**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.

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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 | Aquis Exchange Europe |
| Activity | Regulated markets/Exchanges/Trading Systems |
| 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>

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<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>

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<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>

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<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>

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<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>

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<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>

In general, we agree with the objective to enhance transparency and clarity on market data costs and prices, with a view to 1) make the production and distribution of data an economically viable activity for providers and 2) make data accessible to a larger audience.

However, we note that in the case of a Trading Venue (‘TV’), isolating the costs of producing market data from the cost of running an exchange can be challenging in practice. ‘Annex IV – Regulatory Technical Standards on RCB’ says: “To establish fees for market data on an RCB, it is important to differentiate, for instance, the costs which are attributable to the primary business of trading venues in terms of bringing together buyers and sellers from the costs directly attributable to the production and dissemination of market data.” The production of market data is indeed a “by-product” of the operations of a TV, however the market data is also a fundamental part of the primary business of a TV in “bringing together buyers and sellers” and therefore the costs of both activities are intimately linked.

As a result, in the case of a TV, costs of production will essentially be “joint” costs shared with other services, and the allocation of costs to one activity or the other will inevitably require the use of allocation keys based on resource-usage, which requires judgment.

The question of the “reasonable margin” is addressed below (Q29)

<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>

We agree that cost categories should be standardised in order to get consistent reporting and benchmarking across providers.

According to article 2 of the draft RTS on RCB, costs attributed to these categories should be “directly associated with the production and dissemination of market data”. However, article 3 stipulates that the margin should correspond to net profits. We therefore interpret those indirect costs, including, for instance, an allocation of overhead and management costs can be included into “administrative costs” in compliance with 2(1)e and 2(6) of RTS. This should in our view be clarified in order to avoid varying interpretations across various providers.

We also believe that the definition of “financial costs” should be further clarified. For instance, which taxes are included and how the depreciation/amortization of fixed-assets should be mapped under this category.

It is worth noting that the future Consolidated Tape Provider (‘CTP’) will also be obliged to calculate costs under the same standards which will provide a useful basis for comparison for the larger TVs who will have to isolate trading costs from market data costs.

<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>

We agree that joint costs should be apportioned on the basis of resource usage. Allocation keys used for that purpose should be reviewed on a regular basis.

We do not believe that the methodology should be further specified in the RTS, as there is already a requirement to explicitly specify the method in Annex I and II.

<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>

TVs have diverse business mixes, making it difficult to set Market Data margins to a level that “reasonably compares” to the overall margin of a TV will inevitably lead to quite disparate results and margin levels.

Disparity will depend on the mix of businesses (some TVs have vertical integration with clearing & settlement activities, others cover different asset classes, etc), the maturity of companies (new entrants need time to reach breakeven) and size (larger firms have a larger critical mass to amortize fixed costs).

The margin that would be achieved by the future CTP could serve as an interesting point of comparison.

<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>

We find the proposed template fairly complex and have concerns that it won’t genuinely deliver on its objective to provide comparison across various data providers, given the variety of data providers’ profile. We believe that the disclosure specified on market data policies per article 21 already provides very detailed information, including types of costs, allocation key, etc. The effort to produce the information required under article 23 would represent a significant internal effort and should not lead to another situation like “RTS 27”. It would also disproportionately impact TVs who do not have large teams of people to help comply with such additional reporting requirements – and would likely create an unintended consequence of some TVs having to increase their costs just to comply.

With a view to provide more transparency into market data fees, we believe that standardisation of fee schedules under a harmonized template, and standardisation of market data and usage-related definitions would be a much more beneficial approach.

<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>

We find that a significant obstacle to the access of data, competition and innovation, is the relatively obscure nature of some market data agreements, fee schedules and policies, and their disparity across various TVs/providers. In that respect, standardization of market data fee schedules, definitions and use-cases (eg “non-display”, “derived work”, etc) would greatly help overcome these obstacles.

Under the current market model (with the disparities as described above), a market participant that wants to compete or innovate is forced to spend time and resource on interpreting different market data fee schedules and policies, comparing definitions and then often (in our own experience), having to debate with TVs/providers about which use-case and fees apply. Failing to be thorough in such analysis, or not proactively checking with a TV that one’s intended use is covered by a particular use-case, can result in the consumer later being subject to audits and possible penalties for interpreting the permitted usage differently to how the TV intended. Such audits also then take up time and resource from both the TV and the consumer.

Conversely, the disparities described here, combined with the number of TVs in Europe, also mean that when a consumer contacts TVs proactively and in good faith to validate a specific use case, the consumer risks having their work delayed and possibly priced out of innovating, by even a few of those TVs applying a different definition and additional costs.

Under the revised model, there should be a more streamlined set of use-cases (e.g. Non-display, Distribution), to be provided on a reasonable commercial basis, and those use-cases should cover all sub-categories of usage rather than a use-by-use basis.

We believe that closing auction data should be available as a disaggregated option.

