**Reply** **form**

on the Consultation Paper 3

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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 **15 September 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\_CP3\_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\_CP3\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP3\_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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# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | BME |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |  |
| Country/Region | Spain |

# Questions

# 2.1 CDR 2017/567

1. Should the use of alternative data to perform the calculations (i.e. as described under Option 2 above) be feasible, what would be the costs and the benefits of such a change for different categories of market participants, including in relation to the change and run costs of reporting systems, data quality assurance and other relevant aspects? Do you have other comments on this potential change, e.g. on specific issues, challenges or alternatives that could be considered by ESMA in its assessment?

<ESMA\_QUESTION\_CP3\_1>

BME believes that any changes to FITRS and DVCAP data should improve efficiency and data quality. If the change merely involves switching data sources without clear benefits, ESMA must ensure minimal technical and cost impacts for trading venues. If changes are not minimal, it is better to keep FITRS and DVCAP.

BME supports streamlining data submissions under RTS 1, 2, and 3 to boost efficiency and quality but insists on a comprehensive review to avoid redundant requests. Concerns with Option 2 include:

- The need for ongoing data submissions for other purposes, with unclear sourcing.

- Limited ability for ESMA to conduct data checks if FITRS and DVCAP are removed.

- Risks of losing reliable data if FITRS and DVCAP are discontinued

.<ESMA\_QUESTION\_CP3\_1>

1. Do you agree with the proposal on the start day of application of the transparency calculations? Please explain.

<ESMA\_QUESTION\_CP3\_2>

BME agrees with the proposed start date for transparency application, aligning it with Field 11 of Table 3 in RTS 23 and the "venue of admission to trading" in Field 6b. BME considers that only estimates from the venue’s competent authority for the IPO should be considered by ESMA to avoid errors from MTFs, which is a major issue with FITRS. BME seeks clarity on the process for new ISINs from non-IPO cases, like mergers or corporate actions, and suggests linking old and new ISINs to maintain continuity with MRMTL.

<ESMA\_QUESTION\_CP3\_2>

1. Do you agree with the proposal on the denominator of the (i) ADT, (ii) ADNTE and (iii) for specifying daily traded parameter? Please explain.

<ESMA\_QUESTION\_CP3\_3>

BME agrees with the proposals but requests more information on how trading days are considered in the calculations. It’s important to note that these data transparency metrics, or related data, also impact the determination of tick. A consistent methodology would be appreciated to be applied across all indicators. In this way, BME supports clarifications that enhance transparency without requiring IT developments.

<ESMA\_QUESTION\_CP3\_3>

1. Do you agree with the proposal on the liquidity determination for shares? Please explain.

<ESMA\_QUESTION\_CP3\_4>

The concept of a liquid market is key to EU equity market transparency. Liquidity based on free float instead of market cap implies an additional effort in the trading venues to collect the appropriate information on the holdings exceeding 5%, and it does not seem to be consistent with the approach on CDR 2017/567 for shares admitted to trade in MTFs only. The thresholds proposed by ESMA are too low actually to foster liquidity visible to both EU and foreign investors. With only a small percentage of stocks considered liquid, this approach may not improve market transparency. ESMA should conduct further analysis to ensure the new approach has a positive impact, especially as the double volume cap is replaced by a single cap.

<ESMA\_QUESTION\_CP3\_4>

1. Do you agree with the proposal on the liquidity determination for other similar financial instruments? Please explain.

<ESMA\_QUESTION\_CP3\_5>

BME agrees the proposal, as it adds legal certainty without implying additional IT developments for the trading venues. BME would appreciate clarification on which instruments would fit this category.

<ESMA\_QUESTION\_CP3\_5>

1. Do you agree with the proposal to remove the field “holdings exceeding 5% of total voting rights” from the legal text but keeping it in the XML schema of the reporting without being obliged to report such information? Pease explain.

