**Reply** **form**

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

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 **17 January 2025.**

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\_RTS2224\_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\_RTS2224\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_RTS2224\_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 | Retail Derivative Forum |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Europe |

# Questions

1. Are any other adjustments needed to enable comprehensive and accurate reporting of transactions which will enter into scope of the revised Article 26(2)?

<ESMA\_QUESTION\_RTS2224\_01>

[

The reporting of spread bets and Contracts for Difference (CFDs) under the revised Article 26(2) requires additional clarity. For instance, the specific data fields and formats for reporting these instruments should be clearly defined to ensure consistency and accuracy. This includes details such as the underlying asset, notional amount, and the nature of the contract (whether it is a long or short position). Additionally, guidance on how to handle amendments or cancellations of these trades would be beneficial to ensure that all transactions are accurately captured in the reporting system.

The current wording of Article 6 suggests that only the highest priority identifier can be accepted for trade reporting, which may not be practical in all situations. To address this, the wording should be revised to state: “The highest priority identifier available shall be obtained.” This change emphasizes the importance of obtaining the most relevant identifier, rather than strictly adhering to a single priority level, which may not always be feasible.

The concept of equivalence, particularly for lookalike contracts such as metal contracts, needs further clarification. Specifically, it should be clear whether a CFD based on a foreign exchange (FX) is included within the scope of the revised Article 26(2). Providing explicit examples and detailed guidance on how to determine equivalence would help market participants better understand their reporting obligations and ensure compliance with the regulation.

<ESMA\_QUESTION\_RTS2224\_01>

1. Does the existing divergence in the implementation of the MRMTL concept under Art. 4 and Art. 26 of MiFIR results in any practical challenges for the market participants? If so, please explain the nature of these challenges and provide examples.

<ESMA\_QUESTION\_RTS2224\_02>

No comment.

<ESMA\_QUESTION\_RTS2224\_02>

1. To what extent the rules applied for the determination of the RCA and RCA\_MIC are relevant for your operations? Do you agree with the potential alignment of the RCA rules with the RCA\_MIC rules for equities? Please provide details in your answer.

<ESMA\_QUESTION\_RTS2224\_03>

No comment.

<ESMA\_QUESTION\_RTS2224\_03>

1. Do you agree with the proposed RCA determination rule for emission allowances and CIUs other than ETFs? Please provide details in your answer.

<ESMA\_QUESTION\_RTS2224\_04>

No comment

<ESMA\_QUESTION\_RTS2224\_04>

1. Do you agree with the proposed RCA determination rule for equities for which no sufficient data is available to calculate the turnover? Please provide details in your answer.

<ESMA\_QUESTION\_RTS2224\_05>

No comment.

<ESMA\_QUESTION\_RTS2224\_05>

1. Do you agree with the proposed RCA determination rules for the derivative contracts falling under Article 8a(2) of MiFIR? Please provide details in your answer.

<ESMA\_QUESTION\_RTS2224\_06>

No comment.

<ESMA\_QUESTION\_RTS2224\_06>

1. Do you agree with the proposed amendments to RCA determination rules for index derivatives and depositary receipts?

<ESMA\_QUESTION\_RTS2224\_07>

No comment.

<ESMA\_QUESTION\_RTS2224\_07>

1. Do you have any further comment or suggestion in relation to the inclusion of a new field to capture the effective date in transaction reports?

<ESMA\_QUESTION\_RTS2224\_08>

Is the inclusion of a new field to capture the effective date in transaction reports truly necessary, given that the Execution Timestamp is already present? The Execution Timestamp provides precise information about when a transaction occurs, and it seems redundant to introduce an additional field. Streamlining the number of required fields can enhance efficiency and reduce the reporting burden on market participants.

<ESMA\_QUESTION\_RTS2224\_08>

1. Do you agree that the concept of effective date applies also to transactions in shares? If yes, should the intended settlement date be considered as the effective date? Please provide details in your answer.

<ESMA\_QUESTION\_RTS2224\_09>

Given that settlement cycles vary, the effective date's value in being populated for transactions in shares is questionable, especially in relation to market abuse monitoring or any other type of monitoring. The varying settlement cycles could lead to inconsistencies and misinterpretations of data. Thus, reliance on the Execution Timestamp (as opposed to Effective Date) might provide more consistent and reliable information for monitoring purposes.

We would encourage ESMA to provide clear guidance on how this field is expected to be populated for cash equity products, as well as the impact this would have on validations (i.e. whether it would be mandatory, conditional, or optional.

