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| 9 July 2021 |

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| Reply form for the Consultation Paper on the RTS 1 and RTS 2 Review |
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| Date: 9 July 2021 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the Consultation Paper on the RTS 1 and RTS 2 review published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type <ESMA\_QUESTION\_RVEW\_0> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses 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.

**Naming protocol**

In order to facilitate the handling of stakeholders’ responses please save your document using the following format:

ESMA\_CP\_RVEW\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA\_CP\_RVEW\_ESMA\_REPLYFORM or

ESMA\_CP\_RVEW\_ANNEX1

***Deadline***

Responses must reach us by 1 October 2021.

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

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that 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 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 headings ‘Legal notice’ and ‘Data protection’.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Bloomberg LP |
| 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\_RVEW\_1>

As a general observation in our capacity as a data distributor, we suggest that to the extent that the functioning of RTS 1 and 2 is supported by ESMA’s FITRS system, there are various aspects of this system that are worthy of review. Whilst several data quality and data availability issues (and possible solutions) are raised in this consultation paper (we note particularly the discussion in sections 3.3.3.2, 4.3.3.1 and 4.3.1.4), we have observed the following areas for improvement in the FITRS system, which currently cause considerable automation problems and operational challenges:

* The absence of a calculation time in FITRS, which is needed so that market participants can clearly identify the relevant FITRS record to be applied (this data point is available on the website but not in the files);
* The need for a mechanism to indicate that a record has been deleted from FITRS files (e.g. as is the case for FIRDS DLTINS files); and
* The need for an ‘effective date’ so that firms consuming the machine-readable files programmatically can easily identify if a record is for immediate or future application. This is particularly important if ESMA intends to continue to perform ad-hoc, large-scale recalculations of transparency data and publish the results in FITRS unexpectedly with future application dates. For example, ESMA have previously conducted unexpected recalculations of annual equity records, sending the corrections via FITRS files on the day of the announcement, but with a future application date (usually a week afterwards). In such a scenario, the lack of an effective date in the XML files means that market participants have to take last-minute measures to manually block the updated records flowing through to their systems and being applied immediately. The inclusion of the effective date would allow market participants consuming the files programmatically to plan for this and to ensure that records with a future effective date would not be used ahead of time.

The inclusion of asset class, sub-asset class and sub-class classifications at ISIN level in FITRS, as discussed in section 4.3.3.1, is a welcome development. However, given the extent of these changes, it is essential that adequate information regarding the new specifications, and most importantly, sample files, are available sufficiently in advance of the go-live date. It is also of key importance that the explicit date for implementation of the new schema in production is provided well in advance. The precise implementation date for the FITRS XML schema 1.2.0 is not yet available, nor is a sample file, despite the intended implementation date being Q4 of 2021. This does not leave adequate time for market participants to fully ready their systems.

<ESMA\_COMMENT\_CP\_RVEW \_1>

Q1 : Do you agree with the proposed amendment to Article 7(2) of RTS 1? If not, please explain your concerns about the proposed increase of the threshold.

<ESMA\_QUESTION\_RVEW\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_1>

Q2 : Do you agree with the proposed amendment to Table 5 of Annex II of RTS 1? If not, please explain why you are concerned about the proposed increase of the thresholds.

<ESMA\_QUESTION\_RVEW\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_2>

Q3 : Do you agree with ESMA’s amendments to Articles 2, 6 and 13 of RTS 1 described above? If not, please explain why.

<ESMA\_QUESTION\_RVEW\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_3>

Q4 : Do you agree with the proposed description of FBA trading systems and the updated description of periodic auction trading systems? If not, please explain why and which elements should be added to the description and/or removed.

<ESMA\_QUESTION\_RVEW\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_4>

Q5 : Which of the two options for the pre-trade transparency requirements for FBA trading systems do you prefer? Please explain in case you are supportive of a different approach than the two options presented.

<ESMA\_QUESTION\_RVEW\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_5>

Q6 : Do you agree with ESMA’s proposals for ‘hybrid systems’? If not, please explain why and which elements should be added and/or removed.

<ESMA\_QUESTION\_RVEW\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_6>

Q7 : Do you agree with aligning both Table 1, Annex I of RTS 1 and Table describing the type of system and the related information to be made public in accordance with Article 2, of Annex I of RTS 2, to describe the same systems (with the exception of voice trading systems) and pre-trade transparency requirements? If not, please explain why.

