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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 | Optiver V.O.F |
| Activity | Other |
| Are you representing an association? |[ ]
| Country/Region | The Netherlands |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_BEEX\_1>

We welcome the opportunity to provide input to ESMA on possible revisions of RTS 27 and 28. Optiver appreciates ESMA declared intention to maintain and reform the RTS 27 and 28 reports, rather than allowing the temporary suspension of these reports to be made permanent.

In light of the European Commission's legislative proposal on the review of MiFIR and MIFID 2 in which the Commission proposes to remove the obligation for publication of RTS 27 reports by execution venues, we would like to highlight that so long as an effective and meaningful consolidated tape for equities emerges (real-time, covering all venues including SIs and also covering OTC volume) the need for RTS 27 reports would indeed be diminished. This notwithstanding, we have provided our views on the proposed improvements to the current RTS 27 reports.

Overall, in our view the core need for reports like these and the transparency they provide is critical to the healthy functioning of markets and provides a good protection against hidden conflicts of interest. We are therefore fully in favour of ESMA revamping and streamlining these reports - at the very least the RTS 28 reports.

<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>

We agree with the proposed changes to the scope of RTS 27 to limit the reporting obligation to trading venues and systematic internalisers, whilst requiring venues to report the identity of market makers in non-anonymous trading systems and their contribution to achieving best execution. In this context we also support the proposal to amend the definition of execution venue in the Level 1 text to remove market makers from that definition.

<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>

We support the proposed metrics and consider that they would address the current issue around overreporting of raw transaction data in non-uniform formats in RTS 27 reports. The proposed streamlined approach would result in more meaningful and digestible information being provided. We also support the proposed shorter timeframe for publication of these RTS 27 reports to one month past the end of the relevant quarter.

<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>

Publication of reports under RTS 27 should be done in an easily accessible manner. Therefore, we fully support the introduction of a requirement to publish these reports in machine-readable csv format. Considering the number of execution venues in the EU who would be required to publish these reports, we are of the view that it would add to the usability of these reports if not only where they to be required to be published in easily accessible website sections, but also for ESMA to operate a central register of these reports that is publicly accessible. In particular the latter would address many of the short comings in terms of accessibility and transparency under the current RTS 27 regime.

We also welcome the proposed harmonisation of the content of the RTS 27 reports, as the current reporting practice has resulted in a wide array of data-heavy and largely incomparable reports being published by execution venues. Harmonising and streamlining (reducing) the reporting fields will therefore significantly contribute to the overall utility of the reports and provide investors with usable best execution information in a digestible format.

<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>

We support the inclusion of information on best execution for situations where orders were not executed by firms for clients directly, but rather passed on for execution to a third party. This would address a significant information gap in the current RTS 28 reports, which only show the next step in the chain (eg which broker flow is passed to, not where that broker ends up executing). However, the true clarity of execution quality is driven by the venue where flow is traded, and how competitive (in terms of both fees and spreads) that venue is.

Optiver also welcome the streamlining of report formats and requiring reports to be published in machine readable csv format.

We would encourage the inclusion of an additional section that highlights how much of a firm’s flow is routed to any affiliate entity/SI for execution, regardless of if that entity falls into the top 5 for any of the current sections. That would clearly highlight areas of potential conflicts of interest that come along with internal routing.

We also strongly support the addition of disclosure obligations with regard to payment for order flow information or any other monetary or non-monetary benefits for each venue.

Finally we would encourage increasing the frequency of the RTS 28 reports and collecting these reports in a central and publicly available register.

<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>

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<ESMA\_QUESTION\_BEEX\_9>