<ESMA\_QUESTION\_CP3\_6>

As long as the liquidity determination is based on the market cap for shares instead of the free float, it becomes necessary to remove the obligation to report the “holdings exceeding 5% of total voting rights”. However, if this removal is done on the legal text but not on the XML schema, this may lead to a misleading inconsistency. Therefore, BME rather support the removal of the field also on the XML schema.

<ESMA\_QUESTION\_CP3\_6>

# 2.2 RTS 1

1. Do you in general agree with the content of the proposed Tables 1a and 1b? Please specify (i) which fields you consider as not necessary (ii) any amendments that you consider necessary to the columns “Description and details to be published”, “Type of execution or publication venue”, “Type of trading system” to ensure that the information to be provided is clear and unambiguous (iii) the instruments and the circumstances when it is necessary to report the field price with a price notation different from “MONE” – Monetary value.

<ESMA\_QUESTION\_CP3\_7>

BME is concerned about the growth of trading systems which, from a regulatory standpoint, are considered as pre-trade transparent whilst they are de facto importing their prices from other pricing sources. This liquidity, which does not contribute to the price formation, accounts for more than 7% of continuous trading in European equities.

We had understood from ESMA’s 2022 report that this would be looked at further following the MiFIR Review, and we are therefore surprised that this does not seem to be addressed in this consultation. We believe that this non-price forming trading activity should not be considered pre-trade transparent and that the definition of trading systems and the information to be made public in Table 1 of Annex 1 of RTS 1 should be amended as set out below.

If the situation is not addressed, this will be particularly problematic for the Consolidated Tape for equities & ETFs, as de facto it means that the EBBO displayed by the CT will be flawed with information on best bids and offers not necessarily representative of actual pre-trade transparent interests.

|  |  |  |  |
| --- | --- | --- | --- |
| **Row** | **Type of trading system** | **Description of the trading system** | **Information to be made public** |
| 1 | Continuous auction order book trading system | A system that by means of an order book and a trading algorithm operated without human intervention matches sell orders with buy orders on the basis of the best available price on a continuous basis. | The aggregate number of orders and the shares, depositary receipts, ETFs, certificates and other similar financial instruments that they represent at each price level for at least the five best bid and offer price levels **sent to the venue’s order book and present on the venue’s order book.** |
| 2 | Quote-driven trading system | A system where transactions are concluded on the basis of firm quotes that are continuously made available to participants, which requires the market makers to maintain quotes in a size that balances the needs of members and participants to deal in a commercial size and the risk to which the market maker exposes itself. | The best bid and offer by price of each market maker in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system, together with the volumes attaching to those prices**, sent to the venue’s order book and present on its order book**. The quotes made public shall be those that represent binding commitments to buy and sell the financial instruments and which indicate the price and volume of financial instruments in which the registered market makers are prepared to buy or sell. In exceptional market conditions, however, indicative or oneway prices may be allowed for a limited time. |
| 3 | Periodic auction trading system | A system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention. | The price at which the auction trading system would best satisfy its trading algorithm in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system and the volume that would potentially be executable at that price by participants in that system **and based exclusively on the prices and sizes of orders sent to the venue’s order book and present on its order book**. |
| 4 | Request for quote trading system | A system where a quote or quotes are provided in response to a request for quote submitted by one or more members or participants. The quote is executable exclusively by the requesting member or participant. The requesting member or participant may conclude a transaction by accepting the quote or quotes provided to it on request. | The quotes and the attached volumes from any member or participant **sent to the venue’s system and present on the venue’s system** which, if accepted, would lead to a transaction under the system's rules. All submitted quotes **on the system** in response to a request for quote may be published at the same time but not later than when they become executable. |
| 5 | Hybrid trading system | A system falling into two or more of the types of trading systems referred to in rows 1 to 4 of this Table. | For hybrid systems that combine different trading systems at the same time, the requirements correspond to the pre-trade trade transparency requirements applicable to each type of trading system that forms the hybrid system. For hybrid systems that combine two or more trading systems subsequently, the requirements correspond to the pretrade transparency requirements applicable to the respective trading system operated at a particular point in time. |
| 6 | Any other trading system | Any other type of trading system not covered by rows 1 to 5. | Adequate information as to the level of orders or quotes and of trading interest in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system, **sent to the venue’s system and present on the venue’s system**; in particular, the five best bid and offer price levels and/or two-way quotes of each market maker in that instrument, if the characteristics of the price discovery mechanism so permit. |

