Managed Funds Association
The Voice of the Global Alternative Investment Industry
Washington, D.C. | New York

September 24, 2021

Via electronic mail: WholesaleMarkets.Review@hmtreasury.gov.uk

Securities and Markets, Financial Services Group
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Re: Wholesale Markets Review: Consultation

Dear Sir/Madam,

Managed Funds Association ("**MFA**")[1] appreciates the opportunity to represent the views of the global alternative investment industry in this written response to HM Treasury's ("**HMT**") consultation on its wholesale markets review (the "**Review**").

Many of MFA's members are headquartered in the United States ("**U.S.**") and nearly 40 percent of MFA members have offices in the United Kingdom. MFA is fully supportive of HMT's commitment to remaining an open and global financial center and to enhancing its relationships with jurisdictions around the world (as expressed in paragraph 9.2 of the Review). As the UK regulatory regime evolves, we would encourage HMT to continue to engage closely with U.S. and other international policy and regulatory leaders to ensure continued alignment of the UK market framework in a way that supports cross-border trading.

MFA supports HMT's readiness to adjust the UK wholesale markets regime to further protect market integrity and encourage competition, while maintaining high standards which will enable international buy-side firms, such as MFA's members, to continue to participate in the UK markets with confidence. In particular, MFA is supportive of HMT's focus on calibrating transparency requirements in a way that will provide buy-side firms with improved access to price and market data, which is essential for asset managers to be able to trade on UK markets with confidence.

Context

MFA represents globally active hedge funds supporting a policy environment that fosters growth in efficient, fair and transparent capital markets. Many MFA members trade actively in both equity and non-equity instruments on a range of UK trading venues as well as on an "OTC" basis with UK investment firms and systematic internalisers. Some of our members are headquartered in the UK, others that are not UK-headquartered have FCA authorised entities in their groups and may be directly subject to the requirements of MiFID II as onshored in the UK, and a third set of non-UK members transact solely on a cross-border basis and so are affected by the UK's regulatory regime indirectly.

[1] MFA represents the global alternative investment industry and its investors by advocating for regulatory, tax, and other public policies that foster efficient, transparent, and fair capital markets. MFA's more than 140 member firms collectively manage nearly $1.6 trillion across a diverse group of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time. MFA has a global presence and is active in Washington, London, Brussels, and Asia.

Our responses to HMT's questions focus on: (i) trading venues and systematic internalisers; (ii) equity transparency; (iii) fixed-income transparency; (iv) commodity position limits; and (v) market data.

We have set out our responses to the relevant questions in the Annex hereto.

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MFA appreciates the opportunity to provide these comments to HMT in response to the Review. If you have any questions about these comments, or if we can provide further information, please do not hesitate to contact the undersigned at (202) 730-2600.

Respectfully submitted,

/s/

Michael Pedroni
Executive Vice President and Managing Director
Global Markets & Research
MFA

ANNEX

Chapter 2: Trading Venues

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

MFA agrees with HMT (as HMT notes at paragraph 2.6 of the Review) that the current market structure for trading venues in the UK is generally sound. The trading venue landscape in the UK, and similarly in the EEA, is well established and MFA is of the view that no fundamental or structural changes to the current regulatory framework in this area are required. It is important to ensure that regulated trading venues (RMs, MTFs, and OTFs) remain multilateral and competitive platforms. Nonetheless, we note that not all entities that carry out multilateral activities have a trading venue licence. This is particularly the case for some technology firms and voice brokers. We believe that clarifying, via FCA guidance, that these entities should also be subject to equal requirements would further improve the level playing field.

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?**

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

4 **Should the current restrictions on the operation of an SI within the samelegal entity of an organised trading facility (OTF) 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)?

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

7 **What would be the risks and benefits of allowing this approach?**

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?**

9 **What principles and/or types of information should be considered when developing requirements for disclosure at issuance to ensure requirementsare proportionate?**

10 **How far should these be determined by the venue operator versus regulation, and what other features may provide proportionate assurancesaround the quality of issuers admitted to a venue (e.g. role of advisors inprocess)?**

11 **Would the creation of a new category of trading venue be an appropriatemeans to facilitate access to public markets for very small firms? What sizeof firms would be appropriate for a new trading venue?**

12 **If you answered no to question 11:**

Would the facilitation of the creation of new market segments be a moresuitable intervention?

