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AIMA Position Summary: MiFIR/ MiFID II Review Technical Standards

This paper summarises the position of the Alternative Investment Management Association¹ (AIMA) regarding the European Securities and Markets Authority's (ESMA) first and second packages of consultation papers on 'Level 2' measures mandated by the European Commission under the [Regulation amending MiFIR](#) (MiFIR Review) and the [Directive amending MiFID II](#) (MiFID II Review), covering:

- I. [Regulatory Technical Standard \(RTS\) on Reasonable Commercial Basis](#)
- II. [RTS and Implementing Technical Standards \(ITS\) relating to consolidated tape providers \(CTPs\) and other data reporting service providers \(DRSPs\)](#)
- III. [RTS 2 on Non-Equity Transparency](#)

If you have any questions, please contact Adam Jacobs-Dean, Global Head of Markets, Governance and Innovation (ajacobs-dean@aima.org) and Aniqah Rao, Associate Director – Markets, Governance and Innovation (arao@aima.org).

I. RTS on Reasonable Commercial Basis

AIMA welcomes the MiFIR Review mandate for ESMA to develop draft RTS specifying the content, format and terminology of the reasonable commercial basis information that trading venues Approved Publication Arrangements (APAs), CTPs and systematic internalisers are required to make available to the public. We also welcome work to specify what constitutes a reasonable commercial basis. We believe that the costs of obtaining market data have increased significantly since the implementation of MiFID II, exceeding the costs involved in the actual creation and dissemination of data.

We believe ESMA should consider the following principles when finalising the RTS:

- Ensure robust supervisory oversight of market data fees;
- Ensure that market data fees are not based on the value that the market data represents to individual users;
- Ensure that investment managers are not limited in their choice to purchase market data, particularly real-time data, and are able to switch to different market data providers;
- Maximise the comprehensiveness and comprehensibility of market data providers' disclosures;
- Ensure data users are not subject to complex and onerous licensing terms;
- Ensure that the audit practices of market data providers are fair and reasonable;

¹ The Alternative Investment Management Association (AIMA) is the global representative of the alternative investment industry, with around 2,100 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than US\$3 trillion in hedge fund and private credit assets.

- Ensure that the broader policy objectives of reducing the average cost of market data and making data available to a wider range of market participants are considered; and
- Ensure an openness to conduct future regulatory change if the RTS does not deliver on its objectives.

II. RTS and ITS relating to CTPs and other DRSPs

AIMA welcomes the measures introduced in the MiFIR Review to encourage supervised entities to apply for authorisation to act as a CTP, specifically:

- The requirement on all trading venues and APAs to transmit harmonised market data directly to CTPs as close to real-time as technically possible;
- Mandating the inclusion of pre- and post-trade data in a CT for shares and ETFs, with the pre-trade tape displaying the European Best Bid and Offer with corresponding volumes and without venue attribution;
- Allowing consumption of data published by the CT to be discretionary, not mandatory, by market participants; and
- Empowering ESMA to organise a competitive selection procedure to select a single CTP per asset class for a specified period.

We believe that these measures would facilitate the emergence of CTs, creating a level playing field for trade data and enhancing market functioning.

We believe ESMA should consider the following principles when finalising the technical standards:

- Ensure the robustness, resilience and efficiency of the CTP in receiving, consolidating and disseminating data;
- Ensure that the fees charged by the CTP to data users are reasonable with simple fee structures and licensing models;
- Ensure that the CTP governance structure includes proper representation of data users;
- Ensure that the CTP disseminates data at an optimal speed while ensuring data quality; and
- Ensure that the revenue distribution scheme of the CTP and arrangements for the suspension and resumption of redistribution is fair and workable.

III. RTS 2 on Non-Equity Transparency

AIMA welcomes the introduction of provisions to improve pre- and post-trade transparency in the MiFIR Review. We believe that the improvements can enhance market functioning and lower costs for market participants and investors.

We believe ESMA should consider the following principles when amending the post-trade deferrals regime for bonds, structured finance products and emission allowances:

- Ensure that the calibration of deferrals is data-led; and
- Set volume caps for large-in-scale trades.