



Summary

IOSCO Consultation Report – Market Data in the Secondary Markets

IOSCO has issued a consultation seeking feedback on issues relating to access to market data in secondary equity markets (“Consultation”). The full Consultation can be found at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD667.pdf>. Comments on the Consultation are due to IOSCO by February 26, 2021.

I. Background

The Consultation notes that as the markets have evolved to become largely electronic, the market data needs and means to access such data have likewise changed for many market participants. The Consultation adds that participants in many jurisdictions have raised concerns about the content, costs, accessibility, fairness and consolidation of market data. The Consultation discusses these concerns and asks for industry views on both the issues and possible regulatory responses to them. Specifically, the Consultation states that market data and access to market data are intrinsically tied to secondary market issues that are of interest to IOSCO, including investor protection and market integrity. These issues relate to topics including:

- What market data is necessary to facilitate trading in today’s markets (*i.e.*, what is considered “core” market data for use by market participants);
- Fair, equitable and timely access to market data;
- Fees for market data and how fees are determined and charged to subscribers;
- The need for and extent of data consolidation; and
- How other products or services that relate to accessing market data are provided by trading venues or other regulated data providers (RDPs), and the fees associated with such products and services.

II. Defining Core Market Data

The Consultation states that one of the starting points of understanding and resolving the issues relating to market data is identifying the basic data, or “core” market data that is necessary to participate effectively and competitively in the secondary markets and make investment, order routing and trading decisions. The Consultation notes that most jurisdictions do not specifically define “core market data” but that many have set out expectations regarding what information trading venues and RDPs should make available to market participants, including investors.

The Consultation adds that what was previously considered core market data may no longer suit the needs of market participants and their trading technologies and models today and that different types of market participants have different market data needs. In addition, the Consultation notes that trading venues make data available in addition to core market data, frequently make top-of-book data available on the venue’s website on a delayed basis, and continue to develop new or enhanced products based on market data and offer new services associated with market data for which additional fees are charged.

IOSCO requests comment on what elements of market data are, or should be, considered core market data. Specifically:

- *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: (1) the type of investor (e.g. retail or institutional) that uses the data; (2) how orders are sent to a trading venue (e.g. electronic, manual, direct access by clients; and (3) how orders are routed*
- *Are there other data elements that, while not necessary to all market participants, may be necessary for some market participants or business models?*
- *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.).*

III. Uses of Market Data

The Consultation discusses the various uses of market data by different market participants and notes that such uses vary among different market participants and for different functions. The Consultation adds that, depending on regulatory requirements, users may need different levels of market data.

The Consultation states that the different needs of market participants and investors mean that they use market data in different ways. As a result, they will have different views on what core market data should be provided and how it should be accessed. In addition, depending on the structure of the market, fragmentation and regulatory requirements, some jurisdictions have considered whether market data from every trading venue or RDP is necessary or whether “indicative” pricing is sufficient to make investing or trading decisions or to comply with certain regulatory requirements.

The Consultation requests comment on a number of issues including:

- *How is market data used by different types of investors or different functions of your firm? Consider, for example: (1) type of investor (e.g. retail or institutional); (2) trading desks; (3) compliance; (4) risk management; and (5) back office functions*
- *What impact does different uses have on the need to access data? How can these impacts be managed or addressed?*

IV. Access to Market Data

The Consultation states that, in addition to considering what market data is provided to market participants and how it is used, it is important to understand how market participants access market data. The Consultation notes that fair, equitable and timely access to market data is necessary to: enable market participants to make informed decisions regarding investments, order routing and trading; ensure that no participant has an unreasonable advantage over another, and that no market participant is competitively disadvantaged; and enhance market confidence and efficiency.

The Consultation also discusses issues surrounding the latency needs of different market participants, as well as questions about access, even where market data is made public. Finally, the Consultation notes that fair and equitable access to market data may be impacted by the vagueness of contractual arrangements or terms of use applied by trading venues or RDPs.

The Consultation requests comment on a number of issues surrounding access to market data including:

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

- *What types of access do trading venues and RDPs provide? Are some forms of access provided only to specific market participants?*
- *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: (1) type of investor (e.g. retail or institutional); (2) trading desk; (3) how orders are sent to a trading venue (e.g. electronic, manual, direct access by clients); (4) order routing; (5) business models; and (6) compliance and regulatory issues*
- *What issues or concerns arise in the context of fair, equitable and timely access to market data?*

The Consultation also discusses the interchangeability of market data. Specifically, it notes that when liquidity for listed equity securities is fragmented across trading venues or market participants, an issue may be raised regarding whether the market data about securities traded on a particular venue can be substituted by, or is “interchangeable” with, market data about the same securities traded on another venue. The Consultation adds that, as a result, the trading venue or the RDP may have an incentive to impose conditions on accessing its data and that this concern has largely been raised in the context of fees, *i.e.*, that trading venues may charge high fees for data because market participants must pay those fees to gain access to the data, due to regulatory requirements or the essential nature of the data. The Consultation asks:

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

Relating to market data fees, the Consultation notes that while price regulation typically lies outside the remit of most IOSCO members, the fees that trading venues charge for market data are addressed by regulation in some jurisdictions. The Consultation adds that these regulatory approaches often address barriers to access and/or whether the fees charged are reasonable or are unreasonably discriminatory and that some regulators consider whether the fees are “reasonably” based on the cost to produce the market data.

The Consultation notes that high market data fees may limit the ability of some participants to get the market data that is necessary to fairly and competitively participate in today's markets and that this may affect market fairness and efficiency and may impact a market participant's willingness to trade in a particular market or jurisdiction. The Consultation states that jurisdictions that review market data fees of trading venues adopt different approaches and/or standards, including that:

- Market data is made available on a “reasonable commercial basis”;
- The fees do not impose an unreasonable condition to accessing the data;
- The fees do not permit unreasonable discrimination among clients, issuers and marketplace participants;
- The fees do not impose a burden on competition that is not reasonably necessary and appropriate; and/or
- The fees are reasonably related to the costs of producing the data.

The Consultation notes that these standards, however, may be difficult to define or to apply. The Consultation requests comment on:

- ***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?***

Finally, the Consultation states that in some circumstances, trading venues or RDPs provide other products or services that affect access to market data and that where these services are offered, questions arise about whether the additional fees for these services are fair if they must be paid to obtain access to the data (e.g., port fees and connectivity fees). The Consultation requests comment on:

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

V. Data Consolidation

The Consultation states that data consolidation addresses the fragmentation of liquidity that occurs when multiple trading venues or OTC firms make the same securities available for trading. The Consultation notes that in jurisdictions where fragmentation exists, access to consolidated data assists market participants in making informed trading decisions by providing a consolidated view of multiple sources of liquidity.

The Consultation adds that while consolidation may address concerns about market data fragmentation and provides a minimum level of core market data to all market participants, stakeholders have raised concerns in recent years about the: (1) latency inherent in consolidating and transmitting consolidated market data; (2) cost of the consolidation; (3) accuracy and integrity of the consolidation; and (4) integrity and reliability of the systems of the consolidator.

The Consultation requests comment on:

- ***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?***
- ***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?***

Further Information and Contact:

For further information on the Consultation, or for other assistance with policy and regulatory issues, please contact:

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