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| Response Form to the Consultation Paper |
| MiFIR review report on the obligations to report transactions and reference data |

**Responding to this paper**

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in the Annex. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **20 November 2020.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_CP\_TRRF\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_TRRF\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_TRRF\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open Consultations” 🡪 “Consultation paper on MiFIR review report on the obligations to report transactions and reference data”).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](http://www.esma.europa.eu/legal-notice).

**Who should read this paper?**

This document will be of interest to all stakeholders involved in the securities markets. It is primarily of interest to competent authorities and firms that are subject to MiFID II and MiFIR – in particular, investment firms and credit institutions performing investment services and activities and trading venues. This paper is also important for trade associations and industry bodies, institutional and retail investors and their advisers, and consumer groups, as well as any market participant because the MiFID II and MiFIR requirements seek to implement enhanced provisions to ensure the transparency and orderly running of financial markets with potential impacts for anyone engaged in the dealing with or processing of financial instruments.

**General information about respondent**

|  |  |
| --- | --- |
| Name of the company / organisation | Euronext |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |  |
| Country/Region | Belgium, France, Ireland, Netherlands, Norway , Portugal |

**Introduction**

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_CP\_TRRF\_1>

Euronext believes that data reporting is key for all National Competent Authorities (NCAs) and ESMA to deliver their mission and ensure fairer, safer and more efficient markets and facilitate greater transparency for all market participants. Euronext therefore welcomes this ESMA consultation paper.

We acknowledge that regulators may need additional data but, as a first consideration, we believe ESMA should ensure:

* A full consistency and harmonization of the reporting requirements;
* An operational reporting process that avoid errors and incorrect information. We believe that the current process (see answer to question 14) creates situation where the ESMA referential data collected and disseminated is not always accurate; and,
* Clear responsibilities and supervision of National Codification/ Numbering agencies.

While these topics have not been included in this consultation paper, Euronext believes there is merit to them being addressed. In relation to transaction reporting, we also believe there is merit in ESMA making an assessment of the reasons why several ARMs have announced the termination of their activity.

When considering adding new reporting requirements, Euronext believes ESMA should:

* Consider data needs and uses; and,
* **Ensure zero duplication:** the data should be collected only once and quality assured by one party. The referential data held by ESMA should be sufficiently exhaustive in order that NCAs do not need to approach market participants for additional data.

Euronext as an ARM reports transactions to nine different National Competent Authorities.

<ESMA\_COMMENT\_CP\_TRRF\_1>

**Questions**

1. : Do you foresee any challenges for UCITS management companies and AIF managers in providing transaction reports to NCAs? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_1>

The goal of transaction reporting is to enable NCAs to carry out their mission of monitoring the markets. For this to happen, the completeness of transactions on financial instruments must be carried forward, with data of high quality. Euronext, as a trading venue, already reports its non-MiFID members’ transactions to the relevant NCAs. If reporting were to be extended to AIFMs and UCITS management companies, the information required for reporting should be the responsibility of these entities: trading venues should only be required to report the data that has been transmitted to them.

It should also be noted that trading venues can only report transactions executed on their systems and the data transmitted by their members.

<ESMA\_QUESTION\_TRRF\_1>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_2>

Yes Euronext fully agrees with ESMA’s proposal. Euronext already reports all its non-MiFID members transactions to the relevant NCAs

<ESMA\_QUESTION\_TRRF\_2>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_3>

Euronext supports all clarifications of the text to avoid any misunderstanding from reporting entities.

<ESMA\_QUESTION\_TRRF\_3>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_4>

Euronext considers it essential that regulators be able to exchange reporting data. However, our experience of reporting to several European regulators indicates to us that such data exchange is not easy, particularly since the reporting procedures are not fully harmonised. For example, some NCA feedback on the reporting files are made at the unit transaction level, while other NCAs focus on the global file. This is clearly difficult to manage. In addition to reporting transactions in ESMA, some regulators also request a second on-demand reporting in other formats. We believe ESMA should consider the need for a fully harmonised process for transaction reporting across all EU Member States.

<ESMA\_QUESTION\_TRRF\_4>

1. : Do you envisage any challenges in increasing the scope including derivative instruments traded through an SI as an alternative to the expanded ToTV concept? Please justify your position and if you disagree please suggest alternatives.

