**Reply** **form: MiFIR Review**

RTS 2, RTS on reasonable commercial basis and RTS 23

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Responding to this paper

ESMA invites comments on all matters in the Consultation Paper and in particular on the specific questions in this reply form. 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 **28 August 2024.**

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:

* Insert your responses to the questions in the Consultation Paper in this reply form.
* Please do not remove tags of the type <ESMA\_QUESTION\_CP1\_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 responses, save the reply form according to the following convention: ESMA\_CP1\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP1\_ABCD.

* Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). 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 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 headings ‘Legal notice’ and heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’..

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Association Française de la Gestion Financière (AFG) |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | France |

# Questions

**CP on the amendment of RTS 2**

1. Do you agree with the definition of CLOB trading systems proposed above? If not, please explain why.

<ESMA\_QUESTION\_CP1\_1>

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<ESMA\_QUESTION\_CP1\_1>

1. Do you consider that the definition should include other trading systems? Please elaborate.

<ESMA\_QUESTION\_CP1\_2>

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<ESMA\_QUESTION\_CP1\_2>

1. Do you agree that the description of periodic auction trading systems set out in Annex I of RTS 2 is relevant for specifying the characteristics of those trading systems in the revised RTS? If not, please elaborate.

<ESMA\_QUESTION\_CP1\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_3>

1. Do you agree to use ESA 2010 to classify bond issuers If not, please explain and provide alternatives on how clarify how to classify sovereign, other public and corporate issuers.

<ESMA\_QUESTION\_CP1\_4>

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<ESMA\_QUESTION\_CP1\_4>

1. Do you agree with the proposed LiS pre-trade thresholds for bonds? In your answer, please also consider the analysis provided in sections 4.2.1.

<ESMA\_QUESTION\_CP1\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_5>

1. Do you agree with the proposed LiS pre-trade thresholds for SFPs and EUAs? In your answer, please also consider the analysis provided in section 4.2.2.

<ESMA\_QUESTION\_CP1\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_6>

1. Do you agree with the approach taken for the illiquid waiver for bonds, SFPs and EUA? If you disagree with how the liquidity threshold is determined, please include your comments in Q11 for bonds, Q14 for SFPs and/or Q17 for EUAs.

<ESMA\_QUESTION\_CP1\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_7>

1. Do you agree with the changes to post-trade fields summarised in Table 5? Please identify the proposal ID in your response.

<ESMA\_QUESTION\_CP1\_8>

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<ESMA\_QUESTION\_CP1\_8>

1. Do you agree not to change the concept of “as close to real-time as technically possible”? If not, what would be in your view the maximum permissible delay?

<ESMA\_QUESTION\_CP1\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_9>

1. Do you agree with the changes proposed for the purpose of the reporting of OTC transactions?

<ESMA\_QUESTION\_CP1\_10>

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<ESMA\_QUESTION\_CP1\_10>

1. Do you agree with the liquidity thresholds set out in Table 7 above? If not, please provide an alternative approach.

<ESMA\_QUESTION\_CP1\_11>

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<ESMA\_QUESTION\_CP1\_11>

1. Do you agree with the proposed thresholds specified in the above Tables? If not, please justify by providing qualitative data to your analysis and differentiating per asset class.

<ESMA\_QUESTION\_CP1\_12>

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<ESMA\_QUESTION\_CP1\_12>

1. Do you agree with the maximum deferral period set out in the tables above?

<ESMA\_QUESTION\_CP1\_13>

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<ESMA\_QUESTION\_CP1\_13>

1. Do you agree with a static determination of liquidity and determine that all SFPs are illiquid? If not, can you suggest any alternative methodology on how to define liquidity for SFPs?

<ESMA\_QUESTION\_CP1\_14>

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<ESMA\_QUESTION\_CP1\_14>

1. Do you agree not to introduce changes to the threshold size currently applicable to SFPs as provided in RTS 2?

<ESMA\_QUESTION\_CP1\_15>

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<ESMA\_QUESTION\_CP1\_15>

1. Do you agree with the maximum duration proposed?

<ESMA\_QUESTION\_CP1\_16>

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<ESMA\_QUESTION\_CP1\_16>

1. Do you agree with a static determination of liquidity and determine that all EUA are liquid? If not, can you suggest any alternative methodology on how to define liquidity for EUAs?