Regarding Table 1b, clarifications from ESMA would be highly welcome:

* The table includes some referential data that, in our view, should not be reported every time pre-trade data changes (e.g. price currency, price notation, quantity currency).
* It is generally unclear how the information should be reported. In the case of a Continuous Order book trading system, it appears that ESMA expects the different limits of the order book to be reported separately, with each limit corresponding to one record and all 10 limits simultaneously published (5 bids and 5 asks) with the same timestamp, and all other qualitative information repeated. Our understanding comes from field 3 (Side) stating BUY or SELL, applying to each record. For the size of the record and ease of processing, we strongly recommend that all 5 limits for each side of the order book be reported as a block with a single timestamp, allowing to have all information in one line. This solution – as trading venues currently do – has the advantage of providing a complete picture of the order book for each timestamp while significantly reducing the file size. In addition, when fewer than 5 limits on each side of the book are available, there is no confusion about whether some records have been missed or lost.

<ESMA\_QUESTION\_CP3\_7>

1. Do you agree with the proposed amendments to Article 4? Please explain.

<ESMA\_QUESTION\_CP3\_8>

BME agrees the proposed amendment to Article 4 of RTS 1, as they simplify the procedure of determining the MRMTL without requiring too much technical effort for the trading venues. Nevertheless, BME has concerns regarding the "venue of admission" field in Table 3 of Annex RTS 23 and the selection process proposed by ESMA. As IPOs can occur not only on regulated markets but also on MTFs, and other capital-raising methods, such as private placements, should be considered. Additionally, corporate actions that result in a new ISIN must be properly accounted for, ensuring transparency calculations are based on the metrics from the relevant trading venue.

To address these concerns, BME suggests that ESMA take into account all capital-raising methods and corporate actions for transparency calculations, linking them to the trading venue where the action occurred. BME recommends making field 6b available to all trading venues and defining it more clearly to avoid confusion. BME also proposes a reformulation of Article 4(4) to better define the "venue of admission to trading" and to ensure estimates from the market where the IPO or corporate action occurred are used until real data is available. BME emphasizes the need for the text to explicitly clarify this point, ensuring that the process remains transparent and accurate.

<ESMA\_QUESTION\_CP3\_8>

1. Do you agree with the proposed amendment to Article 6 of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_9>

BME disagrees with the new point (k) proposed by ESMA.

The inclusion of point (k) in Article 6 of RTS 1 introduces significant changes, as it would bring several types of trades, previously exempt from the Negotiated Transactions waiver, under the Double Volume Cap (DVC) regime. As a result, these trades could face suspension if any of the DVC thresholds are reached, even though they have been consistently traded since the introduction of MiFID II. This could became a serious issue for market participants who rely on these trade types.

<ESMA\_QUESTION\_CP3\_9>

1. Do you agree with the proposed amendments to Article 7 of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_10>

BME agrees with the proposals and suggests that the approach for estimating average daily turnover in paragraph 78 should also apply to the average daily number of transactions in RTS 11. BME would appreciate clarity on how the LIS is determined when yearly calculations are not performed and suggests addressing this in the RTS 1 review.

<ESMA\_QUESTION\_CP3\_10>

1. Do you agree with the proposed amendments to Article 8 of RTS 1? Please explai.

<ESMA\_QUESTION\_CP3\_11>

BME agrees to the proposed amendments.

<ESMA\_QUESTION\_CP3\_11>

1. How could ESMA take into account international best practices and competitiveness for the determination of the threshold up to which SIs have to be pre-trade transparent? Please explain.