<ESMA\_QUESTION\_TRRF\_5>

N/A

<ESMA\_QUESTION\_TRRF\_5>

1. : Do you agree that the extension should include all Systematic Internalisers regardless of whether they are SI on a mandatory or voluntary basis? Please justify your position.

<ESMA\_QUESTION\_TRRF\_6>

N/A

<ESMA\_QUESTION\_TRRF\_6>

1. : Do you envisage any challenges with the approach described in paragraphs 45-46 on the scope of transactions to be covered by the extension? Please justify your position and indicate your preferred option for SIs under the mandatory regime explaining for which reasons. If you disagree with all of the outlined options, please suggest alternatives.

<ESMA\_QUESTION\_TRRF\_7>

N/A

<ESMA\_QUESTION\_TRRF\_7>

1. : Do you foresee any challenges with the proposal to replace the reference to the term “index” in Article 26(2)(c) with the term “benchmark” as defined under the BMR? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_8>

Euronext supports the harmonisation of definitions between the different European Directives/Regulation. Using the term “benchmark” instead of “index” will avoid misinterpretation

<ESMA\_QUESTION\_TRRF\_8>

1. : Which of the three options described do you consider the most appropriate? Please explain for which reasons and specify the advantages and disadvantages of the outlined options. If you disagree with all of the outlined please suggest alternatives.

<ESMA\_QUESTION\_TRRF\_9>

The choice between the 3 different options should be decided regarding the needs of Competent Authorities to fully carry out their mission of investigation and market surveillance. Furthermore, it is essential that all instruments submitted for reporting are clearly identified in the ESMA referential data register which must be the golden source.

As a registered benchmark administrator, Euronext’s preference is for option 1: in order to be able to monitor the AUM, we need to be able to consult publicly available information so any improvement on OTC reporting would support us in complying with BMR.

<ESMA\_QUESTION\_TRRF\_9>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_10>

Euronext supports the proposal to align the requirements under MAR and MiFID II. This clarification will avoid different interpretations by market participants. We believe that the text should be applicable to Sis to ensure a level playing field. Furthermore the term “Traded on a trading Venue” should be well defined by ESMA to clarify if the products have to be traded or are tradable.

<ESMA\_QUESTION\_TRRF\_10>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_11>

Euronext agrees with the proposal. We consider that the sentence for RTS 23 of MiFID where the field 9 refers to the “date and time the issuer has approved admission to trading or trading in its financial instruments on a trading venue should also include cases where the “issuer has requested” the trading.

<ESMA\_QUESTION\_TRRF\_11>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_12>

Euronext agrees with the proposal. The challenge is when to consider there is “a request for admission”. As there are different operational processes for admission in EU Member States, the interpretation of “request for admission” could be different from one EU jurisdiction to another.

<ESMA\_QUESTION\_TRRF\_12>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_13>

Euronext agrees with the proposal if it facilitates NCAs in ensuring their market surveillance and investigation obligations.

<ESMA\_QUESTION\_TRRF\_13>

1. : Did you experience any difficulties with the application of the defined list concept? If yes, please explain.

<ESMA\_QUESTION\_TRRF\_14>

Euronext has encountered no difficulty with the defined list concept. This list should be used by all NCAs to avoid multiple reporting of reference data. As the list concept should be the golden source, ESMA should ensure the completeness and quality of this list. Currently ESMA takes into account the first trading venue sending referential data on a specific instrument even if this trading venue is not the primary or most relevant market.

When this data is not valid, trading venues must request their NCA to ask for a correction from the NCA of the trading venue which has initially been taken into account by ESMA. However, afterwards there is never a feedback on the correction date by ESMA. Furthermore, this correction process is not well known by market participants / NCAs. In our view, the operational process should be improved to ensure the accuracy of the List.

Furthermore, and to ensure the quality of the list, ESMA should resolve the issue of CFI/FISN codes assignment and supervision by the National Numbering Agencies (NNAs). The incorrect assignment of inappropriate CFIs by the NNAs remains the most common data issue we experience. Some invalid CFI codes are put in ESMA referential data and are then used as the reference for reporting. We also have a number of errors in relation to CFI codes created by the NNAs which are not valid CFI types, resulting in rejected submissions. In addition, the NNAs responsible for assigning CFI codes will often amend the CFI post-listing. This creates further issues for us as it can mean different trading venues have different CFI codes depending at what point they sourced the data. Lastly, there are still some cases where NNAs do not assign the CFI code and therefore trading venues are unable to submit the data at all for these securities to ESMA. unable to submit the data at all for these securities to ESMA.