<ESMA\_QUESTION\_CP1\_17>

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<ESMA\_QUESTION\_CP1\_17>

1. Do you agree with the proposed framework for the deferral regime for EUAs? If not, please suggest an alternative methodology.

<ESMA\_QUESTION\_CP1\_18>

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<ESMA\_QUESTION\_CP1\_18>

1. Do you agree with the classification of ETCs and ETNs as types of bonds?

<ESMA\_QUESTION\_CP1\_19>

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<ESMA\_QUESTION\_CP1\_19>

1. Do you agree with the liquidity determination for ETCs and ETNs. If not, please suggest an alternative approach to the liquidity determination.

<ESMA\_QUESTION\_CP1\_20>

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<ESMA\_QUESTION\_CP1\_20>

1. Do you agree with the pre- and post-trade thresholds? If not, please suggest an alternative methodology.

<ESMA\_QUESTION\_CP1\_21>

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<ESMA\_QUESTION\_CP1\_21>

1. What is your view in relation to the implementation of the supplementary deferral regime for sovereign bonds?

<ESMA\_QUESTION\_CP1\_22>

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<ESMA\_QUESTION\_CP1\_22>

1. Do you agree not to make any changes to the temporary suspension of transparency obligations framework as it currently in RTS 2?

<ESMA\_QUESTION\_CP1\_23>

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<ESMA\_QUESTION\_CP1\_23>

1. Do you have any further comment or suggestion on the draft RTS? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_24>

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<ESMA\_QUESTION\_CP1\_24>

1. What level of resources (financial and other) would be required to implement and comply with the draft amended RTS and for which related cost (please distinguish between one off and ongoing costs)? When responding to this question, please provide information on the size, internal set-up and the nature, scale and complexity of the activities of your organisation, where relevant.

<ESMA\_QUESTION\_CP1\_25>

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<ESMA\_QUESTION\_CP1\_25>

**CP on the RTS on reasonable commercial basis**

1. Do you agree to the general approach used to specify the costs and margin attributable to the production and distribution of market data? Please elaborate.

<ESMA\_QUESTION\_CP1\_26>

We do not agree with the general approach used to specify the costs and margin attributable to the production and distribution of market data. As such, we believe that point 2, 3 ,4 and 5 of article 2 should be deleted. Indeed, they refer to a joint cost approach taken by ESMA as they include the possibility to charge beyond what can be related to the production and dissemination of the market data. We do not see any justification for the joint cost approach instead of a by-product approach where only direct costs are covered independently of the usage that is made of the data. Users must only pay for the product they consume i.e. costs needs to be assessed per product. The joint-coast approach is not in line with the delegated mandate given by article 13-3 of MIFIR. We strongly encourage that the approach replicates the UK FCA who takes a by-product approach. It can also be secified that these costs of producing and disseminating data explicitly exclude any cost associated with operating a trading platform.

Furthermore, point 6 which specified that market data providers shall be able to specify any further costs should also be deteleted. It provides for a loophole as it could allow market data providers to include a significant amount of additional and unjustified costs. A compromised solution could consist in defining «any further costs» limitatively and more precisely. More globally, any reference to «other costs» «further costs» should be removed from the RTS to avoid any loopholes (delete Art. 2.1 point e)).

<ESMA\_QUESTION\_CP1\_26>

1. Do you agree with the proposed approach to cost calculation based on the identification of different cost categories attributable to the production and dissemination of market data (i.e. (i) infrastructure costs; (ii) connectivity costs; (iii) personnel costs; (iv) financial costs; (v) administrative costs)? Please elaborate.

