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| Reply form for the Consultation Paper on the Algorithim Trading |

**Responding to this paper**

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions summarised in Annex I. 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 **12/03/2021.**

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\_ALGO\_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\_ALGO\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_FOTF\_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 on Algorithmic Trading”).

**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 publically 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 (i) alternative investment fund managers, UCITS management companies, EUSEF managers and/or EuVECA managers and their trade associations, (ii) distributors of UCITS, alternative investment funds, EuSEFs and EuVECAs, as well as (iii) institutional and retail investors investing into UCITS, alternative investment funds, EuSEFs and/or EuVECAs and their associations..

**General information about respondent**

|  |  |
| --- | --- |
| Name of the company / organisation | Warsaw Stock Exchange |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |[ ]
| Country/Region | Poland |

**Introduction**

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

<ESMA\_COMMENT\_ALGO\_1>

The Warsaw Stock Exchange (WSE) welcomes the possibility to respond to the ESMA Consultation Paper on Algorithmic Trading.

The Warsaw Stock Exchange is a leading financial instruments exchange in Central and Eastern Europe (CEE). FTSE Russell announced the upgrade of Poland from Emerging Markets to Developed Markets on 29 September 2017. The decision took effect on 24 September 2018. WSE uses a state-of-the-art trading system and its listed companies meet the highest standards of corporate governance and disclosure requirements.

The markets operated by WSE list stocks and bonds of nearly a thousand local and international issuers. The Exchange also offers trade in derivatives and structured products, as well as information services.

More than 25 years of experience, high safety of trading, operational excellence and a broad range of products make WSE one of the most recognized Polish financial institutions in the world.

Since 9 November 2010, WSE is a public company listed on Warsaw Stock Exchange

<ESMA\_COMMENT\_ALGO\_1>

**Questions**

1. : What is your overall assessment of the MiFID II framework for algorithmic trading, HFT and DEA?

<ESMA\_QUESTION\_ALGO\_1>

We believe rules regarding algo-trading, HFT and DEA activities are well regulated and provide substantial control of algorithms and trading activities, and through DEA, facilitate easier and faster access to trading venues.

<ESMA\_QUESTION\_ALGO\_1>

1. : In your views, are there risks other than the one mentioned in MiFID II or impacts on market structure developments due to market electronification/ algorithmic trading that would deserve further regulatory attention? Please elaborate.

<ESMA\_QUESTION\_ALGO\_2>

In our opinion, the market is sufficiently regulated, we see no additional risks, apart from those mentioned in MIFID II. We do not recommend additional granularity to regulation in this regard.

<ESMA\_QUESTION\_ALGO\_2>

1. : Do you consider that the potential risks attached to algorithmic trading should also be given consideration in other trading areas? Please elaborate.

<ESMA\_QUESTION\_ALGO\_3>

If algorithmic trading on multilateral trading systems is a risk, its consequences may also be transferred to other trading areas on which the securities at risk are traded; therefore, control should also extend to these areas. This can make a big difference when algo-trading/HFT are used to obtain quotes in a two-way, OTC market.

<ESMA\_QUESTION\_ALGO\_3>

1. : Do you agree with this analysis? If not, please explain why.

<ESMA\_QUESTION\_ALGO\_4>

We agree with ESMA’s analysis.

<ESMA\_QUESTION\_ALGO\_4>

1. : Did you encounter any specific issue with the definition of HFT? Do you consider that the definition should be amended? Do you have any suggestion to replace the high message intraday rates with other criteria or amend the thresholds currently set in Level 2? Please elaborate and provide data supporting your response where available.

<ESMA\_QUESTION\_ALGO\_5>

We believe the definition is sufficient; the indicator of “high message intraday rates” is appropriate for determining a traders mode of operation. We do not see any other important criteria used to classify investors (apart from those indicated in the description). <ESMA\_QUESTION\_ALGO\_5>

1. : Based on your experience, is sub-delegation of DMA access a frequent practice? In which circumstances? Which benefits does it provide to the DEA user and to the sub-delegatees? Are you aware of sub delegation arrangements in the context of Sponsored access? If so, please elaborate.