In addition to the above CFI code issues, not all securities are being assigned FISNs by the NNAs, meaning that trading venues are unable to submit data for these securities to ESMA for the purposes of the transparency calculations. We recommend that ESMA liaise with ANNA to try to resolve this issue and ensure all codes are being assigned appropriately by the NNAs.

<ESMA\_QUESTION\_TRRF\_14>

1. : Do you foresee any challenges with the approach as outlined in the above proposal? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_15>

Euronext does not see any challenges with this approach.

<ESMA\_QUESTION\_TRRF\_15>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_16>

Euronext does not see any challenges with this approach

<ESMA\_QUESTION\_TRRF\_16>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_17>

Euronext does not see any challenges with this approach

<ESMA\_QUESTION\_TRRF\_17>

1. : Do you foresee any challenges with the approach outlined in paragraphs 75 and 76? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_18>

Introducing a new field in the transactions reporting file will have an IT impact. An assessment of the cost/benefit should be made prior to implementation.

<ESMA\_QUESTION\_TRRF\_18>

1. : Do you foresee any difficulties with the implementation of an additional code generated by the trading venue to be disseminated down the transaction chain in order to link all transactions pertaining to the same execution? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_19>

Introducing a new field in the transactions reporting file will have an IT impact. An assessment of the cost/benefit should be made prior to implementation. ESMA should also ensure that the new requested data are not also reported in other reporting files such as order reporting (RTS24).

<ESMA\_QUESTION\_TRRF\_19>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_20>

Euronext does not see any challenges with the outlined approach on LEI.

<ESMA\_QUESTION\_TRRF\_20>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_21>

Euronext does not see any challenges with the outlined approach.

<ESMA\_QUESTION\_TRRF\_21>

1. : Which of the two approaches do you consider the most appropriate? Please explain for which reasons.

<ESMA\_QUESTION\_TRRF\_22>

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<ESMA\_QUESTION\_TRRF\_22>

1. : Do you foresee any challenges with the outlined approaches? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_23>

Euronext does not see any challenges with the outlined approach <ESMA\_QUESTION\_TRRF\_23>

1. : Do you foresee any challenges with the outlined approach to pre-trade waivers? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_24>

Euronext does not see any challenges to the outlines approach to pre-trade transparency waivers.

<ESMA\_QUESTION\_TRRF\_24>

1. : Have you experienced any difficulties with providing the information relating to the indicators mentioned in this section? If yes, please explain and provide proposals on how to improve the quality of the information required.

<ESMA\_QUESTION\_TRRF\_25>

N/A

<ESMA\_QUESTION\_TRRF\_25>

1. : Do you foresee any challenges with this proposal? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_26>

N/A

<ESMA\_QUESTION\_TRRF\_26>

1. : Do you agree with this approach? If not, please clarify your concerns and propose alternative solutions

<ESMA\_QUESTION\_TRRF\_27>

N/A

<ESMA\_QUESTION\_TRRF\_27>

1. : Do you agree with this analysis? If not, please clarify your concerns and propose alternative solutions.

<ESMA\_QUESTION\_TRRF\_28>

N/A

<ESMA\_QUESTION\_TRRF\_28>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_29>

N/A

<ESMA\_QUESTION\_TRRF\_29>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_30>

N/A

<ESMA\_QUESTION\_TRRF\_30>

1. : Are there any specific aspects relating to the ISIN granularity reported in reference data which need to be addressed? Is the current precision and granularity of ISIN appropriate or is (for certain asset classes) a different granularity more appropriate?

<ESMA\_QUESTION\_TRRF\_31>

Euronext supports the approach. However reporting LEI for non-EU issuers remains difficult. Trading venues should be in charge of checking the issuer at the time of admission of trading but cannot be responsible for the yearly renewal of the LEI. We believe policymakers should consider the option of having LEI validity extended.

<ESMA\_QUESTION\_TRRF\_31>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_32>

N/A

<ESMA\_QUESTION\_TRRF\_32>

1. : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA\_QUESTION\_TRRF\_33>

N/A.

<ESMA\_QUESTION\_TRRF\_33>