<ESMA\_QUESTION\_RTS2224\_09>

1. Do you agree with the inclusion of this new field according to the analysed scenario? Please specify if you see additional cases to take into consideration in the definition of this new field.

<ESMA\_QUESTION\_RTS2224\_10>

The inclusion of the new field “Entity subject to the reporting obligations” seems appropriate, assuming it is relative to a firm passing over its obligation to another firm (e.g., transmission, or delegated under EMIR). This could create flexibility around similar delegated reporting requirements seen under EMIR, within MiFIR. Additionally, this might help remove the need for "assisted reporting" under MiFIR.

However, if the original assumption made is incorrect, this may create confusion.

Hence, if there are other plans by ESMA that have resulted in the need for this field, it would be helpful for these to be shared as well. This would ensure that market participants fully understand the context and implications of this new requirement, aiding in smoother implementation and compliance.

<ESMA\_QUESTION\_RTS2224\_10>

1. Do you agree with the assessment that the TVTIC reporting requirement applies to all type of on venue executed transactions (e.g., negotiated trades)?

<ESMA\_QUESTION\_RTS2224\_11>

No comment

<ESMA\_QUESTION\_RTS2224\_11>

1. Do you have views on how to improve the consistency of the reporting of TVTICs? Please provide your view on the proposal of making mandatory the reporting of such information in validation rules when the MIC code is provided.

<ESMA\_QUESTION\_RTS2224\_12>

The EMIR framework already includes a Reporting Tracking Number, which could be used to serve a similar purpose to the proposed TVTIC. It is important to evaluate whether introducing a new TVTIC would create any overlap or redundancy with the existing Reporting Tracking Number under EMIR, in the spirit of alignment. Ensuring that the two identifiers are distinct and serve complementary functions would be crucial to avoid unnecessary complexity in the reporting process.

<ESMA\_QUESTION\_RTS2224\_12>

1. Do you have views on how to improve the consistency of the TVTIC ( non-EEA TV TIC) generation process for transactions executed in non- EAA venue? Please provide your view on the proposed syntax methodology based on the already reported fields or suggest alternatives.

<ESMA\_QUESTION\_RTS2224\_13>

Improving the consistency of the TVTIC (Transaction Venue Transaction Identification Code) generation process for transactions executed in non-EEA venues presents a challenge, particularly if it is not a regulatory requirement for those venues. Non-EEA venues may not have the same regulatory obligations or infrastructure in place to generate and report TVTICs, making it difficult to achieve uniformity.

If the computed TVTIC does not enhance the accuracy, traceability, or transparency of transaction reports, then its implementation may not be justifiable. It is important to carefully consider the practicality and benefits of such a requirement, especially if it places an additional burden on market participants without clear advantages.

<ESMA\_QUESTION\_RTS2224\_13>

1. Do you agree with the proposal of identifying the non-EEA TV as the primary entity responsible for the creation of the non-EEA TV TIC code and for disseminating it?

<ESMA\_QUESTION\_RTS2224\_14>

Identifying the non-EEA Trading Venue (TV) as the primary entity responsible for the creation and dissemination of the non-EEA TV Transaction Identification Code (TIC) raises an important enforcement challenge. Specifically, how do you enforce this responsibility for non-EEA firms who do not have an obligation under EMIR?

For non-EEA firms that are not subject to the same regulatory requirements, compelling them to generate and disseminate the TVTIC could be problematic. Without a regulatory mandate, these firms may lack the necessary infrastructure or incentive to comply with this requirement. Therefore, it is crucial to consider whether there are mechanisms or agreements that can be put in place to ensure that these firms adhere to this responsibility.

<ESMA\_QUESTION\_RTS2224\_14>

1. Do you have any further comment or suggestion in relation to the definition of a new transaction identification code (TIC) for off venue transactions? Please provide your view for the proposed syntax methodology for creating the TIC based on the already reported fields, or suggest alternatives.

<ESMA\_QUESTION\_RTS2224\_15>

The values that are part of this new TIC field are already present in the existing report. Therefore, there is a question of whether there is any added value in using them again. Repeating information that is already available may not enhance the clarity or utility of the transaction reports and could potentially lead to confusion or redundancy.

<ESMA\_QUESTION\_RTS2224\_15>

1. Do you agree with the proposal of identifying the “market facing” firm acting as the seller as the primary entity responsible for the creation of the TIC code of off–venue transactions and for disseminating it to the other “market facing” firm acting as the buyer?

