
Executive Summary of AFME's Consultation Response

ESMA Consultation Paper: Review of RTS 22 on transaction data reporting under Art. 26 and RTS 24 on order book data to be maintained under Art. 25 of MiFIR

[Link to Consultation Paper](#)

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Executive Summary

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the ESMA's Consultation Paper (CP) on the Review of RTS 22 on transaction data reporting under Art. 26 and RTS 24 on order book data to be maintained under Art. 25 of MiFIR.

RTS 22 Review

As a general observation, one of the guiding principles of the incoming European Commission's work is the simplification of regulation and burden reduction for EU companies, including financial services regulation.

In this context, the review of RTS 22 should be taken as an opportunity for ESMA to streamline and simplify the existing complex transaction reporting regime and remove any duplicative or unnecessary fields of reporting, thereby improving data quality.

In our view, many of ESMA's proposals on the review of RTS 22 contravene simplification. The proposed fields and identifiers will increase the scope of transaction reporting. In some cases, they appear to exceed the legal mandate under Article 26 MiFIR. In addition, ESMA has not provided a clear justification of the usefulness of those new fields and how they can assist in detecting market abuse, which is the primary goal of a transaction reporting regime.

The CP also lacks any cost-benefit analysis and does not give regard to the implications of the proposed increase of the reporting fields to the growth and competitiveness of the EU financial markets.

AFME members are concerned about the challenges for investment firms who will have to adjust their reporting processes and technology to accommodate those changes. While ESMA has not conducted a cost benefit analysis and the level of costs will vary across firms, we expect costs to be considerably high, with no or little commensurate benefit.

To make the regime simpler, more standardised and efficient, **AFME proposes several recommendations that aim to bring pragmatism and address some of the existing issues and challenges in transaction reporting.**

We note that other jurisdictions are currently seeking to review, with a view to streamline, the transaction reporting process.

AFME members would welcome if ESMA followed a similar approach. By way of an example, in their recent Discussion Paper 24/2, the UK Financial Conduct Authority (FCA) does not envisage the expansion of the TVTIC scope, but considers some options that aim to improve the usefulness of the TVTIC: the first option is

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to require the TVTIC to be disseminated by UK trading venues as a clearly labelled single piece of information; the second option is that the FCA publishes information on the expected format and structure of the TVTIC for each UK trading venue.

AFME members state three overarching concerns with the proposed draft RTS 22:

- **The balance between the value of more data for regulators and this not being overly burdensome for firms appears to be out of sync:** we find it hard to gauge why ESMA has requested some of this additional data, particularly non-EEA TVTIC, off-venue TIC, entity subject to reporting obligation, chain identifier, and client categorisation field. We also query whether some of those additional fields would be relevant for market abuse surveillance. In our view, there is inconsistency between ESMA's legal mandate in level 1 and some of the proposals in the CP. For example, our interpretation is that ESMA's proposal on the non-EEA TVTIC field is not covered in Article 26(3) of MiFIR. The latter only requires the generation and dissemination of transaction identification code by 'trading venues', which is a MiFID defined term as per Article 4(1)(24), and thus, excludes any organised trading systems outside the Union that are not authorised and operate under MiFID. Additionally, Article 26(3) of MiFIR does not include any reference to a TIC for off-venue transactions to be generated by "market facing firms" in a transaction.
- **There is uncertainty about the practical implementation of various proposals:** we are concerned that some of the proposals, particularly the use of the non-EEA TVTIC and identifiers for linking chains, the generation of new codes, and the expansion of EMIR definitions and concepts into RTS 22 will add complexity to the reporting process. For instance, clarity is required around the back reporting approach under the new MiFIR regime for trades executed prior to the new regime being enforced. Additionally, ESMA has no supervisory or enforcement powers over third country trading venues. Therefore, there is no practical way to ensure that non-EEA TVs will provide transaction identification codes in a standardised way and will not challenge ESMA's authority to require the generation and dissemination of that identifier from them.
- **Ability to meet compliance reporting requirements when investment firms are requested to rely on non-ESMA regulated firms for reporting:** we are concerned that investment firms are exposed to the risk of misreporting or underreporting as transaction reports might suffer inaccuracies or omissions if, for example, the non-EEA TVTIC is not generated as per the applicable syntax and format.

Finally, we note the inconsistency about the entry into force of when the new RTS will apply: paragraph 86 in section 4.1.4 of the CP and the proposed wording for [Article 17](#) of the amended version of RTS 22 in section 9.3.1 of the CP indicate 12 months and 18 months, respectively. AFME members support 18 months after level 3 guidelines are published as the appropriate implementation timeline, given the volume of proposed changes.

RTS 24 Review

We are concerned with the proposed adoption of JSON format and do not anticipate any benefit from such adoption. In particular, a potential move to JSON format will expose investment firms to high compliance costs given the level of effort and resources that this move will require. We also query the usefulness of prescribing data format technology in law.

Although we acknowledge ESMA's intention to apply a consistent data format across RTS 22 and RTS 24, we believe that the absence of any measurable benefit does not support the adoption of JSON format. We provide

further reasoning for our concerns in our responses to the relevant questions under both RTS 22 and RTS 24 part of the CP.

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AFME

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is registered on the EU Transparency Register, registration number 65110063986-76.

We summarise below our high-level response to the consultation, which is accompanied by answers to the individual questions raised.