

Abide Financial Limited Consultation Paper Response:

Markets in Financial Instruments Directive II Implementation – Consultation Paper

- 1.001 Abide Financial Limited (AFL) is a market leader in global regulatory reporting solutions, managing transaction reporting for financial and non-financial counterparties in the UK, Europe and beyond to help market participants meet MiFID (as an FCA registered Approved Reporting Mechanism (ARM)), EMIR (Trade Repository (TR) applicant), REMIT (as an ACER approved Registered Reporting Mechanisms (RRM)) and other international reporting obligations. Since 2011, the firm has delivered proven technology and consultancy solutions to banks, brokerage houses, asset managers, retail trading execution platforms and hedge funds.
- 1.002 AFL acts as a regulatory reporting service provider for clients with transaction reporting needs across all European regulatory regimes, as well as international regimes in Australia, Singapore, Canada and United States.

The following consultation paper responses are provided by AFL.

1. Are there any other scenarios which you think should be covered?

- 1.003 The three trading capacity definitions: Deal on own account (DEAL); Trade in matched principal trading capacity (MTCH); and Trading in an 'any other capacity' (AOTC) are clear and we understand the restrictions. For MTCH, we recommend providing additional clarity by fully defining the term 'simultaneously' so that investments firm understand whether they should take the meaning literally. Also, we recommend repeating the conditions of transmission rather than referencing the terms in the Consultation Paper.

2. Are there any areas in Part I covered above that require further clarity? Please elaborate.

- 1.004 No further clarification needed.

3. Are there any other situations on reportable transactions or exclusions from transactions where you require further clarity?

- 1.005 No further clarification needed.

4. Are there any specific areas covered by the mechanics section where you require further clarity? Please elaborate.

- 1.006 1.1.8.1 Request clarification where a trade has been done with a trading venue or Systematic Internaliser (SI). In this case, there is a supposition that the ISIN will be submitted in reference data by the trading venue or SI, therefore can the ISIN be used in this transaction report without the population of additional fields?
- 1.007 1.1.8.2 Appears to exclude submission of reports on behalf of another firm except by ARMs or trading venues. Please clarify if this is intended, or whether agents for the investment firm or their counterparties are permitted to submit on their behalf, as is the case under EMIR.
- 1.008 1.1.8.5 "For validating transactions executed on day T competent authorities use reference data as of day T" please clarify whether this means validation against a) reference data published on T or b) reference data published on T+1, which reflects valid instruments at T?

**5. Do you require further clarity on the content of Article 1 of RTS 22?
Please elaborate.**

- 1.009 No further clarification needed.

**6. Do you require further clarity on the content of Article 2 of RTS 22?
Please elaborate.**

- 1.010 Please either clarify in Article 2 the definition of 'financial instrument', or provide a reference to a definition in another document.
- 1.011 If Spot FX is not defined as a financial instrument, clarify whether OTC derivatives of Spot FX are reportable.
- 1.012 Please clarify whether the following scenario needs to be reported:
- (a) Acquisitions arising from corporate actions which are voluntary or discretionary, for example the take up of options or rights issues.

**7. Do you require further clarity on the content of Article 3 of RTS 22?
Please elaborate.**

- 1.013 No further clarification needed.

**8. Do you require further clarity on the content of Article 4 of RTS 22?
Please elaborate.**

- 1.014 Please clarify the expected timing for Article 4(2) order details. At what point is it envisaged that the order information in Article 4(2) be passed:
- (a) at the point the order is given; or

(b) at a later stage before the reporting deadline?

1.015 Please clarify if the expectation is that proposed allocations need to be determined before the order information is passed.

**9. Do you require further clarity on the content of Article 5 of RTS 22?
Please elaborate.**

1.016 No further clarification needed.

**10. Do you require further clarity on the content of Article 6 of RTS 22?
Please elaborate.**

1.017 No further clarification needed. The combination of the consultation paper and draft RTS are clear.

**11. Do you require further clarity on the content of Article 7 of RTS 22?
Please elaborate.**

1.018 No further clarification needed. The combination of the consultation paper and draft RTS are clear.

**12. Do you require further clarity on the content of Article 8 of RTS 22?
Please elaborate.**

1.019 No further clarification needed.

**13. Do you require further clarity on the content of Article 9 of RTS 22?
Please elaborate.**

1.020 No further clarification needed.

**14. Do you require further clarity on the content of Article 10 of RTS 22?
Please elaborate.**

1.021 Recommend clarifying that, in the event that no waiver has been applied or where the transaction is not market-facing, this field may be left blank.

**15. Do you require further clarity on the content of Article 11 of RTS 22?
Please elaborate.**

1.022 RTS 22 defines the valid population of this field as one of: SESH, SSEX, SELL and NTAV. The consultation paper does not include an NTAV scenario but does reference the value UNDI. Please clarify whether UNDI should be used (in which case, the responsibility for the short-sale declaration resides with the client) or whether NTAV remains as an allowable option

(in which case the responsibility is on the investment firm to determine whether the transaction represents a short-sale). In the case that NTAV remains as an option, please clarify the 'best efforts' (steps and priorities) which the investment firm must undertake.

16. Do you require further clarity on the content of Article 12 of RTS 22? Please elaborate.

1.023 No further clarification needed.

17. Do you require further clarity on the content of Article 13 of RTS 22? Please elaborate.

1.024 Please clarify whether Article 13(2) applies to non-EEA entities not subject to reporting obligation but eligible for an LEI.