<ESMA\_QUESTION\_CP3\_12>

BME believes there is an unlevel playing field between SIs and multilateral venues. BME acknowledges that the current minimum quoting size of 10% of the SMS is incredibly low and leads to very limited mandatory pre-trade transparency.

BME believes that restricting SI trading to above LIS would be an efficient way to incentivize lit trading, and ensure the quality and robustness of the price determination mechanism in line with the objectives of MiFID II/MiFIR.

SIs account for more than 13% of EU liquidity (source: BigXYT, Jun 2024) and are indeed con-sidered eligible execution venues for the purpose of the share trading obligation. Taking into consideration the established importance of SIs in the EU liquidity landscape, their transparency requirements should be brought closer to those applicable to trading venues: indeed, without it, local investors as well as foreign ones are deprived of a view over a significant portion of availa-ble liquidity in EU stocks.

BME Believes trading below LIS should be confined to Regulated Markets and MTFs exclusively, under non-discretionary and non-discriminatory rules while complying with the tick size and transparency requirements.

Below LIS thershold, trades should contribute to price formation, without causing market impact, and be subject to real-time pre and post trade transparency requirements.

This measure would increase transparency and improve price formation and investor protection to the benefit of the market as a whole. The more participants that actively contribute to the lit price formation process, the more valuable it becomes, thereby enhancing the competitiveness of the European markets.

In such a scenario, the question of the threshold up to which SIs have to be pre-trade transparent for SIs becomes irrelevant.

<ESMA\_QUESTION\_CP3\_12>

1. Do you agree with the new AVT buckets and related SMS? Would you set a higher SMS for the AVT bucket [0-10000) (e.g. 10,000)? Please explain.

<ESMA\_QUESTION\_CP3\_13>

Already answered in question 12

As answered in Question 12, BME believes that SI trading should be restricted to above LIS, in which case, the question of the threshold up to which SIs have to be pre-trade transparent for SIs becomes irrelevant.

Nevertheless, in the case of applying such thresholds based on the AVT buckets and related SMS, BME believes that they should be as aligned as possible towards maximising pre-trade transparency and quoting obligations.

In the case of the SMS for the lowest set of buckets (new buckets [0-10,000), should have a floor of 10,000.

<ESMA\_QUESTION\_CP3\_13>

1. Do you agree with ESMA’s proposal of the new threshold#1 for shares? Please explain.

<ESMA\_QUESTION\_CP3\_14>

As answered in Question 12, BME believes that SI trading should be restricted to above LIS, in which case the question of the threshold up to which SIs have to be pre-trade transparent for SIs becomes irrelevant.

Nevertheless, in the case of applying such thresholds based on the AVT buckets and related SMS, BME agrees with ESMA’s proposal of the new threshold #1 for shares of 2XSMS.

<ESMA\_QUESTION\_CP3\_14>

1. Do you agree with ESMA’s proposal of the new threshold#2 for shares? Please explain.

<ESMA\_QUESTION\_CP3\_15>

Already answered in question 12.

As answered in Question 12, BME believes that SI trading should be restricted to above LIS, in which case the question of the threshold up to which SIs have to be pre-trade transparent for SIs becomes irrelevant.

Nevertheless, in the case of applying such thresholds based on the AVT buckets and related SMS, BME agrees with ESMA’s proposal of the new threshold #2 for shares of 100%SMS.

<ESMA\_QUESTION\_CP3\_15>

1. Do you agree with the new AVT buckets and related SMS? Would you set a lower SMS for the AVT bucket [0-10000) (e.g. 5,000)? Please explain.

<ESMA\_QUESTION\_CP3\_16>

As answered in Question 12, BME believes that SI trading should be restricted to above LIS, in which case the question of the threshold up to which SIs have to be pre-trade transparent for SIs becomes irrelevant.

Nevertheless, in the case of applying such thresholds based on the AVT buckets and related SMS for shares, BME believes that they should be as aligned as possible towards maximising pre-trade transparency and quoting obligations.