13 **If you answered yes to question 11 or 12:**

What should the market cap of companies that can trade on the new tradingvenue and/or segment be?

14 **Do you believe intermittent rather than continuous trading would increaseliquidity?**

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

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

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?**

MFA believes that industry guidance about how venues should operate during an outage and how communications and crisis management processes should be addressed would be useful. This guidance should specify minimum requirements for venues to follow in developing their processes for outage. A venue's processes should be required to cover the identification of "key persons" that will be responsible for managing the outage at the venue, to set out clear protocols for communicating to stakeholders throughout the outage, and also clarify how pending orders are to be treated during and upon resolution of the outage.

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

MFA believes that in the event that an outage affects a primary exchange, an auction generating a closing-price should be available. Alternatively, an alternative price the industry has agreed upon and that is made available to all market participants would be beneficial. Stakeholders, trading venues and regulators should engage in discussions to develop concrete proposals for a fail-safe mechanism.

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

Chapter 3: Systematic Internalisers

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

21 **If you answered no to question 20:**

Do you think the definition should be amended in another way?

22 **If you answered yes to question 20:**

Do you think that regulatory guidance should be used to support thedefinition in legislation?

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

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

MFA believes that the status of an SI should be determined by asset class and include all instruments in that asset class. If reporting were to be determined at entity level, however, it is essential that trades continue to be identifiable in a way that clearly states in which capacity they have been executed by the parties (i.e. in an SI capacity or a non-SI capacity).

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

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?**

MFA does not agree with the proposal to allow SIs to execute at the midpoint for all trades. We believe that the MiFID II tick size regime and extension to SI quotes that are not LIS has created a level playing field with venues and has proven to work effectively overall.

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

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

MFA considers that the current approach to applying the DVC can be complex for market participants to navigate. Nevertheless, some form of volume cap can be useful in ensuring that buy-side firms can continue to have a fair view of the market. Therefore, MFA would respectfully suggest that HMT considers maintaining a form of volume cap to limit the proportion of trading that may occur without pre-trade transparency while still permitting market participants who prefer to trade in dark pools to do so without unreasonably restrictive caps. This could be achieved through the setting of a single volume cap (for example, only the 8% cap) across all venues in a manner that can be easily adjusted by the FCA to reflect changing market conditions.

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

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?**

31 **Do you consider SIs quotes useful?**

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

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?

Chapter 4: Equity Markets

34 **Do you think that the share trading obligation (STO) should be removed?**

35 **Do you think that the requirements for algorithmic liquidity providers and trading venues to**

enter into binding market making agreements should be removed?

36 **What would be the impact of such a removal for you and/ or the market youoperate in?**

37 **Do you think the scope of the tick size regime needs to be recalibrated foroverseas shares to ensure that firms can trade at the best prices in the UK?**

MFA agrees with HMT's proposal to recalibrate tick sizes for overseas shares. We believe that allowing the setting of tick sizes that are consistent with the primary market would ensure best prices and increased trading volume in the UK.

38 **Do you think trading venues are better placed to establish tick sizes for new shares until sufficiently robust data is available?**

MFA believes that regulators are best placed to establish tick sizes for all shares in order to avoid arbitrage and divergence.

39 **What are the potential benefits and risks of delegating the setting of ticksizes, in general, to trading venues? What safeguards would be needed toavoid arbitrage issues?**

40 **Are there any other parts of the equity regime that you think could be operated more effectively by the market, while upholding high standards?**

Chapter 5: Fixed Income and Derivatives Markets

41 **Do you agree that the scope of the derivative trading obligation (DTO) shouldbe 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?**

42 **Do you think that all post-trade risk reduction services should be exemptfrom the DTO?**

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 reductionservices?**
b) **What conditions do you think should be met for the exemption to beapplicable?**

44 **Do you think the FCA should be given the power to modify or suspend theDTO quickly under certain circumstances, on a permanent rather than temporary basis?**

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).**

MFA supports the continued application of a broad transparency regime as introduced by MiFID II and notes that the level of transparency visible to its members has improved since 2018 in certain asset classes. Nevertheless, the current interpretation of ToTV, overly lengthy deferrals, and the reliance on ISINs with respect to identifying OTC derivatives in scope of transparency requirements has not proven to be effective, given the multiplicity of ISINs which may exist for contracts that are effectively the same in terms of their economic effect.