<ESMA\_QUESTION\_CP1\_27>

Provided that the reference to «other costs» is deleted to only maintain “*administrative costs necessary for the production and dissemination of market data*”, and as explained in Q26, we agree with article 2.1 as it relates directly to the cost associated to market data production and dissemination.

<ESMA\_QUESTION\_CP1\_27>

1. Do you agree with the proposal of apportioning costs based on the use of resources (i.e., infrastructure, personnel, software…) for each service provided? Do you think the methodology to be used to apportion costs should be further specified? Please elaborate.

<ESMA\_QUESTION\_CP1\_28>

As explained through our answer to question 26, we do not agree with the approach used to specify the costs and margin attributable to the production and distribution of market data and more specifically to the proposal apportioning costs based on the use of resources as provided for in point 2, 3 ,4 and 5 of article 2 which should therefore be deleted. Indeed, they refer to a joint cost approach taken by ESMA as they include the possibility to charge beyond what can be related to the production and dissemination of the market data. We do not see any justification for the joint cost approach instead of a by-product approach. The joint-coast approach is not in line with the delegated mandate given by article 13-3 of MIFIR.

<ESMA\_QUESTION\_CP1\_28>

1. Do you agree that the net profit as defined in Article 3 of the draft RTS can be a representative proxy of the margin applicable to data fees and would you include additional principles to define when a margin can be considered reasonable? Please elaborate.

<ESMA\_QUESTION\_CP1\_29>

We agree with the principle-based approach to provide a framework for calculating margins. However, we believe that the delegated regulation should not be refering to words that are not correctly defined as this might end up in creating loopholes i.e. «disproportionate» in article 3.2. A better solution could be to refer to an EU wide benchmark for the financial industry.

Furthermore, we need to be careful on margins for joint costs invoiced by data providers and that relate to data usage. In such cases there are no production and distribution costs borne by the provider therefore the cost invoiced actually represents a 100% margin. That is why the definition of a margin should always be based on a tangible production cost that is borne by the provider. If the provider bears no cost, no margin is justifiable.

<ESMA\_QUESTION\_CP1\_29>

1. Do you agree with the proposed template for the purpose of information reporting to NCAs on the cost of producing and disseminating data and on the margin applied to data? Please elaborate, including if further information should in your view be added to the template.

<ESMA\_QUESTION\_CP1\_30>

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<ESMA\_QUESTION\_CP1\_30>

1. What are in your view the obstacles to non-discriminatory access to data taking into consideration the current data market data policies and agreements?

<ESMA\_QUESTION\_CP1\_31>

Today, market data policies are very complux and unclear with unreasonable terms and conditions differentiating between user categories. Data providers have the monopoly and are able to impose their own policies and agreements. In that sence we fully support ESMA’s recommendation suggested in paragraphe 235 for the European Commission to use its legislative power to create a level playing field between the market data providers subject to MiFIR2 and those providers which are not in scope for MiFIR2 (Benchmakr providers, ESG providers, Credit rating agencies etc.)

Furthermore, the schedule of fees offered by market data providers should be standardised.

We believe it should be clearly specified that market data providers shall be able to justify to regulators any divergence in the final solution arrangement adopted on the basis of valid technical constraints and shouldn’t be required to justify it as such to clients (article 4.5).

We support ESMA’s recommendation to delete from the Level 1 text the provision allowing market data providers to charge for market data proportionally to the value that the market data represent to the user. (paragraph 220).

And finally we agree with the general definition and principles set out by ESMA to determine a non-discriminatory access to data. However, a principle shall be introduced to allow data providers for more proportionality in terms of pricing policies when it comes to smaller users.

<ESMA\_QUESTION\_CP1\_31>

1. What are the elements which could affect prices in data provision (e.g. connectivity, volume)? Do they vary according to the use of data made by the user or the type of user? Please elaborate.

<ESMA\_QUESTION\_CP1\_32>

The cost of producing and disseminating market data does not differ among clients so differences in prices - and the possibility to differentiate in margins between categories are then related to usecases and thereby per definition value based which is not the purpose of these guidelines. Low latency could be an element requiring higher costs of data. Upon request, a client could ask for a reduction of fees (e.g. due to the volume of data which is provided.