In the case of the SMS for the lowest set of new buckets [0-10,000] should have a floor of 10,000

<ESMA\_QUESTION\_CP3\_16>

1. Do you agree with ESMA’s proposal of the new threshold#1 for DRs? Please explain.

<ESMA\_QUESTION\_CP3\_17>

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<ESMA\_QUESTION\_CP3\_17>

1. Do you agree with ESMA’s proposal of the new threshold#2 for DRs? Please explain.

<ESMA\_QUESTION\_CP3\_18>

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<ESMA\_QUESTION\_CP3\_18>

1. Do you agree with the new AVT buckets and related SMS? Please explain.

<ESMA\_QUESTION\_CP3\_19>

As answered in Question 12, BME believes that SI trading should be restricted to above LIS, in which case the question of the threshold up to which SIs have to be pre-trade transparent for SIs becomes irrelevant.

Nevertheless, in the case of applying such thresholds based on the AVT buckets and related SMS, BME believes that they should be as aligned as possible towards maximising pre-trade transparency and quoting obligations.

In the case of ETFs, the SMS for the lowest set of buckets (new buckets [0-10,000), [10,000-15,000) and [15,000-20,000)) should have a floor of 10,000; otherwise, taking into consideration the turnover of 2023, 6.97% of turnover would have been negatively affected by a reduced new SMS (5,000 instead of 10,000).

The same logic should be applied for the second set of buckets (new buckets [20,000-25,000), [25,000-30,000), [30,000-35,000), and [35,000-40,000)), which should have a floor of 30,000 (current SMS); otherwise, taking into consideration the turnover of 2023, 15.3% of turnover would have been negatively affected by a reduced new SMS (22,500 and 27,500 instead of 30,000).

The ETF market already faces challenges in this respect due to the shift of flow to RFQ models. A large majority of trading now occurs on RFQ trading systems, which is very concerning be-cause of their extremely limited transparency in comparison with lit order book trading systems. This, combined with the growing market share of SIs, is leading to less transparent flows, which may have a detrimental impact on the price formation process, as well as on the accessibility and liquidity of the overall ETF market, in the long term. We urge ESMA to consider this further and propose changes that will have a more positive impact on transparency to the benefit of both investors and the overall market.

<ESMA\_QUESTION\_CP3\_19>

1. Do you agree with ESMA’s proposal of the new threshold#1 for ETFs? Please explain.

<ESMA\_QUESTION\_CP3\_20>

As answered in Question 12, BME believes that SI trading should be restricted to above LIS, in which case the question of the threshold up to which SIs have to be pre-trade transparent for SIs becomes irrelevant.

Nevertheless, in the case of applying such thresholds based on the AVT buckets and related SMS, BME agrees with ESMA’s proposal of the new threshold #1 for ETFs of 2XSMS.

<ESMA\_QUESTION\_CP3\_20>

1. Do you agree with ESMA’s proposal of the new threshold#2 for ETFs? Please explain.

<ESMA\_QUESTION\_CP3\_21>

As answered in Question 12, BME believes that SI trading should be restricted to above LIS, in which case the question of the threshold up to which SIs have to be pre-trade transparent for SIs becomes irrelevant.

Nevertheless, in the case of applying such thresholds based on the AVT buckets and related SMS, BME agrees with ESMA’s proposal of the new threshold #2 for ETFs of 100%SMS.

<ESMA\_QUESTION\_CP3\_21>

1. Do you agree with the proposed amendments to Article 11 of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_22>

No, we do not agree with the proposed amendments.