46 **Do you think that using traded on a trading venue (ToTV) is a useful criterionfor determining the scope of transparency requirements for non-equity instruments, and in particular OTC derivatives? Please separate your answersby fixed income (please treat sovereign bonds, high-yield bonds and investment grade bonds separately) and derivatives (please distinguish between exchange treaded and OTC derivatives).**

MFA does not believe that TOTV has proven to be the right criterion for determining the scope of MiFID II transparency requirements. The approach developed by ESMA in its ToTV assessment has resulted in the exclusion of many standardised and liquid OTC derivatives from the transparency regime, as many OTC derivative contracts which are in fact equivalent to venue traded contracts have remained outside the transparency regime of MiFID II.

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?

MFA agrees that setting the scope of the transparency requirement for OTC transactions by reference to central clearing would be a simpler approach than referring to the concept of TOTV.

If this approach were adopted, in order to avoid complexity and to ensure consistency across equivalent contracts, MFA would suggest that HMT considers including in the scope of transparency requirements all transactions in OTC derivative contracts that have been determined subject to a mandatory clearing obligation, regardless of whether the transaction is in fact centrally cleared.

If contracts of a type subject to the clearing mandate but not centrally cleared (*e.g.* because one of the counterparties is a pension fund or a small financial counterparty benefitting from an exemption) are exempt from transparency requirements, this would reduce the overall level of transparency to regulators and the markets across identical contracts. It would also be operationally complex to implement, as reporting logic would need to be adapted by firms depending on the nature of each counterparty.

However, in our view, the preferred approach is to apply transparency requirements to all instruments in a given asset class, and then allow the waivers and deferrals to operate to further calibrate the regime. For example, there is a pre-trade transparency waiver and a post-trade transparency deferral for illiquid instruments. This provides an approach that can be adopted across non-equity asset classes (even those without central clearing) and is comparable to existing post-trade transparency frameworks in the U.S.

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).**

Yes – please see our response to Question 47, above.

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).**

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

We support more holistic liquidity assessments based on both quantitative and qualitative criteria.

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).**

Yes, for example, all OTC derivatives already assessed to be liquid for the purposes of the clearing obligation should be similarly determined to be liquid for transparency purposes.

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 tradingmethod (for example RFQ, and order book).**

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

MFA strongly believes that transparency requirements should apply broadly and across all asset classes. While recalibration of certain waivers and deferrals may be appropriate in order to simplify the regime (for example, by removing the DVC), MFA does not believe that it would be proportionate to exempt any of these asset classes from transparency requirements altogether.

If there is interest in taking a different approach to pre-trade transparency in non-equities markets, we would suggest focusing on (a) incentivising more competition and firm pricing on trading venues, and (b) consistently and uniformly enforcing non-discriminatory access requirements to ensure buy-side members have access to all relevant liquidity pools.

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 bondsand investment-grade bonds separately) and derivatives (ETDs and OTC derivatives).

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

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

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

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).

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

We recommend taking a consistent approach across non-equity asset classes. It is also important that the post-trade transparency regime includes all trading activity in a given instrument, both on-venue and off-venue. The current approach, based on TOTV, excludes a great deal of off-venue trading activity (as further explained in response to Question 46, above.)

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

Yes, MFA believes that the availability of deferrals should be strictly limited. Post-trade data is of limited use to market participants in informing their trading decisions where significant time has lapsed since execution. MFA therefore supports HMT's proposals to remove the SSTI, package order and EFP deferrals which are currently available under MiFID II. We would also suggest re-assessing whether the deferral for illiquid instruments is appropriately calibrated.

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).**

Post-trade data is of most use to market participants when it is made available as close as possible to real time. MFA notes that, under the CFTC's rules which apply in U.S. swaps markets and FINRA rules in U.S. bond markets, a maximum publication deferral time of 15 minutes is permitted. MFA is of the view that this maximum deferral period strikes an appropriate balance between ensuring that post-trade data is useful to the markets, whilst reducing scope for predatory behaviour by market participants.

62 **What are your views on the government's proposal to delete the size specificto 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-gradebonds separately) and derivatives (ETDs and OTC derivatives).**

Yes – please see our response to Question 60, above.

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

Yes- volume masking provides additional protection for liquidity providers as the full trade size is not disclosed, and therefore supports shortening the deferral periods as suggested above.

