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| 30 September 2021 |

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| Response form for the Consultation Paper on Review of the MiFID II framework on best execution reports |
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| Date: 30 September 2021 |

**Responding to this paper**

ESMA invites responses to the questions set out throughout this Consultation Paper and summarised in Annex II. Responses are most helpful if they:

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

ESMA will consider all comments received by **Thursday 23th December 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 steps below when preparing and submitting their response:

* Insert your responses to the consultation questions in this form.
* Please do not remove tags of the type <ESMA\_QUESTION\_BEEX\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
* 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.
* When you have drafted your response, name your response form according to the following convention: ESMA\_BEEX\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_BEEX\_ABCD\_RESPONSEFORM.
* 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 Review of the MiFID II framework on best execution reports’).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. If you do not wish for your response to be publicly disclosed, please clearly indicate this by ticking the appropriate box on the website submission page. 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 ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

This document is of interest to execution venues, investment firms and their associations, investors, consumer associations, as well as any market participant engaged in the execution of orders under the MiFID II framework.

# General information about respondent

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| Name of the company / organisation | The Alternative Investment Management Association (AIMA) |
| Activity | Asset Manager Association |
| Are you representing an association? |  |
| Country/Region | International |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_BEEX\_1>

Dear Sir or Madam,

The Alternative Investment Management Association[[1]](#footnote-2) (“AIMA”) welcomes the opportunity to respond to the European Securities and Markets Authority (“ESMA”) regarding its consultation on review of the Markets in Financial Instruments Directive II (“MiFID II”) framework on best execution reports (“the consultation”)[[2]](#footnote-3).

AIMA supports the objectives that underlie the MiFID II framework and welcomes transparency and investor protection in the financial services sector. As such, we appreciate ESMA’s willingness to review shortcomings related to the MiFID II best execution reporting requirements. AIMA believes that the obligation for execution venues to produce execution quality reports consistent to the format prescribed under RTS 27 and the obligation for firms who execute orders to produce reports about their order routing and execution outcomes obtained to the format prescribed under RTS 28 are burdensome and do not achieve their intended objectives.

However, AIMA does not believe that incremental changes to enhance the adequacy of the RTS 27 and RTS 28 reporting requirements should be made. Industry perception of the reports is uniformly sceptical. The reports have been proven to be highly costly as firms are required to obtain a significant amount of data points on a continuous basis while clients are generally understood to neither have interest in nor gain benefit from the reports. We believe that attempts to redesign the reporting requirements to improve the quality and usability of the reports are unhelpful and place an unnecessary burden on market participants. For example, we do not find ESMA’s proposal in the consultation to change the level of granularity of the RTS 27 reporting requirements to add any value. It would increase complexity for market participants while preventing data from being represented in a way that is meaningful for individual clients. Similarly, ESMA’s proposals to clarify the scope of the reporting requirements and specify that reports should be published in a machine-readable CSV format are meaningless. The proposals neither address nor will change the fact that there is little to no client/investor interest in the reports.

AIMA strongly believes that the RTS 27 and RTS 28 reporting obligations should be deleted in their entirety. AIMA members find RTS 27 reports to provide little value or insight regarding trading venues’ execution quality. The removal of the requirement for execution venues to produce execution quality reports consistent to the format prescribed under RTS 27 would free up resources without being detrimental to the objective of investor protection. Likewise, AIMA firmly believes that RTS 28 reports do not provide sufficiently good quality to grant investors useful information on the execution quality of their transactions and that other methods, such as reviewing Transaction Cost Analysis data, are already available and easier to use. Our members have seen little, if any, investor interest in the information that is published in the reports. As with RTS 27 reports, it is not clear that investors could make meaningful comparisons between firms on the basis of the data, even if one were inclined to do so. Firms expend significant time and resources on compiling reports to the format prescribed under RTS 28. We believe that this and compliance with any amended reporting requirements is not warranted in light of the minimal investor value that they provide. Moreover, firms note that any external interest in the information provided in RTS 28 reports comes from the broker community. We do not believe that it was the intention of the reporting framework to provide brokers with additional information about their commercial standing vis-à-vis existing clients.

AIMA believes that removing the obligation for execution venues and firms to publish execution quality reports to the format prescribed under RTS 27 and RTS 28, respectively, would promote efficiency and provide investors and regulators with the data that they need while not over-burdening industry participants with undue costs and regulatory requirements. Furthermore, we note that the UK has removed the RTS 27 and RTS 28 reporting obligations.[[3]](#footnote-4) This has the potential to steer trading and execution away from the EU, where the reporting requirements remain, and reduce the competitiveness and growth of EU capital markets.

If you would like to discuss any aspect of this submission further, please contact Aniqah Rao ([arao@aima.org](mailto:arao@aima.org)) and Adam Jacobs-Dean ([ajacobs-dean@aima.org](mailto:ajacobs-dean@aima.org)).

Yours truly,

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| /s/ Adam Jacobs-Dean |
|  |
| Adam Jacobs-Dean  Managing Director, Head of Markets, Governance and Innovation  Alternative Investment Management Association |

<ESMA\_COMMENT\_ BEEX\_1>

1. **: Do you agree with the proposed scope in terms of execution venues for the reporting under a possible new RTS 27?**

<ESMA\_QUESTION\_BEEX\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_1>

1. **: Do you agree with the proposed level of granularity by types of financial instruments instead of individual financial instruments under a new potential reporting regime? In particular, do you agree with the two proposed categories concerning shares (i.e., shares considered to have a liquid market and shares not considered to have a liquid market)? If not, please state the reasons for your answer and clarify what alternative categorisations you would propose in order to have a meaningful level of granularity for a new reporting regime.**

<ESMA\_QUESTION\_BEEX\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_2>

1. **: Do you agree with the proposed metrics to report the execution quality obtained by execution venues?**

<ESMA\_QUESTION\_BEEX\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_3>

1. **: Have you observed good or bad practices of reporting by execution venues under the current RTS 27 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.**

<ESMA\_QUESTION\_BEEX\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_4>

1. **: Have you observed good or bad practices of reporting by investment firms under the current RTS 28 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.**

<ESMA\_QUESTION\_BEEX\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_5>

1. **: Do you agree with the classification for reporting proposed in Annex I of the possible new RTS 28, especially with regard to the suggested methodology for the reporting on equity instruments? If not, what alternative categorisations would you propose?**

<ESMA\_QUESTION\_BEEX\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_6>

1. **: Do you agree with the proposals for a possible review of RTS 28?**

<ESMA\_QUESTION\_BEEX\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_7>

1. **: Do you agree with the cost benefit analysis as it has been described in Annex II?**

<ESMA\_QUESTION\_BEEX\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_8>

1. **: Are there any additional comments that you would like to raise and/or information that you would like to provide?**

<ESMA\_QUESTION\_BEEX\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_9>

1. AIMA is the global representative of the alternative investment industry, with more than 1,900 corporate members in over 60 countries. AIMA’s fund manager members collectively manage more than $2 trillion in assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA set up the Alternative Credit Council (“ACC”) to help firms focused in the private credit and direct lending space. The ACC currently represents over 100 members that manage $350 billion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (“CAIA”) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). [↑](#footnote-ref-2)
2. Available online at < <https://www.esma.europa.eu/sites/default/files/library/esma35-43-2836_cp_-_best_execution_reports.pdf>> [↑](#footnote-ref-3)
3. See <https://www.fca.org.uk/publication/policy/ps21-20.pdf>. [↑](#footnote-ref-4)