<ESMA\_QUESTION\_RVEW\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_7>

Q8 : Do you agree with ESMA’s proposals to require a specific format and standardise further the pre-trade information to be disclosed? If not, please explain why. If yes, please clarify which elements should be amended, added and/or removed, if any.

<ESMA\_QUESTION\_RVEW\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_8>

Q9 : Do you agree with the changes proposed by ESMA to amend Article 15 (3) of RTS 1? If not, please explain your rationale.

<ESMA\_QUESTION\_RVEW\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_9>

Q10 : Do you agree with the proposed amendments to Article 17? If not, please explain.

<ESMA\_QUESTION\_RVEW\_10>

**Date of application of transparency calculations:**

Whilst the proposal to amend the date of application of transparency calculations to ensure that updates are always processed over a weekend is pragmatic, the existing cycle of application dates is already embedded into market participants’ systems. As a result, this change will likely require non-negligible code changes for market participants that acquire and process FITRS records programmatically, and therefore the cost of adapting to this change could outweigh its possible benefits.

In addition, moving away from a specific application date to a model whereby market participants need to identify the date that constitutes the first Monday of the month could create confusion when application dates coincide with bank holidays. As a result, if this proposal were adopted, it would be helpful for the schedule of application dates to be provided well in advance (ideally for more than one year into the future at a time), and for ESMA to clarify whether there would be any derogation from the proposed schedule due to bank holidays. We also suggest that the explicit application date be reiterated in the press release announcing the publication of the data.

Alternatively, the ‘effective date’ for FITRS records could be included in the XML schema, thus allowing market participants to clearly identify the application date for each given record and removing any uncertainty as to its implementation date.

**Clarification on exchange rate:**

We agree with the proposal to bring RTS 1 in line with RTS 2 and explicitly state the exchange rate to be used.

<ESMA\_QUESTION\_RVEW\_10>

Q11 : Do you agree with the proposed amendment of Article 11(3)(c) of RTS 1? Please explain.

<ESMA\_QUESTION\_RVEW\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_11>

Q12 : Do you agree with the changes proposed to Table 3 of Annex I of RTS 1 (List of details for the purpose of post-trade transparency) presented above? If not, please explain and provide any alternative proposal you might have. Are there other issues to be addressed and how?

<ESMA\_QUESTION\_RVEW\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_12>

Q13 : Do you agree with ESMA’s proposal not to change Tables 1 and 2 of Annex III of RTS 1? If not, and you consider that certain modifications shall be made, please explain.

<ESMA\_QUESTION\_RVEW\_13>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_13>

Q14 : Do you agree with ESMA’s proposal on the new Tables 1 and 2 of Annex IV of RTS 1? If not, please explain and provide any alternative proposal you might have.

<ESMA\_QUESTION\_RVEW\_14>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_14>

Q15 : Please provide concrete examples or scenarios when the price cannot be determined as described or cases of the need to set a zero price for the different types of instruments: shares, ETFs, depositary receipts, certificates, other equity-like financial instruments.

<ESMA\_QUESTION\_RVEW\_15>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_15>

Q16 : Do you agree with the deletion of the SI flags ‘SIZE’, ‘ILQD’ and ‘RPRI’? If not, please explain what you consider to be their added value.

<ESMA\_QUESTION\_RVEW\_16>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_16>

Q17 : Do you agree with the deletion of the ACTX flag? If not, please explain what you consider to be its added value.

<ESMA\_QUESTION\_RVEW\_17>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_17>

Q18 : Do you agree with the approach suggested for non-price forming transactions? If not, please explain.

<ESMA\_QUESTION\_RVEW\_18>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_18>

Q19 : Do you agree with ESMA’s proposal to introduce a pre-trade LIS waiver flag for on-book transactions? If not, please explain. Should it be limited to completely filled LIS orders?

<ESMA\_QUESTION\_RVEW\_19>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_19>

Q20 : Do you agree with ESMA’s proposal to introduce a pre-trade LIS waiver for off-book transactions? If not, please explain.

<ESMA\_QUESTION\_RVEW\_20>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_20>

Q21 : Do you agree with the proposal not to add such additional flags? If not, please explain why those flags are needed in your view.

<ESMA\_QUESTION\_RVEW\_21>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_21>

Q22 : Do you recommend adding/deleting/amending any other flags? If yes, please explain.

