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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 | IHS Markit |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Europe |

**Introduction**

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

<ESMA\_COMMENT\_CP\_TRRF\_1>

IHS Markit, a global information company with offices in 10 EU Member States, is a leader in critical information, analytics and solutions for the major industries and markets that drive economies worldwide. The company delivers next-generation information, analytics and solutions to customers in business, finance and government, improving their operational efficiency and providing deep insights that lead to well-informed, confident decisions. IHS Markit has more than 50,000 business and government customers, including 80 percent of the Fortune Global 500 and the world’s leading financial institutions.

IHS Markit’s derivatives trade processing platform, MarkitSERV plays an important role in EU and global derivatives markets. The platform offers processing and reporting facilities and enables risk mitigation and market connectivity and entry. Among the specific services offered by MarkitSERV are trade confirmation, trade affirmation, allocations, submission of matched (confirmed or affirmed) trades to clearing, as well as a standard connectivity solution with customer risk systems. Globally, over 2,000 firms use MarkitSERV which processes an average of 90,000 derivatives transaction events every day. IHS Markit also provides a fully hosted data and end-to-end reporting solution for SFTR, providing turnkey connectivity to trade repositories.

We appreciate the opportunity to provide ESMA with our comments. We believe the MIFID2/MIFIR framework has led to increases in transparency and regulatory reporting. However, there have been some areas where it has not fully met its objectives and has led to increased burdens on market participants. We would, therefore, support ESMA in trying to improve the efficiency of its implementation.

In terms of the scope of this consultation and in respect of OTC Derivatives market, we would support the proposed changes to MIFIR Article 26(7) and measures to improve the operation of ISINs (ideally through the implementation of UPI for OTC Derivatives). However, we would be concerned about the changes to the SI and ToTV regime being proposed as these could be detrimental to the operation of OTC Derivatives markets and the liquidity of those markets.

Finally, the consultation also refers to SFTR and we would encourage ESMA to examine issues that have arisen with SFTR reporting. A number of practical difficulties have emerged (including LEI of issuer, ISINs, CFI, investment manager), often stemming from product specificities that were not properly considered in the SFTR reporting framework. There are also difficulties in applying the MIFID reporting framework to SFTs with ESCB counterparties.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

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<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>

The Derivatives Trading Obligation (DTO) is not linked to SI, and can only be satisfied on a RM, MTF or OTF. We are concerned that ESMA’s proposed changes could cause detrimental impacts on liquidity on the derivative markets that would significantly outweigh any operational benefits for NCAs with respect to their obligations under MIFIR Article 24.

<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>

TYPE YOUR TEXT HERE

<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>

IHS Markit believe EU co-legislators should re-calibrate transparency requirements with particular focus on the following:

* clarify that the scope of the SI transparency regime for derivatives applies to ToTV products only. This would ensure a level playing field with trading venues, which by their nature only trade ToTV instruments;
* ESMA and NCAs should further focus on assessing liquidity on actual trading interest rather than the current approach, where some derivatives are erroneously classified as liquid or illiquid on a deterministic basis as set out in RTS 2.

<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>

The scopes of BMR and MIFIR are different and therefore we suggest the term “index” is left unchanged in MIFIR.

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

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

<ESMA\_QUESTION\_TRRF\_12>

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<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>

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<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>

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<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>

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<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>

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<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>

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<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>

TYPE YOUR TEXT HERE

<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>

It is unclear which scenarios ESMA intends to be captured through the proposed new additional code that could not be addressed through the use of the existing MIFIR requirement around package trades – i.e. the Complex Trade Component ID field, which links multiple transactions that originate from the same execution and appears to serve the objectives described in the proposal.

<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>

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<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>

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<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>

TYPE YOUR TEXT HERE

<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>

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<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>

Yes, we foresee challenges as the scope of the pre-trade transparency requirements are not the same as the scope of transaction reporting. The approach as outlined would lead to operational complications and additional burdens when mapping pre-trade quotes and orders with reportable transactions. We would suggest maintaining the current rules.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

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<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>

We do not see any challenges with the outlined proposal and support the approach.

<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>

IHS Markit welcomes greater harmonisation of relevant reporting requirements between regulations and the adoption of global standards. Therefore, we would fully support the introduction of UPI as a reportable value. However, to ensure effective implementation, UPI should be reported for all OTC derivative transactions, and not only for transactions without an ISIN. The UPI in intended to meet the need for a global standard of product identifier so, for MIFIR to remain consistent with global reporting regimes, the UPI should be consistently reported as the product identifier for OTC derivatives.

We would also like to highlight that UPI not designed to be an identifier for all ToTV products and so it should only be used as an identifier for OTC derivatives. Therefore, the reporting of a UPI would be applicable only to a subset of MIFIR products and should not be required on non-OTC derivative transaction reports.

<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>

There are large numbers of ISINs and economically comparable products often have multiple ISINs. This is because several trade-level attributes are included in ISINs for certain OTC derivatives instruments – for example, ‘expiry date’ (maturity date) is a required attribute for interest rate swaps. This means that, each day that interest rate swaps are traded they have different maturity dates and therefore map to different ISINs.

Conversely, it is also true that some price forming attributes are not included in ISINs for certain OTC derivatives instruments, leading to the same ISIN being used for different instruments. For example, as ’effective date’ is not a required attribute for an interest rate swap, a ten-year swap traded today will have the same ISIN as a five-year forward-starting five-year swap with the same attributes. These are different instruments and are therefore priced differently despite having the same ISIN.

This means that it is very difficult for end users to benefit from transparency and IHS Markit believes that there is a pressing need to improve the functioning of ISINs. For example, interest rate swaps should reference the tenor of a swap instead of the maturity date, something which would reduce the number of ISINs for that are essentially be the same swap product. Tenor was introduced in ESMA’s Q&A on September 26, 2018, but it was added alongside maturity date leading to more ISINs (not less).

In the absence of moving to UPI as the identifier for OTC Derivatives (see our response to Q30), IHS Markit believes there is a pressing need for ESMA to reassess the generation ISINs.

<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>

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<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>

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<ESMA\_QUESTION\_TRRF\_33>