<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>

A TV incurs significant staff costs to produce market data because of the integrated and complex business environment. Inflation is a substantial component of the cost base both for salaries and in other direct costs. A further cost, and another important distinction between a TV and a vendor, is a proportion of irrecoverable VAT on supplier invoices. Vendors enjoy 100% recovery of Input VAT, but a TV, whose primary business is an exempt supply is exposed to these costs.

Clearly pricing is dependent on the number of users as the proportion of “fixed cost” is quite significant.

<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>

We agree in general but believe that, for TV, members should be defined as a separate category, as they contribute to the production of data together with using it and therefore specific pricing arrangements can legitimately be set for this category.

In our experience, precise definitions of user and fee categories are sometimes not enough to come up with an objective interpretation of prices, e.g. certain providers would try and set prices for trading venues “per MIC code”. It should be clearly prohibited to apply pricing criteria that are not explicitly agreed and that contradicts the cost-based principle (there is no real marginal cost addition in charging a TV that operates one vs several MICs).

<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 that a widely accepted model consists for data providers of charging a licence fee to the redistributor, then collecting via the redistributor a per-user/per-device fee. We believe this model to be the most effective in terms of democratising access to market data without requiring end-users to disproportionate direct connectivity costs with providers. However, we support ESMA’s view that this model should be coupled with robust processes ensuring that an end-user does not get charged twice for the same data.

<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>

As already mentioned, we are sometimes seeing inconsistent definitions/interpretations of what “derived work” means depending on the data provider charging for it. Clearly, the use of primary data by a TV to operate a MTF should be classified as “non display” and not “derived work”.

We’ve also seen some providers trying to charge TVs based on “MIC codes” : we believe this is not in line with the cost-based approach and that a “non-display” fee should be “all inclusive”. On a similar note, we think that the definition of group of companies / affiliates should be harmonized and applied in line with the cost-based principle (e.g. if there is no marginal cost addition, customers should not be charged based on the number of entities that utilize the data).

<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>

We agree in general with this section, subject to the following points :

• With respect draft RTS article 7, there should in our view be a deadline for the data provider to answer to a user request.

• Article 8 is setting generous objectives, although very generic with no provisions as to the process for clearing litigations.

• With respect to Article 13 and as mentioned earlier, we believe that closing auction data should be disaggregated from other data.

<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>

In our experience, the per-user policy is challenging to apply in practice, especially for smaller organisations. When data is provided to end-users through redistributors, the unit of count often is per device/accessID. There must therefore be a process in place to make sure a single user/person is not charged twice for the same data, and the wording of the RTS indeed is flexible enough to allow for various ways to achieve this objective without putting disproportionate obligations to data providers depending on their size.

<ESMA\_QUESTION\_CP1\_37>

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

<ESMA\_QUESTION\_CP1\_38>

We agree in the principles and in particular to the provisions regarding time limit in the application of penalties.

<ESMA\_QUESTION\_CP1\_38>

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

<ESMA\_QUESTION\_CP1\_39>

We appreciate that an audit should be triggered on a clearly stated and justified suspicion of infringement, thus limiting the scope of the investigation to what is strictly required. We also believe that the pre-contractual obligations prescribed in the draft RTS would help mitigate uncertainty about the use of the data and therefore reduce the risk and likelihood of an audit.

<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>

Yes, we review periodically our agreements in light of legal and regulatory developments, and with respect to any questions from clients.

We maintain a robust audit trail of customers feedback and questions.

<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>

As mentioned above, we believe that the cost section will be challenging to produce and have concerns about whether it can serve fair comparison/benchmarking given the variety in the profiles of various providers.

We note that the revenues derived from market data (and % of total revenue for the provider) is no longer reported, as was the case under (EU) No 2017/567 Art 11.

<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>

We appreciate the effort to further clarify/standardise definitions. As indicated earlier, we believe that such terms as “derived work” or “non-display” usage should be further clarified to avoid misinterpretations on use-cases.

<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>

We agree that user-id is the relevant unit of count for display data (without prejudice to the per user principle).

Non display data usually attracts an overall licence fee encompassing all use cases.

<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>

Depending on the volume of data being disseminated, there could potentially be marginal power usage costs / bandwidth usage charges.

<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>

As previously mentioned, we believe that overhead costs should be included in order to get a full-cost approach, consistent with the net margin principle per article 2 of draft RTS.

<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>

We do not request registration to users for accessing our t+15 data as that would be a disproportionate, unnecessary administrative process for an organisation of our size.

We agree that providing full details of pre-trade data is complex and often results in information difficult to interpret and analyse, although machine-readable. Top of book BBO is a more pragmatic approach but would require development work to be provided.

<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>

Yes, we agree this should be left to the discretion of the providers.

<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>

In general, 3 months is a reasonable timeframe for implementing the requirements of the draft RTS.

It should be noted that the information required under the 2 annexes would rely on the latest audited financial information.

