…), company data, ratings of instrument and company
- Market data (pre-trade- and post-trade data): Quotes of the underlying; constituents of indices, if the share is part of an index; quotes of benchmarks; overview of available market places and broker
- Analytics: news, historical data
- Reference data (end of day): Closing prices of marketplaces

Q2: Are there other data elements that, while not necessary to all market participants, may be necessary for some market participants or business models? Please provide the reasons for your answer.

The answer depends on the respective market participant along the value chain such as primary market issuers, intermediaries, risk managers or end investors. A distinction must also be made between the buy-side and the sell-side.

Q3: Please share your view on defining Core Market Data and how such a definition can be used (for example, for compliance purposes or as a mechanism to make routing decisions, etc.).

„Core Market Data“ has to be defined differently in different use cases:

For example, a trading department must have real time data, they would regard them as essential, whereas for the risk department delayed market data is sufficient.
The trading department often does not need the weightings of an index, however, the information might be essential for efficient hedging. Thus, for the risk department there is a need to have the weightings available.

The data of shares of the secondary equity market are also essential to issue derivatives/flow products, where the underlying asset is a share or a stock index.

Therefore, "Core Market Data" could be defined as a particular data set, which is essential to fulfil regulatory requirements and the core activity of the particular department.

Q4: How is market data used by different types of investors or different functions of your firm? Consider, for example:

• **Type of investor (e.g. retail or institutional)**

• **Trading Desks (proprietary or client-servicing including retail and institutional), Institutional, proprietary)**

• **Compliance**

• **Risk-Management**

• **Back office functions**

GBIC concurs with IOSCO's findings that depending on the functions in the firm, data is used differently – please also refer to our answer under Q3. In most cases though, in particular regarding the compliance and risk management functions but not exclusively, market data is necessary in order to fulfill regulatory requirements.

During the whole lifecycle of a workflow, that is: from the issuance, including the regulatory documents and the marketing material, to the offering (setting of the quotes; comparing to others; risk management along the trading process;…), to the accounting, the back office activities and finally the controlling,market data is necessary

Q5: What impact does different uses have on the need to access data? How can these impacts be managed or addressed?

The impact is always:

- more complexity,
- more effort,
- more people, who have to be involved,
- more reporting tasks,
- higher error rate,
- higher costs.

The answer always depends on the function using the data. Hence, the dependencies are different depending on the role.

In general what should not happen is – like some venues have introduced – to set fees according to the importance of data to their customers (e.g. units that issue structured instruments and trade them receive different pricing than mere risk control units). Most banks obtain regulatory data, if only to be able to prepare their balance sheets. This data should be available free of charge.

Q6: What factors should be considered in the context of evaluating “fair, equitable and timely access”? How should these factors be considered?

GBIC sees the trend of being increasingly forced by the regulator to purchase data with concern.

The accompanying assumption of generating competition on the provider side has not materialized. On the contrary, monopolies on the provider side are forming increasingly with negative impacts on the cost of market data. Appropriate measures could at least mitigate this trend.

The provision of market data should therefore be standardized. There should be technical standards for the formats, the interfaces and the permission.

Please refer to ESMA’s draft guidelines on the MiFID II / MiFIR obligations on market data (ESMA70-156-2426, https://www.esma.europa.eu/press-news/consultations/consultation-paper-guidelines-mifid-ii-mifir-obligations-market-data), guidelines 1 – 4, which set forth the guidelines applying to the provision of market data on the basis of cost and the obligation to provide market data on a non-discriminatory basis, as well as guidelines 10 – 13, which set forth the applicable transparency obligations.

Specifically, end-of-day reference data and index compositions should be free of charge and licensing. Delayed data needs to receive significant discounts if not free of charge.

Q7: What types of access do trading venues and RDPs provide? Are some forms of access provided only to specific market participants?

The forms of access to market data vary to a great extent: Files, Request-Response Access, Interfaces (push/pull), Webpage, etc. Also, the time as to when the data is available includes real time, near time and end of day access. Not every data user has the same technical environment. The technical effort always has to be weighed against a cost-benefit analysis, so this is a classic barrier to entry.
In addition, not all users have the same technical capabilities. Institutional investors have advantages over private investors such as day traders. However, they should be treated equally in this respect.

Q8: Please identify the type of access necessary for different investors and/or market participants to participate and make informed trading decisions in today's markets and the rationale for the type of access and identified differences. In your response, please consider:

- **Type of investor (e.g. retail or institutional)**
- **Trading Desk (Proprietary or client-servicing including retail and institutional)**
- **How orders are sent to a trading venue (e.g. electronic, manual, direct access by clients)**
- **Order routing**
- **Business models**
- **Compliance and regulatory issues**

GBIC has no opinion to this question.

Q9: What issues or concerns arise in the context of fair, equitable and timely access to market data?

Our major concern is that the prices for market data are not actually based on a reasonable commercial basis for the following reasons:

- There are no limits concerning the market data fees (amount, diversity, etc.)
- The market data providers tend to be monopolists, which gives them too much power and freedom to design the prices at will (no competition)
- The market data costs are rising and if the financial institutes would like to survive, they have to pass them through to the end customer. However, the private investor / end customer might not be willing to accept those prices, because a lot of data is available free of charge via the internet. However, financial institutions are required by law to use and subscribe to costly market data.
- Although market data is a "by-product" of trading activity, marketplaces are charging cost not representing the cost of production but instead leverage on the dependency of their clients to receive their data

Q10: Please share your view on interchangeability of market data between trading venues. If concerns are identified, please provide suggested mechanisms to address them.

Its worth to have a broader view on the market and not set the focus too narrowly. If one only looks at the investment decision, this is the case. The scope has to be extended to all derived products.