<ESMA\_QUESTION\_CP1\_32>

1. Do you agree with ESMA’s proposal on how to set up fee categories. Please justify your answer.

<ESMA\_QUESTION\_CP1\_33>

The possibility to categorise clients must be strictly limited to professional and non-professional clients considering the fundamental differences in the underlying data needed for these different types of clients. However, addditional tiering is valuebased pricing and the possibility to differenciate margin is an additional catalyst for this approach. As such, article 5 in its current version leaves room to a value based pricing which should be prohibited (as it is through the level 1 text) as cost of producing and disseminating market data does not differ among customers.

Furthermore, we believe that article 5.2, which provides that where there are multiple and significant different extra costs, market data providers may add an increment to the applicable fee determined by the extra costs incurred, should be deleted. This provision is not compatible with RCB principle. We do not see the use cases for which such increment should be needed. It is too vague to be maintened as such

<ESMA\_QUESTION\_CP1\_33>

1. Regarding redistribution of market data, do you agree with the analysis of ESMA? If not, please elaborate on the possible risks you identify and possible venues to mitigate these. In your response please elaborate on actual redistribution models.

<ESMA\_QUESTION\_CP1\_34>

We agree and highly welcome ESMA’s proposal suggested in point 235 which recommends to the European Commission to use its legislative power to create a level playing field between market data providers subject to MiFIR2 and those providers which are not in scope for MiFIR2 i.e. benchmark providers, credit rating agencies, ESG providers. These actors shall also be in scope as they manage a high amount of data and consistently make use of their dominant position.

<ESMA\_QUESTION\_CP1\_34>

1. Are there any other terms and conditions in market data agreements beyond the ones listed in this section which you perceive to be biased and/or unfair? If yes, please list them and elaborate your answer.

<ESMA\_QUESTION\_CP1\_35>

We generally support all provisions introduced by ESMA regarding unbiased and fair contractual terms. However, a few points should be taken into account. In practice, data providers establish the business contracts in non-EU law (usually US law) and there is a difference in how they both deal with the burden of proof. As such, even If ESMA introduces a reverse in the burden of proof to favor data users, we fear that as the contracts being established in US law, the burden of proof will still fall on data users. This reasoning can also be applied to fees that are extremely high in the US. As such, unless the contracts with EU data users is mandatorily established in EU law, the provisions introduced by ESMA might have limited impact.

Furthermore, any abusive clause should be considered by ESMA under these RTS. For instance, it should be clearly stated that clauses under which data providers require data users to delete all of the historic data once the business relationship is terminated should not be possible as it represents an abusive clause.

<ESMA\_QUESTION\_CP1\_35>

1. Please provide your view on ESMA’s proposal in respect to (i) the obligation to provide pre-contractual information, (ii) general principle on fair terms, (iii) the language of the market data agreement, (iv) the market data agreement conformity with published policies and (v) the provision on fees and additional costs.

<ESMA\_QUESTION\_CP1\_36>

Although we do not disagree with ESMA’s proposal regarding the obligation to provide pre-contractual information, ESMA should ensure that this article should does not lead to user declaration being used for creating new licenses types and therefore higher costs (slicing and dicing). These information must not be used as a possibility to categorise clients and become a value based pricing. Data users must be able to clearly assess the price of the market data through clear market conditions independent of their personal information.

Regarding the general principles on faire terms, we believe that article 8.2 should be strengthen so that unjustified practices which result in additional costs for one of the parties, including extensive or frequent requests or provision of information not necessary for the correct execution of the contract, shall be forbidden instead of simply avoided.

Article 9 should be strehtened by specifying that the market data agreement should be standardised i.e. A standard template should be introduced in order to enable standardization, harmonization and comparability. Therefore, it should not be possible to use other terms and derfinitions than the ones stipulated to avoid bringing complexity which would lead to higher costs.

It is not clear in if article 11 on additional fees also covers the additional fees that could be charged for data storage or data resuse after the contract’s termination which we believe should be clearly included.