As mentioned in question 12, SIs activity should be restricted to above LIS only. Above LIS trading constitutes a legitimate dark space in which trades are not be subject to pre-trade transparency and would benefit from delayed post-trade transparency

<ESMA\_QUESTION\_CP3\_22>

1. Do you agree with the proposed new Article 11a of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_23>

Already answered in the previous question

<ESMA\_QUESTION\_CP3\_23>

1. Do you agree with the proposed new Article 11b of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_24>

Already answered in question 22

<ESMA\_QUESTION\_CP3\_24>

1. Do you agree with the proposed amendments to Article 12 of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_25>

Firstly, as Article 21a of MiFIR already introduces the concept of the designate publishing entity (DPE) and provides that when both or neither of the two parties involved in the transactions are a DPE, the seller shall be responsible for the publication of post-trade transparency information, BME agrees that the current paragraphs 4 and 5 of Article 12 in RTS 1 are deleted.

BME agrees to divide article 12 of RTS1 in two parts, one concerning trading venues and another one concerning APAs, as the main information to be provided in both cases doesn´t vary.

However, we do not support the introduction of a column-naming convention. This approach would not be practical for market data disseminated via technical protocols and would have a significant impact on existing market data fees, especially in relation to trade messages. Trading venues should continue to have flexibility to technically organise their ‘key’ public data feeds in a competitive environment, in the way they determine to be most efficient.

<ESMA\_QUESTION\_CP3\_25>

1. Do you agree with the proposed amendments to Table 3 of Annex I of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_26>

BME agrees to add two fields to Table 3 in Annex I of RTS1 indicating the type of trading system and all the flags applicable to the transaction, although this will imply technical developments that may take time.

However, for field 14 “Flags”: The format proposed by ESMA is not in line with FIX MMT. It is essential to adopt a harmonised approach, so we suggest ESMA further reviews this to ensure consistency with FIXMMT format, content and architecture. MMT is based on an architecture at different levels that should be reflected here.

<ESMA\_QUESTION\_CP3\_26>

1. Do you agree with the proposed amendments to Table 4 of Annex I of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_27>

BME agrees to delete the flag ‘DUPL’ in view of the change to Article 20 of MiFIR providing that each individual transaction shall be made public once through a single APA. However, BME doesn´t agree with the deletion of the SI flags ‘SIZE’, ‘ILQD’, and ‘RPRI’, as stated in the following question, and the ACTX flag.

<ESMA\_QUESTION\_CP3\_27>

1. Would you consider that the SIZE, ILQD, RPRI flags could be removed? Please, explain.

<ESMA\_QUESTION\_CP3\_28>

BME disagrees with the deletion of the SI flags ‘SIZE’, ‘ILQD’, and ‘RPRI’. Steps should be taken to improve the consistency and completeness of SI data quality in order to increase visibility of what is happening in this space. The deletion of three SI flags may facilitate easier flagging of SI trades but it would ultimately fall short of addressing the underlying issue, it would worsen the quality of data analysis, and will imply IT developments. BME considers removing them contradicts the objective of MiFID II/MiFIR of improving transparency.

We understand that the unambiguous identification of a trade executed via an SI is done via the MIC (SINT) field. We appreciate the simplification attempt, but the three pre-trade transparency waiver flags applicable to SIs are not replaced by any flag against our mandate of ensuring a level playing field.

In addition, we believe that:

* Given the new midpoint matching possibilities open for SIs as a result of the level 1 review, a new MIDP flag should be included, and
* To allow market participants to appropriately conduct transaction costs analysis, and especially toxicity analysis, SIs transaction publication should be flagged to indicate the direction of the aggressive transaction. Even if this specific flag is only published with a one-month delay, it would already be highly valuable for the industry.

<ESMA\_QUESTION\_CP3\_28>

1. Would you consider that the ACTX flag could be removed? Please, explain.

<ESMA\_QUESTION\_CP3\_29>

BME does not support the ESMA’s proposal of deleting this flag. Since the OTC already is an opaque market, further reducing its level of post-trade transparency does not appear appropriate. BME considers removing it contradicts the objective of MiFID II/MiFIR of improving transparency.

<ESMA\_QUESTION\_CP3\_29>

1. Would you further reduce the maximum time for disclosing pre-trade transparency “as close to real-time as technically possible”? If so, what maximum limit would you suggest? Please explain.