<ESMA\_QUESTION\_ALGO\_6>

We believe, DEA sub-delegation is used sparingly; however, in a post-Brexit landscape, such techniques will gain in popularity, as UK-based DEA providers, which lost direct market access to EU trading venues, look to continue providing market access for UK-based trading outfits.

We are not aware of sub-delegation in the Sponsored Access space.

<ESMA\_QUESTION\_ALGO\_6>

1. : (for DEA Tier 1clients) Do you sub-delegate direct electronic access? If so, are your Tier 2 clients typically regulated entities/investment firms? Are they EU-based or third country based?

<ESMA\_QUESTION\_ALGO\_7>

Our market regulations introduces possibility of sub-delegating direct electronic access, but so far we do not have Tier 2 clients.

<ESMA\_QUESTION\_ALGO\_7>

1. : Do you agree with this analysis? If not, please explain why. Do you consider that further clarification is needed in this area? If so, what would you suggest?

<ESMA\_QUESTION\_ALGO\_8>

We agree with the analysis and don’t believe further clarification is needed.

<ESMA\_QUESTION\_ALGO\_8>

1. : Do you agree with ESMA’s proposal? If so, do you consider that the requirements considered above relevant? Should there be additional ones? If you disagree with ESMA’s proposal, please explain why.

<ESMA\_QUESTION\_ALGO\_9>

We agree requirements for algorithmic trading should also be extended to SIs and other OTC activities due to the risk for those markets. We agree with ESMA's proposals.

<ESMA\_QUESTION\_ALGO\_9>

1. : Do you agree with ESMA’s proposals above? Please elaborate.

<ESMA\_QUESTION\_ALGO\_10>

We agree with ESMA's proposals. Ending the requirement to be an investment firm for entities using DEA for proprietary trading is a step in the right direction, leveling the playing-field for entities inside and outside the EU.

<ESMA\_QUESTION\_ALGO\_10>

1. : Do you agree with ESMA’s proposal? Please elaborate.

<ESMA\_QUESTION\_ALGO\_11>

N/A

<ESMA\_QUESTION\_ALGO\_11>

1. : Do you see merit in ESMA developing a template for notifications to NCAs under Articles 17(2) and 17(5) of MiFID II? If not, please justify your position.

<ESMA\_QUESTION\_ALGO\_12>

N/A

<ESMA\_QUESTION\_ALGO\_12>

<ESMA\_QUESTION\_ALGO\_0>

N/A

<ESMA\_QUESTION\_ALGO\_0>

1. : Do you agree that it would be useful to clarify that notifications should be done ‘without undue delay’?

<ESMA\_QUESTION\_ALGO\_13>

N/A

<ESMA\_QUESTION\_ALGO\_13>

1. : Do you agree with ESMA’s approach for the exchange of information between NCAs? If not, please justify your position.

<ESMA\_QUESTION\_ALGO\_14>

N/A

<ESMA\_QUESTION\_ALGO\_14>

1. : What is your view on clarifying the definition of algorithmic trading? If you deem it beneficial to refine the definition and account for further types of algorithms or algorithmic trading strategies, please provide your suggestion as well as underlying rationale.

<ESMA\_QUESTION\_ALGO\_15>

N/A

<ESMA\_QUESTION\_ALGO\_15>

1. : Do you think there should be specific requirements for different type of algorithms or algorithmic trading strategies in RTS 6? Please explain.

<ESMA\_QUESTION\_ALGO\_16>

N/A

<ESMA\_QUESTION\_ALGO\_16>

1. : What is your experience with testing environments? Are they used frequently? If not, why? Do you see a need for any improvements?

<ESMA\_QUESTION\_ALGO\_17>

N/A

<ESMA\_QUESTION\_ALGO\_17>

1. : Do you agree that the definition of “disorderly trading conditions” should be clarified? If yes, how would you define such trading conditions?

<ESMA\_QUESTION\_ALGO\_18>

N/A

<ESMA\_QUESTION\_ALGO\_18>

1. : Do you agree that ESMA should provide additional guidance on the expectations concerning the checks and testing to be done, in particular for testing on disorderly trading conditions?

<ESMA\_QUESTION\_ALGO\_19>

N/A

<ESMA\_QUESTION\_ALGO\_19>

1. : Would you agree that it could be beneficial if ESMA develops a prescribed format for the self-assessment foreseen in Article 9 of RTS 6?