<ESMA\_QUESTION\_RTS2224\_16>

The proposal to identify the “market-facing” firm acting as the seller as the primary entity responsible for the creation of the TIC code for off-venue transactions and for disseminating it to the other “market-facing” firm acting as the buyer is somewhat aligned with real-time trade reporting. It makes sense for the participant closer to the market to create the TIC code, as they are in a better position to generate accurate and timely transaction identifiers. This approach ensures that the responsibility for creating the TIC code lies with the entity that has the most direct access to the transaction details, thereby enhancing the efficiency and accuracy of the reporting process. Although this may carry similar disadvantages to what was seen with UTI generation and ensuring timely sharing across the chain.

<ESMA\_QUESTION\_RTS2224\_16>

1. Do you have any further comment or suggestion in relation to the inclusion of a new field (INTC identifier) to capture in detail the aggregate orders? Please provide views on the proposed methodology for defining a common syntax or suggest valuable alternatives.

<ESMA\_QUESTION\_RTS2224\_17>

It is essential for the FCA and ESMA to align on how to report on this new field (INTC identifier) to ensure consistency and accuracy in capturing aggregate orders.

Adding a new field makes sense, as it helps maintain strict validation on Buyer / Seller fields. Without this new field, there is a risk that scenarios not involving INTC could be impacted, leading to potential discrepancies in the reporting process.

Additionally, the Order reference number should be available to tie together market and client-side transactions. This would serve as a potential way of identifying transactions, ensuring that all relevant details are accurately captured and reported.

<ESMA\_QUESTION\_RTS2224\_17>

1. Do you agree that the executing investment firm should be responsible for generating consistently the INTC identifier?

<ESMA\_QUESTION\_RTS2224\_18>

Whilst there is agreement in principle, we would lie clarity on whether the executing investment firm is defined as the Execution Entity. If this is not the case, there is a concern that this could evolve into a pseudo UTI. Consequently, it is recommended that the INTC identifier be created by the Execution Entity for their own reports, thereby avoiding any overlap of the INTC identifier across reports from different executing entities.

<ESMA\_QUESTION\_RTS2224\_18>

1. Do you agree with the proposal of how to report such additional field to identify and link chains in transaction reports? Please provide views on the key information to be considered for defining a common methodology for the syntax. Otherwise, please suggest alternatives for defining it and improve the linking process among chains.

<ESMA\_QUESTION\_RTS2224\_19>

We suspect this may create problems if there is a non-EEA participant in the chain who does not have a reporting obligation under EMIR. This could create gaps in the reporting chain, making it difficult to achieve the desired level of transparency and accuracy.

What value is there in the syntax already including fields being reported? If the values that comprise this new field are already present in the existing report, the addition may be unnecessary. Ensuring that only essential and unique fields are included can streamline the reporting process and avoid redundancy. In addition, the disadvantages found with UTI sharing and ensuring this was carried out in a timely manner will also be applicable here.

If the syntax approach is taken, it assumes that both sides of the trade report exactly the same information. Discrepancies between the reported data from different counterparties could undermine the effectiveness of this field. Establishing robust mechanisms to ensure consistent and accurate reporting from all parties is crucial.

If this field is necessary, it may be a consideration for Trading Venues to publish identifiers of trades on their venue, which can then be used for enrichment and validation.

<ESMA\_QUESTION\_RTS2224\_19>

1. Do you agree with the proposal of identifying the entity executing transaction as the primary entity responsible for the creation of such code and for disseminating it?

<ESMA\_QUESTION\_RTS2224\_20>

Same challenges around non-EEA firms apply here.

<ESMA\_QUESTION\_RTS2224\_20>

1. Do you agree with the proposed reference to Art. 3(3) of Benchmark Regulation to define the relevant categories of indices?

<ESMA\_QUESTION\_RTS2224\_21>

No comment.

<ESMA\_QUESTION\_RTS2224\_21>

1. Do you see a need to specify the ‘date by which the transaction data are to be reported’ different from the date of application of the relevant RTS 22 or have other comments with regards to the proposed timeline? If so, please specify.

<ESMA\_QUESTION\_RTS2224\_22>

We encourage ESMA to consider scenarios where back reporting is required and assess the need to specify a different 'date by which the transaction data are to be reported' from the date of application of the relevant RTS 22. Specifically, it is essential to evaluate whether there is a need to have validation in effect after a certain date to allow for historical back reports to be accurately processed.

Without this consideration, there might be challenges in ensuring that historical data is correctly reported and validated, potentially leading to gaps or inconsistencies in the transaction records. Therefore, establishing a clear timeline and validation mechanism for historical back reports would be beneficial in maintaining the integrity and completeness of the transaction data.

