

WFE response to FCA Market Data Call for Input

January 2021

The WFE welcomes the opportunity to comment on the FCA's Call for Input on market data.

The World Federation of Exchanges (WFE) is the global trade association for regulated exchanges and clearinghouses. We seek outcomes that support market transparency, consumer confidence and economic growth. We represent over 250 market infrastructures, spread across the Asia-Pacific region (~37%), EMEA (~43%) and the Americas (~21%). The exchange groups we represent with a presence in the UK operate seven cash equities trading venues, which accounted for 86% of average daily turnover in the country during the year to date.

The global exchanges in the WFE membership welcome the opportunity to have an objective and thorough consideration of the market for market data. We welcome the opportunity to discuss alternative sources of data and advanced analytics; these are important emerging issues that warrant considered attention.

The provision of financial market data is a well-established business that includes a variety of companies operating across a value chain; it is important to consider UK/EU cash equity market data in its context. The 10 major banks involved in EMEA equity markets generated about \$3 billion in revenue in this market in Q3 2019.¹ This stands in contrast to the \$142 million earned by the major European exchange groups' market data businesses over the same period². These exchange revenues, annualised, furthermore represent just 1.8% of the revenues of the global market data industry.³ Meanwhile, the proportion of investor fund management expenses attributable to buy-side market data spend is less than 0.001%.⁴

We recognise that both the buy- and sell-side have made representations to the regulator about the costs of market data. We welcome objective scrutiny from supervisors, which we believe will demonstrate that there is no overall market failure. Should there be particular areas of concern (e.g. with respect to certain use-cases of data), the entire value chain, including the so-called 'last mile' of the chain, ought to be reviewed. Such an evaluation would appropriately be informed by an empirical analysis of any distortionary impact of market data fees.

Furthermore, it is important to bear in mind that:

- Market data is a joint product with trade execution, resulting from the overall activities of an exchange. An exchange's activities increase the value of the data that the exchange creates (e.g. through governance standards, market surveillance, etc).
- The value of market data ought to be seen through the prism of the value it represents to those professionals and institutions who make commercial use of it.
- Without the ability to commercialise their data, exchanges, especially small ones, would struggle to cover their high fixed costs, further innovate in a highly dynamic sector, and successfully compete against venues with the ability to commercialise their market data.

¹ WFE calculations including Bank of America; Morgan Stanley; JP Morgan; Goldman Sachs; Citigroup; UBS; Barclays; Crédit Suisse; Société Générale; and BNP Paribas.

² WFE calculations including: Cboe Global Markets; Deutsche Börse Group; Euronext; London Stock Exchange Group; Nasdaq Nordic; SIX Group.

³ Burton-Taylor, *Financial Market Data/Analysis Global Share & Segment Sizing*, 2020.

⁴ Oxera, *Pricing of Market Data Services, An Economic Analysis*, February 2014.

The principle public policy lens through which market data ought to be considered is competition. Without a proven market failure in this market, competition remedies are unwarranted. In this regard, as demonstrated in the seminal Oxera report, *The design of equity trading markets in Europe*, there is adequate competition and no evidence of market failure. It is also crucial to bear in mind that:

- Equity MTFs and SIs in competition with stock exchanges have chosen to adopt a business model that uses exchanges' pre- and post-trade data to underpin their trade execution models, resulting in less transparent markets on their side;
- The UK has a comprehensive framework to govern the pricing of market data in MiFID II with a provision that data be licensed on a 'reasonable commercial basis' (RCB). This policy has been successful; for most European stock exchanges, average fee increases for market data have been moderate, including fee decreases as well.⁵
- It is appropriate and sensible, that exchanges are charging differentiated prices for different types of users; to do otherwise would see smaller industry players or even retail investors subsidising the activity of global banking groups. Under uniform price regulation, retail investors and smaller institutions would see charges for data increase.
- The data often cited by market data consumers in relation to market data cost increases is unreliable; it focuses on increased cost only, and does not account for users subscribing to more data services or taking on further licences to distribute this data to a greater number of their clients.
- Exchanges are one part of a wider value chain in market data and data analytics, which includes data vendors, among others.

