



**UK Finance
Response to the
FCA Wholesale
Data Market
Study Report (the
“Report”)
(MS23/1.5)**

April | 2024



UK Finance response to MS23/1.5

UK Finance and our members appreciate the opportunity to share our views with the FCA on its proposed next steps following the Wholesale Data Market Study (the “**Market Study**”). This response was produced with the advisory support of CMS Cameron McKenna Nabarro Olswang LLP.

We recognise that the FCA has undertaken significant work since its Call for Input in relation to wholesale data in March 2020, to investigate well known issues market participants face in accessing, using and paying for wholesale data. UK Finance welcomes these efforts as our members continue to experience difficulties in using wholesale data for the full range of potential use cases (e.g. due to overly restrictive or burdensome licence terms) and in paying for data (due to its high cost).

The overall sentiment among our members, nevertheless, is that the outcome of the Market Study does not go far enough in setting out a plan for addressing these issues given the lack of clarity in relation to the timing and nature of future reform. In fact, despite evidence gathered across the credit ratings data, benchmarks and market data vendor (“**MDV**”) markets that competition does not work well in certain key respects, the FCA has confirmed that it will not make a market investigation reference to the Competition and Markets Authority or take any immediate action.

Our members consider this a significant missed opportunity to take concrete steps to boost the international competitiveness of UK firms and UK wholesale capital markets. It is conceivable that market participants could now be waiting for the best part of a decade from the original Call for Input to see the impact of any potential future reforms.

We therefore request the FCA to prioritise the critical issues we have raised in this response so that they are addressed directly and alongside existing workstreams for the bond and equities consolidated tapes (“**CTs**”). We are concerned that delaying any action until after the impact of the CTs can be assessed, risks delaying valuable and necessary changes for UK wholesale data markets. We believe these issues will persist regardless of the existence of a CT and as explained in more detail below, CTs will not fully address the issues identified in wholesale data markets. Therefore, they warrant being addressed on a more urgent basis. In addition, firms operating in the UK markets could be at a competitive disadvantage if the EU makes the necessary changes first, resulting in EU firms having access to cheaper market data on less restrictive terms.

Our members’ views are set out in greater detail below.

- **Lack of clarity in relation to the timing and nature of proposed next steps, and the prospect of further delays.** The timing and outcome of any potential changes to the relevant regulations (e.g. the Benchmarks Regulation (“**BMR**”) and the Credit Rating Agencies Regulation (“**CRAR**”)) as part of the Smarter Regulatory Framework (“**SRF**”) programme is currently unclear. HM Treasury recently provided an update on the SRF programme, which indicated that these files are not in the next tranche for review, with no confirmation as to when future tranches will be announced. Although HM Treasury confirmed that the Markets in Financial Instruments Directive (“**MiFID**”) framework, in particular the MiFID Org Regulation and the provisions in the Markets in Financial Instruments Regulation (“**MIFIR**”) relating to transaction reporting, would be included in the next tranche, there was no confirmation as to when this would take place. In any event it is not clear that this review would include the existing reasonable commercial basis (“**RCB**”) regime (discussed in more detail below), given only certain provisions in MIFIR will be in scope of the review and the FCA has recently consulted on transferring provisions in the MiFID Org Regulation relating to the RCB regime into the FCA Handbook.

While our members are strongly supportive of the emergence of CTs over the coming years, the timing of the implementation of the CTs, in particular the equities CT, as well as the actual impact that the CTs will have on issues such as increasing data pricing and complex licensing

terms, is currently unknown. Further, as explained in detail below, an equity CT will not fully address pricing and licensing related issues relating to equity trade data. As such, there is clearly a risk in waiting for the outcome of this reform before taking concrete action in relation to the MDV market. Moreover, this could unnecessarily and significantly delay action. We consider that delaying a review of the RCB regime until after the CTs have been set up is impractical given how closely related the two projects are and raises questions around the coherence and effectiveness of any potential RCB reform.

As the FCA is aware, currently there is an ongoing review of the RCB regime carried out by the European Securities and Markets Authority (“**ESMA**”) in the EU ahead of the delivery of the EU CTs. We suggest that it would be sensible for the EU and UK regimes to align closely on timing aspects and key outcomes they expect to deliver for market participants given the scope and cross-border aspects of MDV activities. We also comment on the importance of taking action for the UK’s international competitiveness and growth in more detail below.

- **Overreliance on the emergence of consolidated tapes to address issues identified in data markets.** Our members strongly believe that the emergence of CTs will not present a complete solution to the pricing and licensing issues faced by wholesale data users. As the FCA has recognised in its work on the CTs to date, the CTs will only be “near-real time” and will not act as a replacement for non-display, low latency feeds directly provided by trading venues and other data providers. Consequently, sell-side and many buy-side firms will continue to buy such data directly from the existing suppliers. Therefore, we do not foresee a downward pressure on pricing or improvements on the current complex licensing terms of latency sensitive market data feeds as a result of the introduction of a CT.
- **Lack of confidence in incremental reforms to the RCB regime.** Our members are also not confident that providing guidance in relation to the RCB regime will have a significant impact, given the failure of the RCB regime to deliver the desired outcomes to date. In this respect, members note that the FCA has chosen not to adopt an RCB regime as part of the forthcoming framework for the licensing of data by CT providers.