Some circumstances preclude interchangeability; for example, performance measures for mutual funds are largely dependent on specific markets. The situation is similar for EU benchmark regulation. Hence, especially for regulatory purposes there is little to no interchangeability given.

Due to the notoriety of some stock exchanges and their monopoly position, a kind of compulsory obligation arises in many cases. For example, if an end of day valuation is needed, one depends on the local stock exchange.

Although MiFID/MiFIR has created new venues it has not lead to a rising competition between market data offerings and less cost of market data. On the contrary, venue's clients are not able to manage the complexity by connecting to various venues and tend to stay at their "home" venue which has been their home exchange. This dependency is promoted by a low degree of standardization in market data feeds, regulations and data attributes.

Q11: How should market data fees be assessed? How could this be implemented in practice? What factors should be considered and how can they be defined or applied?

It should be forbidden that exchanges can realise profits by receiving data fees.
Furthermore, it should be considered, which data is kind of "open source" and should thus be free of charge, because it is already available without costs (such as post trade data after a certain time has elapsed). When discussing the topic of costs, it is important to remember that the data generated is largely a byproduct of the exchanges.

It should be forbidden that market data provider sell usage rights for data for more money than the provision of such data reasonably costs, to the market participants who for various reasons need to obtain the data and cannot circumvent these costs. Costs should be determined using the established "Cost +-approach" of Copenhagen Study of 2018 principle for setting up fees.

Please also refer to ESMA's draft guidelines on the MiFID II / MiFIR obligations on market data (ESMA70-156-2426, https://www.esma.europa.eu/press-news/consultations/consultation-paper-guidelines-mifid-ii-mifir-obligations-market-data), in particular guidelines 1 – 4, which set forth the guidelines applying to the provision of market data on the basis of cost and the obligation to provide market data on a non-discriminatory basis.

GBIC agrees that these standards may be difficult to define or to apply and that it could be difficult to determine what is "commercially reasonable" where different products are offered to different participants. Trading venue market data products are not easily valued or compared across venues or jurisdictions as some trading venues tend to bundle their products, which limits the ability of market participants to compare market data fees. In addition, trading venues' costs of producing market data may not be widely available or consistently calculated or allocated, which potentially limits the ability of regulators and market participants to fully analyze how a trading venue determines the price of its market data products.
For this reason, the highest possible degree of transparency and the widest possible equality of treatment are essential.

Our major concern is that the prices for market data are not actually based on a reasonable commercial basis for the following reasons:

- There are no limits concerning the market data fees (amount, diversity, etc.)
- The market data provider tend to be monopolists, which gives them too much power and freedom to design the prices at will (no competition)
- The market data costs are rising and if the financial institutes would like to survive, they have to pass them through to the end customer. And the private investor / end customer might not be willing to accept those prices, because a lot of data is available free of charge via the internet. However, financial institutions are required by law to use and subscribe to costly market data.

Q12: Please provide details of other products or services related to market data that are provided by trading venues or other RDPs.

- Trademark licenses
- further market data like weightings or constituents, fundamental data of the company, ratings

Q13: Please share your views on the fees for connected services that are necessary to access essential market data. If concerns are raised, please identify mechanisms to address them.

More and more providers tend to link services and “enrich” data. Therefore, market participants have to subscribe and pay for data and other services that they do not need, only in order to receive the market data, which are absolutely necessary for one´s business. This should be forbidden.

There a accepted market standards like the top three rating agencies (S&P, Moody´s, Fitch). In share trading, these rating agencies have to be taken into account. It is impossible not to use them and thus, high fees have to be paid with no alternative or cheaper work-around available.

Q14: Please provide your view on the need for consolidated data where there are securities trading on multiple trading venues. What should be the primary objectives of consolidated data and what outcomes should it lead to? How should these objectives and outcomes inform the nature of the consolidated data made available?

A boost in transparency, and data quality with a positive impact on fees and market data cost would the main outcome. We refer to the comprehensive study on the “Creation of an EU Consolidated Tape Provider” by Market Structure partners as issued by the European Commission. However, we would like to underpin the obstacles for a CT mentioned in this study.

Q15: Is a consolidated data feed the most efficient mechanism to achieve these objectives and outcomes? If not, what are the alternatives that could help achieve these objectives and outcomes? How do these alternatives affect the cost of and access to market data? How can they be addressed?

Only if its set-up is chosen right can a consolidated data feed be the most efficient mechanism to achieve these objectives and outcomes. The right set-up is the all-important factor. In order to be able to achieve the objectives, a multitude of problems would have to be solved first. This will take time and effort.

Amongst the most important problems to be solved are data quality issues, responsibility, governance and liability issues. If there is no solution to resolve such highly important questions in a meaningful way, it will be most likely that costs for market data remain high and that market participants still need a lot of additional data direct from source. For example, in the US, where a CT is available, costs for market data remain high and market participants still need a lot of additional market data from other sources (e.g. other American exchanges). Such outcome should be avoided by all means.
Lessons learned from the US case e.g. promote competition amongst CT providers and open standards for market data connectivity should be considered.

Q16: Please describe any issues or concerns not raised by IOSCO in this Consultation Paper and describe any suggested mechanisms to address them.

GBIC sees the trend of being increasingly forced by the regulator to purchase data with concern.
The accompanying assumption of generating competition on the provider side has not materialized. On the contrary, monopolies are increasingly forming on the provider side with negative impacts on the cost of market data. Appropriate measures could at least mitigate this trend.

The focus must not be one-sidedly on the investment decision, but the scope must be expanded to include the derived products. As shares and their market data are necessary in order to do business with instruments, which have a share or a stock index as underlying, these subsequent problems should absolutely be considered as well.