18. Do you require further clarity on the content of Article 14 of RTS 22? Please elaborate.

1.025 No further clarification needed.

19. Do you require further clarity on the content of Article 15 of RTS 22? Please elaborate.

1.026 Please consider including the requirement to resolve reconciliation issues and the subsequent report resubmission.

20. Do you require further clarity on the content of Article 16 of RTS 22? Please elaborate.

1.027 Whilst the content of Article 16 is sufficiently clear, it is unclear whether the determination of the most relevant market needs to be included in the transaction report, or whether it impacts on the content of other fields in the report.

21. Are there any other scenarios which you think should be covered?

1.028 Please provide the scenario 'Buyer/Seller has dual nationality (two Non-EEA countries)'.

22. Do you require further clarity or examples for population of the fields covered in Block 2? Please elaborate.

1.029 No further clarification needed.

23. Do you require further clarity or examples for population of the fields covered in Block 3? Please elaborate.

1.030 No further clarification needed.

24. Do you require further clarity or examples for population of the fields covered in Block 4? Please elaborate.

1.031 No further clarification needed.

25. Do you require further clarity or examples for population of the fields covered in Block 5? Please elaborate.

1.032 No further clarification needed.

26. Do you require further clarity or examples for population of the fields covered in Block 7? Please elaborate.

1.033 No further clarification needed.

27. Do you require further clarity or examples for population of the fields covered in Block 8? Please elaborate.

1.034 Please see Question 15.

28. Do you require further clarity or examples for population of the fields covered in Block 10? Please elaborate.

1.035 No further clarification needed.

29. Do you require further clarity or examples for population of the fields covered in Block 11? Please elaborate.

1.036 No further clarification needed.

30. Do you require further clarity or examples for population of the fields covered in Block 12? Please elaborate.

1.037 For 1.2.12.2 does DECR flag together with changing Buy to Sell constitute a double negative, ie are both changes necessary?

31. Do you require further clarity or examples for the scenarios in section 1.3.1? Please elaborate.

1.038 No further clarification needed.

32. Do you require further clarity or examples for the scenarios in section 1.3.2? Please elaborate.

1.039 Would firm X be identified in this example as acting in AOTC capacity?

33. Do you require further clarity or examples for the scenarios in section 1.3.3? Please elaborate.

1.040 Please clarify the statement, 'If client A is an investment firm then it shall also report by identifying firm X as the seller,' since firm X does not execute a transaction.

34. Do you require further clarity or examples for the scenarios in section 1.3.4? Please elaborate.

1.041 No further clarification needed.

35. Do you require further clarity or examples for the scenarios in section 1.3.5? Please elaborate.

1.042 No further clarification needed.

36. Are there any other scenarios which you think should be covered?

1.043 No further clarification needed.

37. Do you require further clarity or examples for the scenarios in section 1.3.8? Please elaborate.

1.044 For section 1.3.8.4 on page 133 'How shall Y report?' Report 3 field 27 'Transmitting firm identification code for the seller', since the scenario assumes no valid transmission has taken place, should this field be blank?

38. Do you require further clarity or examples for the scenario in section 1.3.9? Please elaborate.

1.045 No further clarification needed.

39. Do you require further clarity or examples for the scenario in section 1.3.10? Please elaborate.

1.046 No further clarification needed.

40. Do you require further clarity or examples for the scenario in section 1.3.11? Please elaborate.

1.047 No further clarification needed.

41. Do you require further clarity or examples for the scenarios in sections 1.3.12 and 1.3.13? Please elaborate.

1.048 How will trading venues be made aware of downstream client transactions for non-MiFID firms, eg when not done in a DEAL capacity?

42. Are there any other equity or equity like instruments scenarios which require further clarification?

1.049 Where trading is in a product listed on the day of trading, how may transaction be validated before reference data published on T+1?

43. Are there any other bonds or other form of securitised debt scenarios which require further clarification?

1.050 No further clarification needed.

44. Are there any other options scenarios which require further clarification?

1.051 How are price and price currency fields populated where price is index level or premium in index points (eg FTSE futures and options)?

1.052 Please include scenario examples:

- (a) Binary Options;
- (b) Barrier Options (eg double touch, knock in, knock out);
- (c) Ratchet Option; and
- (d) Mountain Range.

45. Are there any other contract for difference or spreadbet scenarios which require further clarification?

1.053 What are the correct CFI codes for CFD on an Interest Rate and spreadbet on a Commodity (not stipulated in ISO standard or examples)?

1.054 Are bilateral spread bets and CFDs based on the spot price of FX pairs, eg EUR/USD, rather than on related futures contracts considered reportable? If not, confirmation of this would be helpful.

46. Are there any other credit default swaps scenarios which require further clarification?

1.055 Please include credit default swap scenarios for an index underlier and a jump to default CDS.

47. Are there any other swap scenarios which require further clarification?

1.056 For section 1.4.3.7 Swaps bullet d) *Total return swap traded over the counter (instrument not available in the ESMA list)* Field Number 39 Up-front payment currency for Report#1 Values the currency 'EUR' is missing from the table. The XML representation does include the Up-front payment 'EUR'.

1.057 The following additional scenarios should be included:

- (a) Interest Rate swaps (unlisted), especially float versus float; and
- (b) FX, FX Swaps, and FX NDFs.

48. Are there any other commodities based derivatives scenarios which require further clarification?

1.058 Are bilateral spread bets and CFDs based on the spot price of commodities, eg Gold, Oil etc rather than related futures contracts considered reportable? If not, confirmation of this would be helpful.

49. Are there any other strategy trades scenarios which require further clarification?

1.059 No further clarification needed.