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

Chapter 6: Commodity Markets

65 **Do you think that the scope of the 'commodity derivatives' regime should be narrowed to derivatives that are based on physical commodities?**

66 **Do you think that financial instruments which refer to commodities as a pricing element but are securities in their legal form, should be removed from the regime?**

67 **Do you think economically equivalent OTC commodity derivative contractsshould be removed from the commodity derivatives regime?**

68 **Are there any other instruments that you think should be deleted from the commodity derivatives regime?**

69 **What would be the risks and benefits of transferring responsibility for position limits from the FCA to trading venues?**

70 **What specific factors do you think should be addressed in the framework of requirements that UK authorities would provide for trading venues?**

71 **Do you think that the scope of contracts that are automatically subject toposition limits should be limited? If yes, do you think that it should be limitedto contracts that are critical or significant, which includes those that are physically settled, and agricultural?**

MFA agrees that position limits can have a negative impact on the viability of new and illiquid contracts, which has broader consequences for innovation and competition in commodities markets. This reflects the fact that the number of participants entering into new commodity derivative contracts tends to be low in the period soon after their launch, such that limits are more likely to restrict participants in their trading activities, thereby leading to a reduction in open interest.

We strongly support the suggestion that position limits could be placed only on agricultural and physically settled commodity contracts. If this proposal is taken forward, we would respectfully suggest that a narrow definition of ‘’physically settled” is used in this context, such that only contracts under which counterparties intend for physical delivery to actually take place are included in the scope of the position limit regime.

72 **Do you think that the UK commodity derivatives regime should allow position limits exemptions for liquidity providers?**

73 **Do you think that the UK commodity derivatives regime should introduce a‘pass through’ hedging exemption to enable investment firms to support awider range of hedging practices?**

74 **Do you think any other activities should be exempt from the regime?**

75 **Are there areas of the UK’s position reporting regime which could be improved?**

76 **Do you think that the ancillary activities test (AAT) should revert to a qualitative assessment of the activities performed by a market participant?**

77 **Do you think that the basis of the AAT should be expected activity, ratherthan historic activity?**

78 **Do you agree that the annual notification requirement should be abolished?**

79 **Does the continued existence of the separate Oil Market Participant (OMP)and Energy Market Participant (EMP) regimes for commodity derivative market participants serve any meaningful purpose?**

80 **Do you think that the OMP and EMP regimes should be removed as particular regulatory statuses**

from the UK's regulatory perimeter?

81 **Do you think any changes would need to be made to the MiFID II regime, if the OMP and EMP regimes are removed as particular regulatory statuses?**

Chapter 7: Market Data

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

Yes. We believe that HMT should target a post-trade CT for all key equity and non-equity asset classes. We note the experience in the U.S., which has had CTs across multiple asset classes, has been generally very successful and resulted in a highly liquid, transparent, market. We do not believe that consumption of CT data should be made mandatory, as this may result in some market participants supporting costs for data which they do not require. We do not believe that mandatory consumption should be necessary as we would expect voluntary consumption to be sufficiently high.

At the same time, it is crucially important that work to develop a CT is not seen as obviating the need for overhaul of rules on the pricing of market data – it is important to progress the two in tandem.

If you answered yes to question 82:

83 **Do you think a fixed income tape should be prioritised?**

No. The CT use case is potentially greater for asset classes that are less standardised and more fragmented in their trading profile, which is true of a broad range of fixed income products. In this context, a CT (or multiple CTs) could provide a valuable consolidated view of market activity that is not available today. However, that same lack of standardisation means that the hurdles are higher to deliver an effective CT.

MFA suggests that both an equity and a non-equity CT could be developed in tandem, with different vendors focusing on different asset classes.

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-tradedata too?**

Yes, we believe post-trade data would be most beneficial and provides a less complex starting point.

85 **Is there any value in a delayed data CT for fixed income markets?**

No. It is important that a post-trade CT publish data in real-time. Real-time data is necessary to provide market participants with a current snapshot of market trading activity. All the CTs established in the US, whether in equities, bonds, or OTC derivatives, provide real-time data.

86 **Is it valuable for an equity CT to include pre- and post-trade data?**

MFA believes that a CT which includes pre-trade data (as well as post-trade data) would be valuable to buyside firms in providing a fuller picture of market pricing to firms' trading units.

Nevertheless, we would emphasise that, although we support the development of a CT, CTs are not a substitute for addressing the broader issues faced by buyside firms in accessing other forms of market data on a reasonable commercial basis. We have provided our suggestions on how to address these broader issues in our response to Question 92 of the Review, below.

