**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 October 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.

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 | FIA EPTA |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | Europe |

# Questions

# 2.1 ITS on SI

1. Do you agree with the ESMA’s proposed approach? Please elaborate.

<ESMA\_QUESTION\_CP3\_36>

FIA EPTA members FIA EPTA members do not raise any issues with the template itself but do not agree with the apparent proposal that existing Systematic Internalisers ("SIs") submit the form.  Firms have been operating as SIs for a number of years, and have made notifications to their NCA of their status, which forms the comprehensive list of EU systematic internalisers on ESMA's own website ([https://registers.esma.europa.eu/publication/searchRegister?core=esma\_registers\_upreg](https://url.us.m.mimecastprotect.com/s/ak2QCyPBKqI6qoKtQipFxLWsA?domain=urldefense.com)).

We believe that this register contains the majority of the information required by the new template and the contact details not included on the ESMA register are already known to NCAs.

It is administratively burdensome (for both SIs and the NCAs processing those forms) to require existing SIs to submit a form containing information it has already supplied to NCAs and much of which already appears on a public register. It is not clear to FIA EPTA members that the cost and burden of this requirement applying to existing SIs outweighs the benefits it poses given the information is already in the hands of NCAs. If this is not ESMA’s intention, we request that this be made clear in your Final Report on these proposals.<ESMA\_QUESTION\_CP3\_36>

1. Do you think the fields included in the new form are exhaustive? If not, which other information are missing for the purpose of the template? Do you consider all requested fields to be needed? What is your perspective on the potential inclusion of a dedicated field for entering the MIC of the APA utilized by the SI during the notification submission process? Please elaborate.

<ESMA\_QUESTION\_CP3\_37>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_37>

1. Do you think that two weeks would be a processing time long enough for the investment firms that intend to continue/start carrying out activities as SIs in any class of financial instruments to submit the new notification to the respective NCAs? Please elaborate.

<ESMA\_QUESTION\_CP3\_38>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_38>

1. Are there any other suggestions you would like to propose? Please elaborate.

<ESMA\_QUESTION\_CP3\_39>

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<ESMA\_QUESTION\_CP3\_39>

# 2.2 RTS 3

1. Do you agree with the proposed amendments to RTS 3, including the Annex? If not, please explain.

<ESMA\_QUESTION\_CP3\_40>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_40>

1. Do you foresee any challenges with the use of JSON format compared 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\_CP3\_41>

While we acknowledge the benefits identified by ESMA in the migration from XML to JSON, there would be significant costs and work associated with this proposal. In addition to the adaptation required for each firms’ transaction reporting process, the process by which information is received from ESMA would also require significant changes, increasing the costs, work and timeline required. To lessen the impact, it would be optimal to ensure that data users have continue to have access to the relevant data in both XML and JSON formats. To get an estimate of timelines, firms would need sample files and specifications to assess the scale and the full impact of the changes required.

Clarity and certainty are required if ESMA proceeds with this approach to ensure adequate time to prepare for such a migration and that further significant changes to the reporting format are not required on a regular basis. <ESMA\_QUESTION\_CP3\_41>

1. What is your preferred option for the frequency of reporting of data to ESMA from trading venues, and CTPs upon request: a) maintain bi-weekly reporting as present or b) switch to monthly reporting, on the 16th day of the month for the previous month? Please justify your answer and provide examples and data on the costs and benefits of your preferred approach.

<ESMA\_QUESTION\_CP3\_42>

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<ESMA\_QUESTION\_CP3\_42>

# 2.3 RTS 7

1. Do you agree with the proposed Article 1 – Definitions? Please explain.

<ESMA\_QUESTION\_CP3\_43>

Please see the attached letter setting out our position with respect to ESMA’s proposals.

<ESMA\_QUESTION\_CP3\_43>

1. Do you agree with the proposed Article 17 – General principles in the establishment of Circuit Breakers)? Please explain.

<ESMA\_QUESTION\_CP3\_44>

Please see the attached letter setting out our position with respect to ESMA’s proposals.

<ESMA\_QUESTION\_CP3\_44>

1. Do you agree with the proposed Article 18 – General principles in the establishment of the methodology for the calibration of Circuit Breakers? Please explain.

<ESMA\_QUESTION\_CP3\_45>

Please see the attached letter setting out our position with respect to ESMA’s proposals.

<ESMA\_QUESTION\_CP3\_45>

1. Do you agree with the proposed Article 19 – Disclosure requirement regarding circuit breakers? Please explain.

<ESMA\_QUESTION\_CP3\_46>

Please see the attached letter setting out our position with respect to ESMA’s proposals.

<ESMA\_QUESTION\_CP3\_46>

1. Article 19(1)(f) mandates trading venues to disclose “information on the triggering of circuit breakers, with at least an annual frequency”. Do you support such disclosure, and do you think ESMA should further specify the type of information that should be disclosed? Please explain.

<ESMA\_QUESTION\_CP3\_47>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_47>

1. Do you agree with the proposed template to report information to NCAs? Please explain.

<ESMA\_QUESTION\_CP3\_48>

Please see the attached letter setting out our position with respect to ESMA’s proposals.

<ESMA\_QUESTION\_CP3\_48>

1. Do you agree with the proposal to delete Articles 15 of RTS 7 ('Business continuity arrangements')? Please explain.

<ESMA\_QUESTION\_CP3\_49>

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<ESMA\_QUESTION\_CP3\_49>

1. Do you agree with the proposed way forward on Article 8 of RTS 7 ('Testing of trading systems')? Please explain.

<ESMA\_QUESTION\_CP3\_50>

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<ESMA\_QUESTION\_CP3\_50>

1. Do you agree with the proposed way forward on Article 23 of RTS 7 ('Security and limits to access')? Please explain.

<ESMA\_QUESTION\_CP3\_51>

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<ESMA\_QUESTION\_CP3\_51>

1. Do you agree with the proposed amendments to Article 6 of RTS 7 ('Outsourcing and procurement'), Article 16 ('Business continuity plan') and Article 17 ('Periodic review of business continuity arrangements')? Please explain.

<ESMA\_QUESTION\_CP3\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_52>

1. Do you suggest the deletion of other RTS 7 provisions due to the amendments to Article 48 of MiFID II? Please explain.

<ESMA\_QUESTION\_CP3\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_53>

1. Do you suggest the amendment to other provisions of RTS 7, due the amendments to Article 48 of MiFID II? Please explain.

<ESMA\_QUESTION\_CP3\_54>

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<ESMA\_QUESTION\_CP3\_54>