<ESMA\_QUESTION\_CP1\_36>

1. According to your experience, has the per-user model been inserted in the market data agreements as an option for billing? If yes, do you have experience in the usage of this option? Is the proposed wording of this option in the draft RTS useful? What are in your views the obstacles to its use?

<ESMA\_QUESTION\_CP1\_37>

Yes, the per-user model has been inserted in the market data agreements in a untransparent way. It appears that when reconciliating the information from data vendors and data users, they are usually diverging to the detriment of the data user. Each provision of market data should be charged only once and where market data has been sourced through multiple market data providers or redistributors, market data providers shall offer the possibility to charge fees only once for the same data. The setting of a tripartite plateform between user, vendors and exchanges could enable it and would avoid entities/users having to bring the proof of their usage which is today very burdensome (one centralized “per-user” platform).

<ESMA\_QUESTION\_CP1\_37>

1. Do you agree with ESMA’s proposal on penalties? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_38>

The amount of penalty should consist of the verified, applicable net fee (overpayment minus underpayment) plus an intesrest rate linked to the CPI ( consumer price index). Furthermore, the RTS should not use terms that are undefined i.e. «unreasonably exceed». It should also be precised that a penalty payment request shall be made only within a reasonable time not exceeding two years from the infringement occurrence and shall be based on clear evidence of the infringement occurrence.

<ESMA\_QUESTION\_CP1\_38>

1. Do you agree with ESMA’s proposal on audits? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_39>

As proposed through paragraph 272, an absolute time limit must be set regarding the period of time the audit shall cover.We believe this period of time should not exceed two years.

It is important to set a time limit concerning the period covered by the audit as a too long period could imply important operational costs and making the audit less easily feasible i.e. the more years covered are synonym of more files that you need to collect, the teams in charge of the files might have change during the covered period by the audit if the latter is too long making the audit process more complex.

Furthermore, prior to initiating an audit, the market data provider shall notify the market data client of the alleged infringement and the grounds for suspecting its occurrence. It shall be precised that this notification shall not take place later than six months after the termination date of the agreement.

<ESMA\_QUESTION\_CP1\_39>

1. Would you adopt any additional safeguards to ensure market data agreements terms and conditions are fair and unbiased? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_40>

We believe that the notice that shall be given to the client regardging amendments to the terms and conditions of the agreement should be given at least one year in advance of the relevant amendment entering into force. Furthermore, as amendments are not necessarily on fees by may have operational consequences for instance (e.g. if the technology tools are changed), we suggest amending article 16 to broaden the scope so that the client can withdraw without additional fees when an amendment to the terms and conditions may have a significant impact on the client :

“*The market data provider shall give notice to the market data client of any unilateral change to the terms and conditions of the market data agreement, including terms and conditions relating to fees, at least ~~two months~~one year in advance of the relevant amendment entering into force. Where the amendment results in a change of the fees or may have significant impacts on the client, the market data agreement shall foresee the right of withdrawal for the client without additional fees or penalties*”.

<ESMA\_QUESTION\_CP1\_40>

1. Do you agree with the standardised publication template set out in Annex I of the draft RTS? Do you have any comments and suggestions to improve the standardised publication format and the accompanying instructions? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_41>

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<ESMA\_QUESTION\_CP1\_41>

1. Do you agree with the proposed list of standard terminology and definitions? Is there any other terminology used in market data policies that would need to be standardised? If yes, please give examples and suggestions of definitions.

<ESMA\_QUESTION\_CP1\_42>

Article 18 on the key terminology of market data policies should be merged with Article 1 as the terms are already used throughout the document and should be understood on the same way by all stakeholders.

More generally, the list of definitions provided in article 1 for the purpose of the guidelines and definitions to be included in market data policies should be exhaustive.

<ESMA\_QUESTION\_CP1\_42>

1. Do you consider that the “user-id” and the “device” should still be considered as “unit of count” for the display and non-display data respectively? Do you think (an)other unit(s) of count can better identify the occurrence of costs in data provision and dissemination and if yes, which?