In short, the market for market data must be considered as a whole value chain within the wider financial sector. It should be examined in that context, with empirical rigour and the appropriate application of competition frameworks and economic theory.

Q3.9: Please explain the trading data you offer and how you ensure that the quality, speed, coverage and depth of trading data provided meets the needs of your users.

Stock exchange data is the result of the mechanisms exchanges develop, implement, and operate and which ensure an efficient and orderly market. Exchanges create an environment of addressable interaction of supply and demand under defined exchange rules and dedicated market surveillance, enabling reliable outcomes, both for transactions and for exchange market data alike. The high quality of exchange data is acknowledged by the industry while other data is under regulatory scrutiny for its poor quality.⁶

The exchange price formation process, which is enabled by the trading environment developed by each exchange (and including liquidity incentivisation schemes), results in joint products: trade execution and data. The fully rules-based environment in which trading happens on exchanges contains many elements (e.g. high governance and supervisory standards) which support effective trading and provides control mechanisms to ensure these activities operate fairly and have appropriate oversight to discourage conflicted and abusive behaviours. This environment ultimately also supports economic development through the raising and allocating of capital to businesses large and small.

All of these aspects contribute to creation of the two, inextricably linked joint products of the stock exchange: trading and market data. Exchanges significantly and continuously improve their technological infrastructure, to maintain a secure and trustworthy environment for the safe execution of transactions, resulting in high quality market data at the same time. That unique environment also includes order-matching engines that support price formation (bringing together what would otherwise be fragmented bids and asks, in a well-

⁵ Oxera, *The design of equity trading markets in Europe*, March 2019.

⁶ ESMA, *ESMA identifies costs and performance and data quality as new Union strategic supervisory priorities*, November 2020.

defined and well-ordered fashion). Exchanges also enhance liquidity by offering a judicious balance of incentives for market participants ensuring stable liquidity provision. Exchanges also retain qualified and trustworthy people to develop and supervise the markets. Because of these activities, exchanges perform an economically vital role while creating products of great commercial value.

Finally, non-equity exchanges make considerable investment in the construction of proprietary contracts which includes data acquired from other providers. The investment by venues in licensing benchmarks, to create contracts, plays a significant role in establishing investment opportunity diversity and risk management for key industries. The equity equivalent is the work to incubate a pipeline of firms to eventually list on the markets and provide capital-raising, as well as investment opportunities for retail investors and pension funds.

Q3.13: Please explain how you categorise types of user and the reasons for any price differentiation based on the categorisation of the user.

While there have been certain standards and practices developed over the years across the market data industry (and often in dialogue with data users), WFE members may and do adopt slightly different policies regarding the pricing of data. The ability to price data in different ways is essential to ensure the viability of smaller markets, which are subject to different commercial dynamics than the largest markets.

It is a common practice for exchanges to differentiate data pricing according to how the data under licence is being used and to what extent. In doing so, exchanges offer scaling of fees, providing optionality for firms of varying sizes and with varying needs; this accords with the intentions of the applicable regulation and with the economics of digital goods. The 10 major banks involved in EMEA equity markets generated about \$3 billion in revenue in this market in Q3 2019.⁷ This stands in contrast to the \$142 million earned by the main UK and EU exchanges' market data businesses over the same period.⁸ These exchange revenues, annualised, furthermore represent just 1.8% of the revenues of the global market data industry.⁹ Meanwhile, the proportion of investor fund management expenses attributable to buy-side market data spend is less than 0.001%.¹⁰

It is appropriate and necessary that exchanges are able to charge differentiated data fees for different groups of users; to do otherwise would see smaller industry players or retail investors subsidising the activity of global banking groups.

Data pricing also evolves to reflect changes in technology and how data is used. This can be observed in data usage migrating from display licence use for individual human data users, to so-called 'non-display' licenses which apply on a company level for the use of exchange data in electronic formats. Here human activities are being replaced by electronic processes, with parallels for the application of market data. These structural changes are impacting data producers as well as data users.