<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>

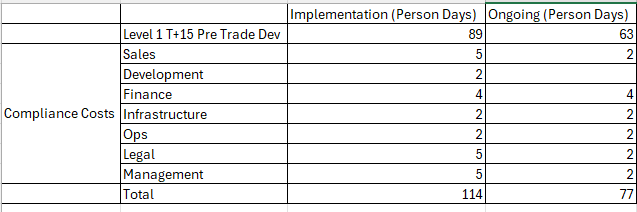
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<ESMA\_QUESTION\_CP1\_49>

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>

The table below summarises the impact for our organisation in terms of person-days:



<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>

Yes. We agree with the proposal. It is sensible to define a common daily reporting frequency

applicable to all elements of the reference data.

<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>

Yes. The granularity level of the MiFIR identifier is adequate. Tthe CFI identifier should be included in RTS 23 considering limitations in increasing the granularity with the use of MIFIR to classify instruments and underlyings

<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>

Yes, please refer to Question 52.

<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>

We can expect transition costs with a much more limited scope of non-equity instruments for transparency purposes and consequentely a reduced set of the required reference data. We suggest that the whole set of reference data currently in RTS 2 shall be maintained. Furthermore, we still have to identify/agree on the codes that might be removed for certain instruments.

<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>

Yes - CFI code should be used in this case since same information (re Contract type) may be retrieved directly from the CFI code.

<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>

Yes - we agree with the proposed alignments between RTS2 (FITRS) and RTS23 (FIRDS).

Non feasible alignments are still to be identified.

<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>

Yes - we agree with the proposition considering dissimilar approaches that RTS 2 and the CFI code adopted for the classification of swaps and other derivatives on equity.

<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>

There is scope to make reference data for transaction reporting simpler and more consistent. This could save financial firms money on data maintenance and improve the quality of regulatory oversight.

Benefits:

* Firms could reduce costs by spending less on keeping their data up-to-date.
* Information would be more accurate and reliable with better data.
* Market participants would have a clearer picture with greater transparency.

Challenges:

* Implementing new standards might require upfront investment and incur initial costs.
* Maintaining the new system could incur additional ongoing expenses.
* Change management can be tricky in getting firms to adopt new ways of working.

Consolidating data flows to ESMA by simplifying reference data could reduce the amount of information firms need to send to ESMA. This could make things easier for both firms and the regulator. However, it's important to ensure that any changes don't compromise the quality of the data.

<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>

Yes – We agree with the required RTS 23 changes. This will also depend on the finalised

consultation paper from the Commission including the delegated act with regards to

the identifying reference data to be used under Article 27 of MiFIR.

<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>

Yes. ESMA is of the view that 12 months should be envisaged with regards to the

reporting of the reference data. Feasibility is yet to be confirmed.

<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>

There are several international standards and recommendations that could be considered for the RTS on reference data. These include ISO standards ((15022 + 20022), FSB recommendations, ISRO principles, and EU regulations.

<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>

Yes. We agree wth the proposed changes.

<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>

CSDR publications into FIRDS could be challenging due to data compatibility, quality, technical integration, regulatory compliance, operational impact, and user experience issues. To address these challenges, careful planning, testing, and ongoing monitoring will be essential.

<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>

While a CSDR scope indicator can streamline identification for CSDs and reduce errors, it may also increase the data burden on reporting entities and require ongoing maintenance. Similarly, knowing the main trading venue can be valuable for market participants, but determining the "highest turnover" or "most relevant market" can be challenging and may require periodic updates.

Ultimately, the decision to include these additional fields should be based on a careful evaluation of the potential benefits and costs, considering factors such as regulatory requirements, market needs, operational efficiency, and the data burden on reporting entities.

<ESMA\_QUESTION\_CP1\_65>

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

<ESMA\_QUESTION\_CP1\_66>

Yes – 'Field Action type' would be very helpful by allowing us to distinguish between a new re-admission to trading and a correction of a previously reported admission date. This will be preventing excessive data reporting/processing to occur between ESMA and reporting venues."

<ESMA\_QUESTION\_CP1\_66>

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

<ESMA\_QUESTION\_CP1\_67>

Yes – We agree with the new proposal to allow TVs to report multiple values for time/dates in the relevant fields 10,11 and 12.

<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>

Option (ii) is preferable for monitoring de-listing and re-admission. Reporting events directly allows ESMA to reconstruct trading periods efficiently, accurately, and flexibly. This approach avoids the need to store and process vast amounts of historical data, reducing the risk of errors and ensuring scalability.<ESMA\_QUESTION\_CP1\_68>

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

<ESMA\_QUESTION\_CP1\_69>

Yes.

<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>

We do recognise that JSON is in general becoming more prevalent. However, should a move to JSON be decided upon, we recommend that there be a transition period during which both formats are available to allow firms to migrate away from XML in a safe and controlled manner and recognise that there will be an implementation cost to industry participants that use other formats.

<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>

To ensure accurate reference data reporting by DPEs, ESMA should clarify financial instrument categories, harmonise requirements with other market participants, specify data fields and validation rules, consider DPE-specific characteristics, and clarify reporting responsibility for dual DPE transactions.<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>

To ensure the DPE register is usable and interoperable, it should include a standardised taxonomy, unique identifiers, descriptions, parent-child relationships, and mappings to other taxonomies.

<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>