<ESMA\_QUESTION\_ALGO\_20>

N/A

<ESMA\_QUESTION\_ALGO\_20>

1. : Do you agree with the changes proposed to the self-assessment of Article 9 of RTS 6?

<ESMA\_QUESTION\_ALGO\_21>

N/A

<ESMA\_QUESTION\_ALGO\_21>

1. : Would you propose any other targeted legislative amendments to RTS 6? Please include a detailed explanation of the proposed amendment and of the underlying issue that this amendment would aim to tackle.

<ESMA\_QUESTION\_ALGO\_22>

N/A

<ESMA\_QUESTION\_ALGO\_22>

1. : Do you agree with ESMA’s proposal to harmonize and create a clear structure for the performance of the self-assessment?

<ESMA\_QUESTION\_ALGO\_23>

We believe that the current format and approach to performing self-assessments is aligned with the relevant NCAs and has worked well.

<ESMA\_QUESTION\_ALGO\_23>

1. : Do you agree with limiting the self-assessment to every two years and to require trading venues to share it with their relevant NCA?

<ESMA\_QUESTION\_ALGO\_24>

We support the proposal by ESMA to limit the self-assessment to every two years. <ESMA\_QUESTION\_ALGO\_24>

1. : Do you agree with ESMA’s analysis about the overlapping requirements between RTS 6 and 7? Are those overlaps considered beneficial, should they be removed or are there any gaps? Are there any further points that should be clarified?

<ESMA\_QUESTION\_ALGO\_25>

Existing provisions are appropriate and their overlapping in two RTSs is not a problem for the trading venue. Changes to organize responsibilities and activities of trading venues and investment firms will be a step in the right direction.

<ESMA\_QUESTION\_ALGO\_25>

1. : What is your view with regards to the testing of algorithms requirements? Do you agree that more robust testing scenarios should be set?

<ESMA\_QUESTION\_ALGO\_26>

We believe algo-testing should be regulated on the trading venue level. Venues operate various trading systems which require different testing scenarios and different technical paramteres e.g. capacity; therefore, MiFID2-level testing requirements might create problems for some trading venues. Participants of trading venues are very heterogeneous due to their individual business models and trading strategies, therefore, a pre-defined testing approach would not reflect this heterogeneity.

<ESMA\_QUESTION\_ALGO\_26>

1. : Are the testing environments available for the testing of algorithms appropriate for this purpose?

<ESMA\_QUESTION\_ALGO\_27>

We believes that testing environments are appropriate.

<ESMA\_QUESTION\_ALGO\_27>

1. : Do you agree with ESMA’s analysis that the circuit breaker mechanism achieved its objective to avoid significant disruptions to the orderliness of trading?

<ESMA\_QUESTION\_ALGO\_28>

We agree with ESMA’s analysis.

<ESMA\_QUESTION\_ALGO\_28>

1. : Do you agree that the requirements under Article 48(5) of MiFID II complemented by RTS 7 and the guidelines on the calibration of circuit breakers and publication of trading halts under MiFID II remain appropriate? If not, what regulatory changes do you deem necessary?

<ESMA\_QUESTION\_ALGO\_29>

We agree with ESMA’s opinion that the circuit breakers framework remain appropriate.

<ESMA\_QUESTION\_ALGO\_29>

1. : Do you agree that the co-location services and fees structures are fair and non-discriminatory? Please elaborate.

<ESMA\_QUESTION\_ALGO\_30>

We believe existing colocation services and fee structures are fair and non-discriminatory. <ESMA\_QUESTION\_ALGO\_30>

1. : Do you think that the disclosures under RTS 10 made by the trading venues are sufficient or should they be harmonized among the different entities? Please explain.

<ESMA\_QUESTION\_ALGO\_31>

We believe existing disclosures are sufficient.

<ESMA\_QUESTION\_ALGO\_31>

1. : Do you agree with ESMA’s proposal to set out the maximum OTR ratio, calibrated per asset class?