<ESMA\_QUESTION\_RTS2224\_22>

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 transaction reporting?

<ESMA\_QUESTION\_RTS2224\_23>

No comment.

<ESMA\_QUESTION\_RTS2224\_23>

1. Do you agree with the proposed alignment of fields with EMIR/SFTR requirements as presented in the table above? Are there any other fields that should be aligned?

<ESMA\_QUESTION\_RTS2224\_24>

No comment.

<ESMA\_QUESTION\_RTS2224\_24>

1. Do you agree with the proposed approach for the alignment of reporting of the information related to direction of the transaction?

<ESMA\_QUESTION\_RTS2224\_25>

The proposed approach for the alignment of reporting of the information related to the direction of the transaction seems to have an issue with the direction for CFDs and spread bets. We believe it should be clarified as follows:

In the case of financial contracts for difference (CFDs) and spread bets, the buyer shall be the counterparty which goes "long" on the contract, and the seller shall be the counterparty going "short" on the contract.

This clarification ensures that the roles of buyer and seller are accurately defined in the context of these specific financial instruments, thereby improving the consistency and accuracy of transaction reporting.

<ESMA\_QUESTION\_RTS2224\_25>

1. Do you agree with the proposed approach for the alignment of reporting of the information related to price?

<ESMA\_QUESTION\_RTS2224\_26>

While we generally agree with the proposed approach for the alignment of reporting of the information related to price, we would like to seek further clarity regarding the price type for Indices. Specifically, there seems to be confusion over whether the price should be reported in basis points or as a monetary value. Clear guidance on this matter will help ensure consistency and accuracy in the reporting process.

<ESMA\_QUESTION\_RTS2224\_26>

1. Do you agree with the proposed alignment of the concept of complex trades with EMIR?

<ESMA\_QUESTION\_RTS2224\_27>

No comment

<ESMA\_QUESTION\_RTS2224\_27>

1. Do you agree with adding the field ‘Package transaction price’ to align the reporting under MiFIR with EMIR Refit and CDE Technical Guidance?

<ESMA\_QUESTION\_RTS2224\_28>

Agreed.

<ESMA\_QUESTION\_RTS2224\_28>

1. Do you agree with the proposed additional fields to allow for the reporting of the ISO 24165 Digital Token Identifier for DLT financial instruments and underlyings?

<ESMA\_QUESTION\_RTS2224\_29>

We believe ANNA lists new token IDs after the product reaches certain volume ] thresholds. This raises the question of how firms will know if a cryptocurrency CFD has an underlier that has been created, potentially leading to additional back reporting requirements.

It would be helpful to receive guidance on what kind of instruments, split by product type, would be reportable under MiFIR. Specifically, we would like to know if CFDs and Spread Bets are included in this scope

<ESMA\_QUESTION\_RTS2224\_29>

1. Do you agree with the proposed amendments to Art.4 to extend the transmission of order agreement also to cases of acting on own account? Please detail your answer.

<ESMA\_QUESTION\_RTS2224\_30>

We agree, as this will be aligned with FCA’s proposal and therefore encourage alignment between ESMA and the FCA.

<ESMA\_QUESTION\_RTS2224\_30>

1. Do you agree with the proposed amendments to Art.7 to include specific cases of portfolio and fund managers? Please detail your answer.

<ESMA\_QUESTION\_RTS2224\_31>

No comment.

<ESMA\_QUESTION\_RTS2224\_31>

1. Do you have any comments on the proposed approach to updating the ‘Instrument details’ section in the Annex to the RTS 22? Please flag any additional aspects that may need to be considered.

<ESMA\_QUESTION\_RTS2224\_32>

No comment.

<ESMA\_QUESTION\_RTS2224\_32>

1. Do you support inclusion of the new fields listed above? Please provide details in your answer.

<ESMA\_QUESTION\_RTS2224\_33>

While we generally support the inclusion of the new fields listed, we suggest aligning Validity Timestamp with the field under EMIR called Event Date. This alignment would ensure consistency across different regulatory frameworks and facilitate more efficient reporting processes.

At this stage, we have no concerns with the new Client Category field, if there isn't any new validation which could create reporting problems for other fields. Ensuring that the introduction of these new fields does not inadvertently affect the accuracy or consistency of other reported data is essential.