<ESMA\_QUESTION\_CP1\_43>

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<ESMA\_QUESTION\_CP1\_43>

1. Do you foresee other types of connectivity that should be defined beside “physical connection” to quantify the level of data consumption? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_44>

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<ESMA\_QUESTION\_CP1\_44>

1. Do you think there is any other information that market data providers should disclose to improve the transparency on market data costs and how prices for market data are set? If yes, please provide suggestions.

<ESMA\_QUESTION\_CP1\_45>

In order to obtain the maximum transparency and comparaison on costs, we insist on the need for standardisation and encourage a fixed lists of costs.

<ESMA\_QUESTION\_CP1\_45>

1. Do you agree with the approach on delayed data proposed by ESMA? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_46>

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<ESMA\_QUESTION\_CP1\_46>

1. Do you agree with the proposal not to require any type of registration to access delayed data? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_47>

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<ESMA\_QUESTION\_CP1\_47>

1. ESMA proposes the RTS to enter into force 3 months after publication in the OJ to allow for sufficient time for preparation and amendments to be made by the industry. Would you agree? Would you suggest a different or no preparation time? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_48>

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<ESMA\_QUESTION\_CP1\_48>

1. Do you have any further comment or suggestion on the draft RTS? Please elaborate your answer.

<ESMA\_QUESTION\_CP1\_49>

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<ESMA\_QUESTION\_CP1\_49>

1. What level of resources (financial and other) would be required to implement and comply with the RTS and for which related cost (please distinguish between one off and ongoing costs)? When responding to this question, please provide information on the size, internal set-up and the nature, scale and complexity of the activities of your organisation, where relevant.

<ESMA\_QUESTION\_CP1\_50>

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<ESMA\_QUESTION\_CP1\_50>

**CP on the amendment of RTS 23**

1. Do you agree with the proposal for a daily reporting of reference data for both transaction reporting and transparency purposes?

<ESMA\_QUESTION\_CP1\_51>

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<ESMA\_QUESTION\_CP1\_51>

1. For the purposes of both equity and non-equity transparency, do you prefer to retain the MiFIR identifier as currently defined or to rely on other fields for classification purposes? If latter, please outline the proposed solution.

<ESMA\_QUESTION\_CP1\_52>

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<ESMA\_QUESTION\_CP1\_52>

1. Is in your view, the granularity level of the MiFIR identifier adequate for the purposes of MiFIR transparency in the equity and non-equity space? If not, how should it be adjusted?

<ESMA\_QUESTION\_CP1\_53>

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<ESMA\_QUESTION\_CP1\_53>

1. How do you expect the change in scope of instruments subject to transparency to impact transparency reference data? Would you agree to maintain the current whole set of reference data for non-equity instruments, currently in RTS 2, in RTS 23? If not, please specify which reference data should not be retained in the view of the revised scope.

<ESMA\_QUESTION\_CP1\_54>

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<ESMA\_QUESTION\_CP1\_54>

1. Do you agree with deleting Field 5 of RTS 2, Annex IV, and use the CFI code for the purposes of derivatives’ contract type classification?

<ESMA\_QUESTION\_CP1\_55>

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<ESMA\_QUESTION\_CP1\_55>

1. Do you agree with the proposed alignment between RTS 23 and RTS 2 as set out in this section? Please provide details on which alignment is (not) feasible and why, considering the impact in terms of comprehensiveness and consistency of the reported information.

<ESMA\_QUESTION\_CP1\_56>

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<ESMA\_QUESTION\_CP1\_56>

1. As it concerns “underlying type” classification, do you agree with the proposed reliance on CFI and other reporting fields? With specific regards to Field 27, do you have proposals on how that field may be streamlined?

<ESMA\_QUESTION\_CP1\_57>

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<ESMA\_QUESTION\_CP1\_57>

1. Do you see additional room for simplification and/or alignment of reference data for transaction reporting and transparency purposes? What would be the impact in terms of one-off and ongoing costs, benefits and change management of such simplifications, in particular with respect to reducing and consolidating data flows to ESMA that exist currently?