<ESMA\_QUESTION\_ALGO\_32>

We believe Level 1 regulation is too constricting. ESMA itself noticed trading venues operate various trading system and electronification of each trading venue is different. Trading venues best know at what levels their matching engines come close to capacity. Also, a technical standard based on asset classes will not accurately reflect on market structure. Liquidity and high turnover isn’t based on asset class, but on individual ISINs. For example, there are ISINs with high turnover and very low turnover that belong to the same asset class.

<ESMA\_QUESTION\_ALGO\_32>

1. Q33: Do you agree that the maximum limits are not frequently exceeded? Please explain any potential underlying issues in this respect that should be recognised.

<ESMA\_QUESTION\_ALGO\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_33>

1. : Do you agree with the consequences as described of exceeding the maximum limits or should there be a more convergent approach? Please provide any comment or suggestion regarding the procedures in place by trading venues in case of a member exceeding the prescribed limit.

<ESMA\_QUESTION\_ALGO\_34>

We agree with the described consequences; however, we do not think that there is a need for a more convergent approach. The consequences of exceeding the maximum OTR limit depend on the implementation in national law and are implemented in the respective trading venue rules. A violation of the maximum OTR limit might trigger sanctioning procedures, including warnings, penalties, or the temporary exclusion from trading.

<ESMA\_QUESTION\_ALGO\_34>

1. : Do you agree with the need to improve the notification process in case of IT incidents and system outages? Beyond the notification process between NCAs and ESMA, which improvements could be done regarding communication of incidents to the public?

<ESMA\_QUESTION\_ALGO\_35>

We have established well-functioning procedures of communication to customers and notification to the respective NCAs in case of IT incidents or outages. Therefore, we do not believe that there is a need for streamlining the notification procedures from trading venues to NCAs and ESMA via additional guidance.

<ESMA\_QUESTION\_ALGO\_35>

1. : Do you believe any initiative should be put forward to ensure there is more continuity on trading in case of an outage on the main market, e.g. by requiring algo traders to use more than one reference data point?

<ESMA\_QUESTION\_ALGO\_36>

No, We do not see the need for the proposed initiative. We would rather be cautious of any unforeseen consequences of requiring algorithmic traders to use more than one reference data point. By forcing algorithmic traders to include different sources of information, the underlying assumption is that regulated markets, other venues, and potentially SIs are set on the same level in terms of price formation and information and can easily switch from one to the other.

<ESMA\_QUESTION\_ALGO\_36>

1. : Do you agree with the view that the tick size regime had overall a positive effect on market depth and transaction costs?

<ESMA\_QUESTION\_ALGO\_37>

We cannot express any opinion regarding the benefits of the tick size regime. The tick size regime is one of the many elements affecting on marekt depth and transaction costs, therefore it is difficult to determine the size of this single factor for those market values. <ESMA\_QUESTION\_ALGO\_37>

1. : Is there any further issue you would like to highlight regarding tick size regime?

<ESMA\_QUESTION\_ALGO\_38>

A side-effect of the tick-size regime were increased occurrences of trading system overloads, as price changes per ISIN are now more frequent.

Regardless of the above, we would like to point out the issue of updating the FITRS database. In the past we had doubts about the method of determining the Most Relevant Market parameter for companies listed on several trading platforms. Sometimes this parameter did not reflect the market with the highest liquidity and as such, the market that first sent information to the base was marked.

<ESMA\_QUESTION\_ALGO\_38>

1. : Do You agree with the proposal not to amend the tick size regime for third country shares? Please explain.

<ESMA\_QUESTION\_ALGO\_39>

Regulations should allow trading venues to select the appropriate tick size regime - levels resulting from the ADNT or from the home country of the instrument's listing (the choice would increase competitiveness of trading venues within the EU).

<ESMA\_QUESTION\_ALGO\_39>

1. : Do you agree with the proposal to widen the scope of the tick size regime to all ETFs? Would this pose challenges in your view? Please explain.

<ESMA\_QUESTION\_ALGO\_40>

Yes, this will increase flexibility of setting the minimum tick sizes equalize the various ETFs listed in the EU.

<ESMA\_QUESTION\_ALGO\_40>

1. : Do you agree with the proposal not to widen the scope of the tick size regime to non-equity instruments? Please explain.

<ESMA\_QUESTION\_ALGO\_41>

We agree with ESMA’s proposal.