87 **Is there any value in a delayed data CT for equity markets?**

Please see our response to Question 85 above, which applies equally to this question.

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?**

For a UK CT to be successful, trading venues and APAs must be required to provide the relevant data to the CT free of charge. Such mandatory contribution features in the CT framework for equities, corporate bonds, municipal bonds, and OTC derivatives that exists in the U.S., and functions well.

In the non-equity space, one of the key elements of MiFID II was to improve transparency by ensuring that APAs would publish post-trade transparency data in an easily accessible way and at a reasonable cost based on the principle of a "reasonable commercial basis". However, we have seen APAs engaging in practices that are contrary to the objectives of the legislation, including imposing restrictions on access to data, publishing information in a format that prevents users from reading, using and copying the information, deleting data shortly after publication, not publishing data on transactions benefiting from a publication deferral and requiring market participants to submit search queries in order to access data.

Concerns around financial incentives, regulatory requirements, and competition by non-regulated data vendors will all largely be addressed if trading venues and APAs are required to provide the relevant data to the CT free of charge (mandatory contribution). MFA notes that the post-trade CTs in the U.S. for both equities (e.g. the SIP) and non-equities (e.g. TRACE for corporate bonds, EMMA for municipal bonds, and the DTCC DDR for OTC derivatives) each are comprehensive, real-time, and low cost (or free of charge).

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

Please see our response to Question 88, above. The two most important legislative changes are requiring mandatory contribution from trading venues and APAs, and ensuring the underlying post-trade transparency framework is comprehensive and real-time (which requires narrowing and shortening the available deferrals).

90 **Do you see any risks with removing the obligation for CTs to provide datafor free after 15 minutes?**

91 **What are the potential advantages and disadvantages of multiple private-sector CTs for each asset class?**

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?**

As noted in our response to Question 86 of the Review, above, MFA believes that practices governing the cost of market data must be urgently addressed, regardless of whether a CT can be successfully developed. There are many other forms of market data available which will not be replaced by the data made available by any CT, and which buyside firms will still be required to consume.

Asset managers generally need access to a wide range of data, including bid and offer quotations, information regarding the venues displaying each quotation, "last sale" transaction data, trading volumes, and other basic information. This data is integral to making trading decisions and ultimately helps our members to improve returns for their investors by maintaining high execution quality. More broadly, it also helps to promote market integrity by enabling firms to route orders to the most competitive markets.

Reliance on transparent pricing has become an integral part of market functioning since the implementation of MiFID II: however, this has in turn increased the value of market data to market participants, and so increased data costs. MFA is of the view that the increased costs observed are not proportionate to the costs of data provision incurred by trading venues and other data vendors.

We would like to also point out that various regulatory requirements, under both MiFID II and other frameworks, have effectively required firms to increase their consumption of market data and ability to process that data, including: (i) requirements relating to the monitoring of execution quality; (ii) regulatory reporting requirements; (iii) rules on inducements; (iv) asset valuation requirements; and (v) data security, risk management and business continuity requirements (such as maintenance of redundant feeds and archives). This means that data vendors are in a position to exploit market participants' compliance needs.

As it is not possible for buyside firms to source the data they need other than from trading venues or data vendors, an uncompetitive landscape has been allowed to develop, with many trading venues dramatically increasing prices for market data (by as much as up to 27% in the period between 2016 to 2019)[2]. These negative effects of increased market data costs are widely recognized and indeed were alluded to by the FCA in its Call for Input on Accessing and Using Wholesale Data[3] which noted (at paragraph 1.3) that "*trading venues and benchmark administrators may not face sufficient competitive pressures, allowing them to charge high prices to clients and competitors*". At the EU level, ESMA has concluded that *"MiFID II has not delivered on its objective to reduce the price of market data"*[4].