Q4.1: How are firms operating in wholesale markets using alternative data and advanced analytics, and for which particular activities or markets? How might this change in the future?

Many exchange groups have built on their data offerings in recent years; for some this includes the provision of alternative data sources and advanced analytics. In any case, the high-quality market data produced by exchanges is often a building block of advanced analytical approaches. High standards of governance at exchanges and traditions of fair and non-discriminatory relations with clients make exchange groups well-placed to provide these services, or building blocks of these services, in a responsible way that benefits an array of clients and stakeholders.

⁷ WFE calculations including Bank of America; Morgan Stanley; JP Morgan; Goldman Sachs; Citigroup; UBS; Barclays; Crédit Suisse; Société Générale; and BNP Paribas.

⁸ WFE calculations including: Cboe Global Markets; Deutsche Börse Group; Euronext; London Stock Exchange Group; Nasdaq Nordic; SIX Group.

⁹ Burton-Taylor, *Financial Market Data/Analysis Global Share & Segment Sizing*, 2020.

¹⁰ Oxera, *Pricing of Market Data Services, An Economic Analysis*, February 2014.

Supervisory officials should take care to scrutinise unregulated FinTech-type businesses that harness market data, particularly if they propose to undertake activities traditionally carried out by regulated entities. As technology develops, it is useful to consider the extent to which the regulatory perimeter is fit for the purpose of adequately supervising financial market conduct, investor protection and financial stability.

There may be certain data sets that have important repercussions for markets and therefore demand attention in a regulatory framework. Specifically, it may be appropriate to ensure that such data sets are accessible in a non-discriminatory manner to all interested customers.

Q4.3: What are the potential benefits for firms and investors of the development of data and advanced analytics, now and in the future, and for which particular activities or markets? Please provide examples and where possible explain how the benefits are passed on to investors. How do you assess these benefits against the potential risks associated with the use of data and advanced analytics?

Leveraging alternative data sources and advanced analytics in the wholesale markets has lagged other financial services segments. There is an opportunity for technology to be more widely applied to capital markets and alternative data sources and advanced analytics are a prime example of this. Informative new data sets have the potential to make the electronic price discovery on public markets more efficient, supporting not only investors in public markets but also stakeholders who benefit from the positive externalities of transparent price discovery, including for example: securities issuers; economic policymakers; and, pension scheme beneficiaries.

Q4.7: What factors do you consider are relevant in assessing whether the use of data may create unfair advantages in wholesale markets? For example, if the data are only available to one or a handful of firms or if some market participants are not able to secure sufficient financing to access data.

The principles established in other markets, including traditional market data products (i.e. price/volume/depth of book), have relevance to certain alternative data sources and for an advanced analytics approach. In general, suppliers of data and analytics should have the ability to price their products, services, and licencing agreements according to their commercial discretion. However, the principle of non-discriminatory access remains relevant. Suppliers thereby have incentives to invest in innovation and deliver data and analytics that meet customer needs.

Q4.12a: Are there any potential ethical implications as a result of the use of new forms of data and advanced analytics in wholesale markets? Please give specific examples.

It is crucial that ethical guidelines regarding the use of new technologies, including new sources of data, are developed and adhered to. Such guidelines ought to be developed in a multi-stakeholder environment, ensuring not only that ethical standards are effectively applied, but that they are seen to be effectively applied, monitored and sanctioned.

Many of the ethical themes that arise in respect of market data are already provided for in legislation. It is of crucial importance that individuals' privacy is maintained according to applicable legislation and that, where required, consent is obtained before processing personal data. Intermediaries that owe a fiduciary duty to their clients must apply rigorous safeguards to ensure that the deployment of alternative data and/or advanced analytics is not working contrary to their clients' best interests.

Q4.14: What specific aspects of the regulatory regime unduly limit the way firms can use data and advanced analytics? How do these limit the benefits of data being realised by firms or consumers?

Innovative development and dissemination of alternative data sources and advanced analytics will, in common with other sources of data, suffer from internationally fragmented approaches to data protection and

data sharing. We urge the FCA to continue to work through IOSCO and other relevant international regulatory fora to reduce such fragmentation.