<ESMA\_QUESTION\_ALGO\_41>

1. : Do you agree with ESMA findings and assessment of the current MiFID II market making regime?

<ESMA\_QUESTION\_ALGO\_42>

We agree with ESMA’s analysis that the MiFID II/MiFIR market making regime has contributed to clarity and a more stringent framework. However, we believe that because of adverse selection no incentives will outweigh the risk in stressed markets. Therefore, incentives might have an insignificant impact on market making behaviour during stressed market conditions. Market conditions rather than incentives drive market making behaviour.

<ESMA\_QUESTION\_ALGO\_42>

1. : What do you think of ESMA proposals and suggested amendments to RTS 8? In your view, what other aspects of the market making regime require to be amended and how?

<ESMA\_QUESTION\_ALGO\_43>

We agree with ESMA’s proposal to limit the application of the scope of Articles 1 and 2 to continuous trading order books.

We don't agree with ESMA’s proposal to broaden the obligation of have market making schemes to all instruments and types of trading systems. We believe many market making schemes is in the interest of trading venues and should be left up to their discretion in choosing which instruments are covered by such schemes.

We also don't agree with ESMA’s proposal to require the establishment of monetary incentives (including fee rebate for the best liquidity providers only) for illiquid instruments and SME growth market segments. We believe incentivizing is in the interest of trading venues and should be left up to their discretion.

<ESMA\_QUESTION\_ALGO\_43>

1. : What are market participants views regarding the flexibility left in the MiFID II market making regime? Would you agree with ESMA further clarifying certain relevant concepts? If yes, which ones?

<ESMA\_QUESTION\_ALGO\_44>

We believe market participants are satisfied with various scheme flexibility afforded by

MiFID2. We have no opinion on whether ESMA needs to clarify further such programs.

<ESMA\_QUESTION\_ALGO\_44>

1. : Could you please describe how Primary Dealers agreements are designed (number of designated Primary Dealers, transparency about investment firms having signed such agreements, typical obligations contained, etc…). Do you consider that Primary Dealers should be exempted from the Article 1 of RTS 8? Do you consider that this can introduce a regulatory loophole?

<ESMA\_QUESTION\_ALGO\_45>

Our trading venue does not have Primary Dealer agreements.

<ESMA\_QUESTION\_ALGO\_45>

1. : Do you think that venues which introduced asymmetric speedbumps provide enough information regarding the mechanism used? If not, what additional information would be useful to disclose to market participants?

<ESMA\_QUESTION\_ALGO\_46>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_46>

1. : Reflecting on those mechanisms which allow liquidity providers to provide quotes that can be filled only against retail order flow, do you think that such mechanisms are beneficial in terms of market quality? Is there any specific aspect that you think should be further taken into account, also considering the type of instruments traded? Please specify the venue of reference and the type of arrangement discussed.

<ESMA\_QUESTION\_ALGO\_47>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_47>

1. : Do you think that venues which introduce asymmetric speedbumps should set tighter market making requirements? Please explain why and how tight those new requirements should be.

<ESMA\_QUESTION\_ALGO\_48>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_48>

1. : Do you agree on the conclusion that speedbumps might not be a well-suited arrangement for equity markets? If yes, do you think that such arrangements for equities should be prohibited in Level 1? Please explain.

<ESMA\_QUESTION\_ALGO\_49>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_49>

1. : Do you think that the introduction and functioning of speedbumps should be further regulated? If yes, which specific requirements would you like to be included in EU legislation?

<ESMA\_QUESTION\_ALGO\_50>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_50>

1. : Is there any specific issue you would like to highlight about speedbumps?

<ESMA\_QUESTION\_ALGO\_51>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_51>

1. : What are your views on the relative timing of private fill confirmations and public trade messages? If you are a trading venue, please provide in your answer an explanation of the model you have in place.

<ESMA\_QUESTION\_ALGO\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_52>

1. : Do you consider information on the sequencing of these two feeds at trading venues to be easily available? If you are a trading venue, please provide a link to where this information can be found publicly.

<ESMA\_QUESTION\_ALGO\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_53>

1. : Do you think there should be any legislative amendments or policy measures in respect of these feed dynamics?

<ESMA\_QUESTION\_ALGO\_54>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_ALGO\_54>