<ESMA\_QUESTION\_CP3\_30>

BME believes that the current definition of the concept of “as close to real-time as technically possible” works well with the current 1-minute and as intended. We do not see a need or reason to change either the definition nor the maximum time. In addition, the maximum delay should apply equally to all execution venues, including SIs. Any stricter thresholds should be limited to data submission for the CTP.

<ESMA\_QUESTION\_CP3\_30>

1. Do you agree with the proposed amendments to Article 15 of RTS 1? If not, please explain.

<ESMA\_QUESTION\_CP3\_31>

BME agrees to the proposed amendments.

<ESMA\_QUESTION\_CP3\_31>

1. Which option do you prefer: Option A (status quo), Option B (add layer for technical trades), Option C (add layer for technical trades and waivers)? Please explain.

<ESMA\_QUESTION\_CP3\_32>

BME believes **Option C** is the most consistent to provide data quality for the transparency calculations. Additionally, it would allow to reinforce FITRS and DVCAP as the best source for the transparency calculations, which is more desirable than using data reported as of Article 26 (see answer to Q1). It is true that this implementation would imply some technical costs, but as the reporting system would be the same, these costs would be probably lower than relying entirely on data reported as of Article 26, as there would be no need to decommission an entire data reporting system.

<ESMA\_QUESTION\_CP3\_32>

1. Do you agree with the proposed amendments to Annex IV of RTS 1 in relation to Option B and Option C? Please explain.

<ESMA\_QUESTION\_CP3\_33>

BME agrees to the proposed amendments for both options.

<ESMA\_QUESTION\_CP3\_33>

1. Do you agree with the proposed amendments to Articles 16 to 19 of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_34>

Same than Q35, answered in the next question.

<ESMA\_QUESTION\_CP3\_34>

1. Do you agree with the proposed different application dates for the different provisions in Article 20 of RTS 1? Please explain.

<ESMA\_QUESTION\_CP3\_35>

BME believes that having different application dates for equity transparency provisions complicates implementation and increases costs, particularly when timelines are not aligned with RTS2. ESMA's suggestion to align the liquid market definition with RTS1 lacks clarity on specific dates, and BME recommends synchronizing timelines with RTS23.

BME urges ESMA to align timelines where possible and allow sufficient time for consistent implementation. They also highlight the transparency gap between EU and US markets, with US markets being more transparent. BME sees this MiFID/R RTS revision as an opportunity to enhance transparency in EU equity markets and urges ESMA to carefully consider their feedback in the final technical standards.

<ESMA\_QUESTION\_CP3\_35>

# 2.3 Input / Output data RTS (equity CTP)

1. Do you agree with the proposal for the Data related to the status of individual financial instruments? If not, please explain.

<ESMA\_QUESTION\_CP3\_55>

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<ESMA\_QUESTION\_CP3\_55>

1. Do you agree with the proposal for the data related to the status of status of systems matching orders? Would you consider that other identifiers of the trading system type should be used? Please explain?

<ESMA\_QUESTION\_CP3\_56>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_56>

1. Do you agree that the pre-trade data to the CTP should be that included in Table 1b in section 4.1.3.1 except for fields 8 and 9? Please explain.

<ESMA\_QUESTION\_CP3\_57>

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<ESMA\_QUESTION\_CP3\_57>

1. Do you agree with the proposal for the output table? Please explain.

<ESMA\_QUESTION\_CP3\_58>

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<ESMA\_QUESTION\_CP3\_58>

1. Do you agree with the proposal for the input and output tables for the post-trade eq-uity CTP? Please explain.

<ESMA\_QUESTION\_CP3\_59>

TYPE YOUR TEXT HERE

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# 2.4 Flags in RTS 2

1. Do you agree with the proposed amendments to flags in Table 3 of Annex II or RTS 2? In particular, do you consider that the flag ‘ACTX’ should be deleted?

<ESMA\_QUESTION\_CP3\_60>

TYPE YOUR TEXT HERE

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