Members would welcome the UK at least taking similar steps to the EU, which is setting out more detailed requirements in binding legislation and mandating further requirements as to how data providers can charge for and licence data. Further, it is possible that data providers could increase their charges on data for which a CT would not offer a viable substitute (e.g. real time direct feeds) as a means of recouping any revenues that could potentially be lost as a result of the introduction of CTs. This again highlights the importance of having a more effective RCB framework. In this respect, as we also noted in our [response](#) to the FCA CP23/33, the effect of the FCA’s revisions to Article 89 of the MiFID Org Regulation when transposing it to the FCA Handbook has been to potentially reduce transparency in relation to the fees and other key commercial terms of approved publication arrangements.

- **The significance of reducing the costs of wholesale data.** We note the FCA’s comment in the Report that for most data users “data costs are a relatively small proportion of their total costs.” Our members strongly disagree with this statement and consider wholesale data to be a significant cost to their respective businesses. Charging models can vary significantly between users, and larger market participants have different pricing terms to smaller ones, so it may not be possible to make a generalised statement in relation to the relative significance of this expense, which will vary from firm to firm. There is also an implicit cost for our members in interpreting and complying with complex licence terms on an ongoing basis.

As discussed above, the RCB regime as it applies to trading venues, approved publication arrangements (APAs), CT providers and systematic internalisers, has not reduced the costs

of wholesale data or made terms for accessing such data less restrictive. The consensus view, which is also reflected in the Report, is that MDVs (which are not currently subject to the RCB regime or any other equivalent requirements) do not solve this issue and have significant pricing latitude themselves. It is commonly understood that MDVs employ differential pricing based on the value of the data to different market participants. As mentioned above, UK Finance members are of the view that this and related issues relating to a lack of pricing transparency and licensing terms merit a more immediate and proactive approach.

- **The importance of wholesale data in driving the international competitiveness of UK capital markets and in delivering better outcomes for investors.** Our members consider that increasing competition in the UK wholesale data market should have an overall positive effect and do not agree with the suggestion that increasing competition in these markets could have unintended consequences such as reducing innovation, as argued in the Report.

A well-functioning wholesale market where both domestic and international participants including end investors can access good quality trade data at fair and reasonable prices would make the UK more competitive internationally.

Encouraging more UK providers of wholesale data to emerge should also boost the international competitiveness of the UK.

However, while trade-related data is becoming ever more important, it is also subject to increasing monetisation and licensing by market participants, that are not necessarily the originators of that data. Whilst this may in turn lead to innovation among firms who are able to ingest and act on such data (a broadly positive development), any monetisation should be done in a way that does not have further adverse impacts on access to market data and competition in the UK.

As mentioned above, we believe it is important for the UK to keep pace with the parallel development of binding standards by ESMA on the RCB regime, given the interconnected nature of UK and EU markets. If the EU and ESMA push ahead with reforms to the RCB regime that unlock the benefits of a more competitive environment for wholesale market data, then the UK will be at a significant competitive disadvantage. It is also likely to be the case that the “first mover” will in effect “set the standard” given the cross-border and interconnected nature of these markets. In this respect, we welcome and note the FCA’s recent comments in its Business Plan 2024/25 on its commitment to contribute to and influence international standards in market data.

As noted above, our members request that the FCA provides more concrete proposals for its policy and regulatory reforms and supervisory and competition law actions ahead of and independent to any conclusions around the CTs. Such concrete and timely action is needed to ensure that an opportunity is not missed to make valuable and necessary changes, which are imperative in ensuring that the UK markets remain internationally competitive and deliver better outcomes for those who participate in them, including end investors.

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The Capital Markets & Wholesale division, led by Conor Lawlor, focuses primarily on policy and regulatory initiatives spanning primary markets, M&A, secondary markets, post trade and liquidity management. Our work in these areas includes bringing technical experts from across our membership together to form new views, drive thought leadership, and develop policy positions relevant to the UK reform agenda. Further information is available at: www.ukfinance.org.uk

Contacts:

Kevin Gaffney, Director, Secondary Markets and Post-Trade
kevin.gaffney@ukfinance.org.uk

Avanthi Weerasinghe, Principal, Capital Markets and Wholesale Policy
avanthi.weerasinghe@ukfinance.org.uk

Alberto Sicari, Analyst, Capital Markets and Wholesale Policy
alberto.sicari@ukfinance.org.uk

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Contacts:

Tom Callaby, Partner, Financial Services Regulatory
Tom.Callaby@cms-cmno.com

Susann Altkemper, Of Counsel, Financial Services Regulatory
Susann.Altkemper@cms-cmno.com

Daniel Lederman, Associate, Financial Services Regulatory
Daniel.Lederman@cms-cmno.com