<ESMA\_QUESTION\_CP1\_58>

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<ESMA\_QUESTION\_CP1\_58>

1. Do you have suggestions on how the fields mentioned above may be improved and streamlined?

<ESMA\_QUESTION\_CP1\_59>

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<ESMA\_QUESTION\_CP1\_59>

1. Do you agree with the above assessment of the necessary adjustments to be made in the RTS 23 to accommodate for the identifying reference data?

<ESMA\_QUESTION\_CP1\_60>

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<ESMA\_QUESTION\_CP1\_60>

1. Do you see a need to specify the ‘date by which the reference data are to be reported’ different from the date of application or have other comments with regards to the proposed timeline? If so, please specify.

<ESMA\_QUESTION\_CP1\_61>

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<ESMA\_QUESTION\_CP1\_61>

1. Are there any other international developments or standards agreed at Union or international level that should be considered for the purpose of the development of the RTS on reference data?

<ESMA\_QUESTION\_CP1\_62>

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<ESMA\_QUESTION\_CP1\_62>

1. Do you agree with the changes proposed in the tables above? Should any other changes be considered to align the MiFIR reporting specifications with the international standards, EMIR and / or SFTR?

<ESMA\_QUESTION\_CP1\_63>

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<ESMA\_QUESTION\_CP1\_63>

1. Do you foresee any challenges with the proposed approach under which the CSDR publications would be integrated in FIRDS?

<ESMA\_QUESTION\_CP1\_64>

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<ESMA\_QUESTION\_CP1\_64>

1. Do you have any comments with regards to the inclusion of additional fields in the instrument reference data published by ESMA to indicate whether the instrument is in the scope of CSDR and to specify which MIC corresponds to a venue with the highest turnover or the most relevant market in terms of liquidity?

<ESMA\_QUESTION\_CP1\_65>

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<ESMA\_QUESTION\_CP1\_65>

1. Do you support inclusion of the new fields listed above?

<ESMA\_QUESTION\_CP1\_66>

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<ESMA\_QUESTION\_CP1\_66>

1. Do you agree with the amendment listed above for the existing fields?

<ESMA\_QUESTION\_CP1\_67>

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<ESMA\_QUESTION\_CP1\_67>

1. With regards to monitoring of de-listing and re-admission, which option is preferable in your view: (i) reporting by the trading venue of all previous trading periods in the repeatable fields 10, 11 and 12 or (ii) implementing adequate reporting logic of events impacting the instrument (new, modification, termination etc) in order to enable ESMA to reconstruct all trading periods?

<ESMA\_QUESTION\_CP1\_68>

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<ESMA\_QUESTION\_CP1\_68>

1. Do you support suppressing the reporting of the fields listed above?

<ESMA\_QUESTION\_CP1\_69>

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<ESMA\_QUESTION\_CP1\_69>

1. Do you foresee any challenges with the use of JSON format comparing to XML? Please provide estimates of the costs, timelines of implementation and benefits (short- and long term) related to potential transition to JSON.

<ESMA\_QUESTION\_CP1\_70>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_70>

1. In addition to including a field to identify the DPE, are there any other adjustments needed to enable comprehensive and accurate reporting of reference data by the DPEs?

<ESMA\_QUESTION\_CP1\_71>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_71>

1. With regards to the categorisation of classes of financial instruments for the purpose of the DPE register, how such classes should be designated in the register? Is there any further information that should be included in the register to ensure its usability and interoperability with other relevant systems? Do you foresee any practical implementation challenges, and if so, how they could be mitigated?

<ESMA\_QUESTION\_CP1\_72>

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<ESMA\_QUESTION\_CP1\_72>

1. Are any other adjustments needed to enable comprehensive and accurate reporting of Article 8a(2) derivatives under RTS 23?

<ESMA\_QUESTION\_CP1\_73>

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<ESMA\_QUESTION\_CP1\_73>