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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 | Amundi |
| Activity | Asset Management |
| Are you representing an association? |  |
| Country/Region | France |

**Introduction**

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

<ESMA\_COMMENT\_CP\_TRRF\_1>

Amundi welcomes the opportunity to submit its answer to the ESMA’s consultation on its MiFIR review report on the obligations to report transactions and reference data (ESMA74-362-73) dated 24 September 2020.

Whilst we understand the objective of improving the existing transparency regime practices under MiFIR, we wonder whether this topic would not be better addressed within the broader MIFID/MiFIR review which is planned for end of 2021 or beginning of 2022.

We would also have appreciated if ESMA presented a cost benefit analysis that justifies adding to the reporting burden on asset managers.

<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>

Yes, Amundi foresees various challenges with the proposal of ESMA. In fact, transaction reports are already provided to NCAs by our brokers; then we do not see sufficient added value of a new direct reporting that would be issued by asset managers. Transaction reports are quite complex to achieve, so we know it would be very burdensome and costly, and difficult to implement, especially for smaller asset managers.

First, as regards the question of the level playing field between Investment firms and asset managers, for what refers to reports on trades’ funds, the cost of these reports is included in the fees that we pay to brokers. It is the same for discretionary portfolio management since most trades are passed through a broker. Then, imposing transaction reports to UCITS ManCos and AIF managers would create unjustified additional costs.

Second, as far as the prevention of market abuses is concerned, imposing such new requirement would be clearly disproportionate vis-à-vis the objective. In fact, MAD/MAR already requires internal devices to prevent these abuses, which should be considered as sufficient. Undoubtedly, efforts should be made in terms of enforcement – as it is up to NCAs to monitor the good set-up of these devices. This approach will be more efficient than introducing a costly additional reporting.

Third, with regards to the potential identification of ‘decision makers’ for UCITS and AIFs, the situations where a fund manager would have any real interest in risking a market abuse seem quite seldom: would it be in order to maximize the performance of the fund, the risk of sanction is such that it is difficult to imagine the case. In addition, if any, the disproportion between the probability of occurrence and the burden imposed to asset managers is obvious.

Finally, if a problem of level playing field exists between countries where this reporting is imposed to asset managers and countries where it does not, ESMA could rather encourage these countries to withdraw this superfluous obligation.

Let us mention that the additional reporting that Asset Managers would be obliged to provide would heighten the operational complexity of the existing transactions’ chains while its simplification is the objective to achieve. Adding a new step in the existing chains will be the exact opposite of the intended goal.   In case Asset Managers would only be subject to this new mandatory requirement when providing an investment service as defined in MiFID – since collective funds’ management is not an investment service – Asset Managers would be obliged to integrate two different transactions processes, one for order funds and the other for discretionary portfolio management.

<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>

Amundi does not see any special challenge with this change of terminology.

<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>

Amundi welcomes the clarification proposed by ESMA. This confirms the fact that a unique transaction report will have to be sent to the home NCA of the firm for any transaction initiated by a branch of that firm, wherever the branch is located. In fact, since features of transaction reports are not well harmonized across NCAs in the EU, it is not possible to send reports with the same format to different NCAs.

<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>

We agree with the analysis of ESMA and we would stress on the importance that Investment Firms should always have to send a single transaction report to their home NCA, including when the NCA of the relevant market for the instrument traded is another NCA. We consider that the current process where the home NCA forwards the report to others NCAs when it is needed should be maintained for the sake of simplicity and efficiency.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

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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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

Yes, we do see serious difficulties with this new code.

First, transmitting such a code through the entire chain obviously requires system and interface changes with all Investment Firms' concerned. In case of break in transmitting this code, this will affect the entire chain from that point forward, and back-delivering the code later on would require all affected firms to correct their reporting afterwards.

Second, a transmission chain may include the use of the INTC technical account. When several market executions are allocated, through INTC, to several IF's next in the transmission chain, situations will occur where several of these new codes need to be transmitted with one transaction all the way through the chain. For these situations, the technical field for this code should be either very long (hundreds of characters) or repeatable. In either case this will most likely lead to complex and unclear situations, both with implementation and when NCA's try to make use of this data.

<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>

Yes, we foresee huge challenges with this approach, which in our view is out of scope. As explained in our answer to Q1, the proposal of ESMA to extend the scope of MiFIR art 26 to UCITS and to AIFs is disproportionate. We see the same lack of proportionality in this approach. The identification of the end client or beneficial owner in the MiFIR reporting for the sake of better fighting against market abuses would entail a heavy and costly burden for a very narrow objective. In addition, since no European standard exist for National ID, we would face IT issues when working for clients in various EU countries.

We also strongly oppose including the decision maker into any transaction reporting. In fact, from a jurisdictional perspective, the decision is taken by the asset management company. Therefore, the LEI of the ManCo is the only data to be included with regards to the investment decision. We consider that, in case any possible market abuse is suspected, it is easy for supervisors to find out persons involved within the company and the beneficial owner. In fact, data which are already provided by our counterparties in their transaction reporting allow for the further needed investigation.

Introducing the MiFID client categorisation into the transaction reporting seems even more out of scope. IF’s that are in direct contact with the end client are deemed to assume this categorisation before proposing any financial product. In case an individual investor wants to engage, on his own initiative, in a trade that is not suitable for his category, and despite online warnings, no one should stop him: financial regulation cannot protect people against their will.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

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<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>

A single reporting for MiFIR and EMIR could be an improvement. In order to achieve this it would be possible to develop further EMIR reporting requirements to include those data fields that are necessary for transaction reporting purposes. Reporting the additional fields could e.g. be dependent on whether a CP is an IF, so that non-IF's would not face an unnecessary burden in their EMIR reporting. There is a similar alignment between EMIR and REMIT, and the EMIR fields for energy derivatives stem largely from REMIT requirements. We would support a similar approach with EMIR and MiFIR.

<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>

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<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>