<ESMA\_QUESTION\_RVEW\_22>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_22>

Q23 : Do you agree with the proposal to prescribe the order of the population of flags? If not, please explain and provide an alternative proposal.

<ESMA\_QUESTION\_RVEW\_23>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_23>

Q24 : Do you agree with the proposed amendments above? If not, please do not reiterate the arguments made under the previous question asked for equity instruments and please rather explain why those amendments are not suitable for non-equity financial instruments.

<ESMA\_QUESTION\_RVEW\_24>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_24>

Q25 : Do you agree with the proposal to specify the fields to be populated for pre-trade transparency purposes? If not, please explain. In case you support the proposal, please comment on the fields proposed, in particular whether you would consider them necessary and/or whether additional information is required.

<ESMA\_QUESTION\_RVEW\_25>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_25>

Q26 : Please indicate, if applicable, which medium-term targeted improvements you would like to see to the threshold calibrations in RTS 2.

<ESMA\_QUESTION\_RVEW\_26>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_26>

Q27 : Do you agree with the proposed changes to Article 13? If not, please explain.

<ESMA\_QUESTION\_RVEW\_27>

**4.1.3.1 Date of application of transparency calculations**

As stated in our response to question 10, whilst the proposal to amend the date of application of transparency calculations to ensure that updates are always processed over a weekend is pragmatic, the existing cycle of application dates is already embedded into market participants’ systems. As a result, this change will likely require non-negligible code changes for market participants that acquire and process FITRS records programmatically, and therefore the cost of adapting to this change could outweigh its possible benefits.

In addition, moving away from a specific application date to a model whereby market participants need to identify the date that constitutes the first Monday of the month could create confusion when application dates coincide with bank holidays. As a result, if this proposal were adopted, it would be helpful for a schedule of application dates to be provided well in advance (ideally for more than one year into the future at a time), and for ESMA to clarify whether there would be any derogation from the proposed schedule due to bank holidays. We also suggest that the explicit application date be reiterated in the press release on the ESMA website announcing the publication of the data.

Alternatively, the ‘effective date’ for FITRS records could be included in the XML schema, thus allowing market participants to clearly identify the application date for each given record and removing any uncertainty as to its implementation date.

<ESMA\_QUESTION\_RVEW\_27>

Q28 : Do you agree with the proposed changes to Article 4? If not, please explain.

<ESMA\_QUESTION\_RVEW\_28>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_28>

Q29 : Do you agree with the proposed changes to Article 12? If not, please explain. Please do not reiterate the general comments made in the equity section and try to focus on arguments that are specific to non-equity financial instruments.

<ESMA\_QUESTION\_RVEW\_29>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_29>

Q30 : Please provide your comments on the analysis and proposals related to the liquidity framework applicable to commodity derivatives, EA and DEA detailed in Section 4.2 and summarised in Section 4.2.5. Please list the proposals with their ID (#1 to #9) for ease of reference.

<ESMA\_QUESTION\_RVEW\_30>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_30>

Q31 : Do you agree with the changes proposed to Table 2 of Annex II of RTS 2 (List of details for the purpose of post-trade transparency) presented above? If not, please explain and provide any alternative proposal you might have. Are there other issues to be addressed and how?

<ESMA\_QUESTION\_RVEW\_31>

We note ESMA’s comments under section 4.3.1.4 dealing with instrument identification code type and instrument identification code. While we agree that there are problems associated with inaccuracies and lack of standardisation in values associated with the reporting of underlying index names and codes (including invalid ISIN codes), we don’t think that this problem just applies in the case of equity derivatives.

As we have noted in other consultation responses a remedy for this problem is for ESMA to consider other coding schemes which have a better and more accurate coverage of indices. We therefore do not agree with the deletions made to table 2 relating to instrument identification codes. Instead we propose that where an ISIN is not available (particularly in the case of underlying indices) that ESMA accept another instrument identification scheme to supplement ISIN. This would reduce the confusion arising from the use of often very similar index names and mean that the majority of indices could instead be identified unambiguously with a more accurate and comprehensive coding scheme than currently offered by the ISIN.

The open-standard Financial Instrument Global Identifier (FIGI), recently accepted by the US standards bodies as a valid open US standard for financial instruments, should be considered by ESMA as a solution. Many other regulator reporting systems accept more than one identification scheme. As an open standard, ESMA’s acceptance of the FIGI standard as an alternative would help to decrease regulatory reporting costs while increasing the accuracy of reported data. Bloomberg, which acts as Registration Authority for the standard, would be pleased to provide more information if this would be helpful.