MFA would respectfully request that HMT takes account of the negative implications that these

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[2] See, for example, hypothetical data usage costs presented by ESMA in its MiFID II/MiFIR Review Report No. 1 on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments (December 5th, 2019), at section 3.1.2: https://www.esma.europa.eu/sites/default/files/library/mifid_ii_mifir_review_report_no_1_on_prices_for_market_data_and_the_equity_ct.pdf

[3] Accessing and using wholesale data – Call for Input, March 2020: https://www.fca.org.uk/publication/call-for-input/call-for-input-accessing-and-using-wholesale-data.pdf

[4] MiFID II/MiFIR Review Report No. 1 on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments (December 5th, 2019): https://www.esma.europa.eu/sites/default/files/library/mifid_ii_mifir_review_report_no_1_on_prices_for_market_data_and_the_equity_ct.pdf

dramatic increases in data costs have created for investors, capital markets, and the economy, in terms of financing which could otherwise have been diverted towards investment and growth by the many firms impacted. Specifically, MFA suggests that HMT considers further developing the regulatory and supervisory framework that applies to data providers.

MFA firmly believes that the way in which trading venues and data vendors arrive at and impose market data costs must be subject to regulatory oversight on a holistic basis: *i.e.* oversight must extend not only to the ultimate pricing of data consumed but also to the licensing practices, terms and conditions, audit procedures and connectivity fees imposed by data providers. We would propose that a regulatory structure for market data should be designed in accordance with three objectives:

(i) The price of market data and the connectivity required to receive that data must be based on the actual costs for the data provider of producing and distributing the data (as opposed to the perceived value that market participants derive from market data). Reasonable mark-ups should, however, be permitted in order to curb monopoly pricing power;

(ii) Data providers should be required to take steps to standardize data and the terms and conditions on which it is offered, across their user base; and

(iii) Market data licensing contracts should be simplified to ease administrative burdens and to eliminate market data usage audits to the greatest extent possible. Some of our members report having to submit to regular, intensive “data usage” audits performed by data providers, in which the burden of proof is on our members to prove that they have acted in accordance with their usage agreements (rather than on data provider to prove that they have not). MFA has observed considerable fines being imposed on its members for unintentional technical violations of licensing contracts. The practical availability of dispute mechanisms in these instances can be limited by the fact that firms need to remain connected to the data provider.

Chapter 8: Reporting

93 **Where do the current regulatory reporting regimes for wholesale marketscontain duplicative reporting requirements?**

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

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

96 **Do you think electronic communication should become the default meansof communication for disclosures and reporting to retail clients, and, if so,what protections are needed for retail clients around such a change?**

97 **Are there any other changes to the conduct rules in the MiFID delegatedregulation that you think could be made to reduce costs whilst continuingto offer meaningful investor protection?**

98 **Do you think other changes are needed to ensure that the reporting regime correctly balances**

investor protection and transparency?

With respect to trade and transaction reporting, MFA agrees with HMT's observations that transaction reporting is working well, and supports HMT's proposals to have SIs make trade reports across all asset classes (as further discussed in our response to Question 24).

MFA makes no comment in its response with respect to investor protection reports.

99 **Have you experienced any issues with the utilisation of International Securities Identification Number (ISINs) as identifiers?**

100 **Do you have any suggestions on how the use of identifiers could beimproved?**

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?**

102 **What further steps can UK authorities take to support the wholesalemarkets sector as we move towards a low carbon economy?**

As noted in our response to the FCA's Consultation Paper 21/17, "*Enhancing climate-related disclosures by asset managers, life insurers, and FCA-regulated pension providers*", many of our members manage assets on behalf of investors who are increasingly attentive to climate and other "ESG" risks, and MFA supports efforts to develop reliable and comparable disclosures on the topic of climate risk by UK asset managers.

MFA is encouraged by HMT's inclusion of carbon outputs as an aspect of its Review. As legislators in multiple jurisdictions continue to develop new regulatory requirements for disclosure relating to ESG risks, it will be important for HMT and the FCA to work together with fellow regulators outside of the UK in order to ensure consistency and to avoid overlap of such requirements. Further, MFA would urge HMT to recognise the importance of developing clear and complete data and guidance on climate risk across a range of asset classes (closely integrated with the approach that U.S. regulators are developing) before implementing disclosure requirements, noting that disclosures will only assist investors to compare products where they are based on common metrics.

Given that climate related disclosures by asset managers will be informed by the disclosures of issuers in which asset managers invest, it is essential for UK authorities to underpin the proposed climate disclosure framework for asset managers with an effective and comprehensive issuer disclosure framework. Therefore, we would respectfully recommend that HMT coordinate with the FCA to ensure that the implementation of climate related disclosures by asset managers is sequenced to follow a UK issuer disclosure framework, as well as the U.S. corporate disclosure regime which is currently being developed.

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

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

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