<ESMA\_QUESTION\_RVEW\_31>

Q32 : Do you agree with the changes proposed to Table 4 of Annex II of RTS 2 (Measure of volume) presented above? Do you think that it now provides more clarity? If not, please explain and provide any alternative proposal you might have.

<ESMA\_QUESTION\_RVEW\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_32>

Q33 : Do you agree with ESMA’s proposals on Table 1 (Symbol) and Table 2 of Annex IV of RTS 2? If not, please explain and provide any alternative proposal you might have.

<ESMA\_QUESTION\_RVEW\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_33>

Q34 : Do you agree with ESMA’s proposals on the segmentation criteria for bonds (Table 2.2), securitised derivatives (Table 4.1), interest rate derivatives (Table 5.1), equity derivatives (Table 6.1), credit derivatives (Table 9.2 and 9.3) and emission allowances (Table 12.1) of Annex III of RTS 2? If not, please explain and provide any alternative proposal you might have.

<ESMA\_QUESTION\_RVEW\_34>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_34>

Q35 : Please provide your comments in relation to the proposals related to the segmentation criteria applicable to commodity derivatives summarised in Table 11. Please list the proposals with their ID for ease of reference. Do you have other proposals related to the segmentation criteria applicable to commodity derivatives and C10 derivatives?

<ESMA\_QUESTION\_RVEW\_35>

In general, our observation as a data distributor is that since the existing RTS 2 segmentation criteria are already well embedded into market participants’ systems, any change to this data (the addition/removal of segmentations or a change in the naming convention) is likely to entail substantial amendments to market participants’ systems and business rules for the application of transparency records. As a result, any such changes should be accompanied by an ample implementation period to allow enough time for the necessary updates (at least a year).

SC\_Commo 8 (underlying agricultural commodity) 4.3.3. 3.7.7:

In particular, we would suggest that the addition of a ‘segmentation 1a’ for agricultural commodity derivatives would be problematic. Whilst the intention in implementing this change is to ensure consistency within RTS 2, the creation of this additional “sub-segmentation” would create more work by becoming an anomaly in the RTS 2 taxonomy (i.e. the only sub-class with a segmentation 1a).

Finally, given the challenges posed by fields allowing free-text returns, we would generally agree with the proposal to move away from free-text fields to a set list of accepted enumerations (where possible).

<ESMA\_QUESTION\_RVEW\_35>

Q36 : Do you agree with ESMA’s proposal on the new Table of Annex V of RTS 2 (Details of the data to be provided for the purpose of determining a liquid market, the LIS and SSTI thresholds for non-equity financial instruments)? If not, please explain and provide any alternative proposal you might have.

<ESMA\_QUESTION\_RVEW\_36>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_36>

Q37 : Do you agree with ESMA’s proposal to delete the ACTX flag? Please explain.

<ESMA\_QUESTION\_RVEW\_37>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_37>

Q38 : Do you agree with ESMA’s proposal to merge the current non-equity deferral flags into one general flag?

<ESMA\_QUESTION\_RVEW\_38>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_38>

Q39 : Do you agree with ESMA’s proposal not to change the existing flags regarding non-price forming transactions in non-equity financial instruments? If not, please explain.

<ESMA\_QUESTION\_RVEW\_39>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_39>

Q40 : Do stakeholders agree with ESMA’s proposal to introduce a general waiver flag for non-equity transactions benefitting from a waiver? For LIS, should it be limited to completely filled LIS orders?

<ESMA\_QUESTION\_RVEW\_40>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_40>

Q41 : Do you agree with ESMA’s proposal to introduce a flag for pre-arranged non-equity transactions?

<ESMA\_QUESTION\_RVEW\_41>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_41>

Q42 : Do you agree with the proposal on the delayed implementation of certain provisions of the amended RTS 1 & 2 ? Do you have proposals to minimize the delay?

<ESMA\_QUESTION\_RVEW\_42>

Given the extent of some of the proposed changes to the data fields and segmentations in RTS 2, our observation as a data distributor is that market participants would require significant lead time, at a minimum a year, to implement these amendments.

<ESMA\_QUESTION\_RVEW\_42>

Q43 (CBA) : Can you identify any other costs and benefits not covered in the CBA below? Please elaborate.

<ESMA\_QUESTION\_RVEW\_43>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RVEW\_43>