<ESMA\_QUESTION\_RTS2224\_33>

1. Do you agree with the amendments listed above for the existing fields? Please provide details in your answer.

<ESMA\_QUESTION\_RTS2224\_34>

Expanding the Net Amount field to all products provided an opportunity to remove the Price Multiplier (PM) field. This would help with the intention of alignment to EMIR. If the Net Amount field can comprehensively capture the necessary information for all products, including derivatives and securities, then the Price Multiplier may no longer be necessary. We would encourage ESMA to review this besides EMIR.

Additionally, we seek clarity on the calculation within the Net Amount field for an Option. Will this be Strike Price \* Quantity or Fill Price \* Quantity?

<ESMA\_QUESTION\_RTS2224\_34>

1. Do you support suppressing the reporting of the field listed above? Please provide details in your answer.

<ESMA\_QUESTION\_RTS2224\_35>

We are supportive.

<ESMA\_QUESTION\_RTS2224\_35>

1. Do you agree with the proposal of including in the list of exempted transactions under Art.2(5) the disposal or selling of financial instruments ordered by a court procedure or decided by insolvency administrator in the context of a liquidation / bankruptcy / insolvency procedure?

<ESMA\_QUESTION\_RTS2224\_36>

No comment.

<ESMA\_QUESTION\_RTS2224\_36>

1. Do you consider that the exemption in Art.2 (5) should take into consideration also other similar instances as described? Please elaborate your answer.

<ESMA\_QUESTION\_RTS2224\_37>

We believe that the exemption in Article 2 (5) should indeed be extended to include other similar instances.

We would like exclusions to be extended to include corporate action events, except for tender offers and tradeable right lines. This extension would provide clarity and ensure that routine corporate actions do not unintentionally trigger reporting requirements, thereby reducing unnecessary administrative burdens.

<ESMA\_QUESTION\_RTS2224\_37>

1. Do you agree with the assessment and the proposal of expanding the perimeter of the exempted transactions to auctions in emission allowances?

<ESMA\_QUESTION\_RTS2224\_38>

No comment.

<ESMA\_QUESTION\_RTS2224\_38>

1. Do you agree with the proposal of narrowing the perimeter of the exempted novations to transactions having clearing purposes?

<ESMA\_QUESTION\_RTS2224\_39>

No comment.

<ESMA\_QUESTION\_RTS2224\_39>

1. Please provide your views on the format for reporting and any challenges you foresee 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\_RTS2224\_40>

While the use of JSON format for reporting offers certain advantages, it is important to consider the significant effort already invested in XML for EMIR and other global regulations worldwide. Transitioning to JSON would require substantial changes to existing systems and processes, which could result in high implementation costs and long timelines.

Given the extensive infrastructure and expertise built around XML, the benefits of transitioning to JSON may not outweigh the costs. The short-term costs and disruptions could be considerable, and the long-term benefits may be limited due to the well-established use of XML in the industry.

<ESMA\_QUESTION\_RTS2224\_40>

1. Should the use of transaction data to perform the calculations be feasible, what would be the costs and the benefits of using this data and discontinuing the specific reporting flows (FITRS and / or DVCAP), including in relation to the change and run costs of reporting systems, data quality assurance and other relevant aspects?

<ESMA\_QUESTION\_RTS2224\_41>

No comment.

<ESMA\_QUESTION\_RTS2224\_41>

1. Do you have any comments on the methodological approach outlined above?

<ESMA\_QUESTION\_RTS2224\_42>

No comment.

<ESMA\_QUESTION\_RTS2224\_42>

1. 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\_RTS2224\_43>

No comment.

<ESMA\_QUESTION\_RTS2224\_43>

1. Do you agree with the proposal of adopting JSON as standard and format of order book data keeping and transmission? Please justify your answer.

<ESMA\_QUESTION\_RTS2224\_44>

Similar response to Q40.

<ESMA\_QUESTION\_RTS2224\_44>

1. Please provide your views on the format of reporting and any challenges you foresee with the use of JSON format compared to XML. Please provide estimates of the costs, timelines and benefits (short and long term) related to the potential implementation of JSON syntax.

<ESMA\_QUESTION\_RTS2224\_45>

No comment.

<ESMA\_QUESTION\_RTS2224\_45>

1. Do you have any comments on the proposed approach to updating the field list in the Annex to align with the proposed RTS 22 fields? Please flag any additional aspects that may need to be considered.

<ESMA\_QUESTION\_RTS2224\_46>

No comment.

<ESMA\_QUESTION\_RTS2224\_46>

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

<ESMA\_QUESTION\_RTS2224\_47>

No comment.

<ESMA\_QUESTION\_RTS2224\_47>

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

<ESMA\_QUESTION\_RTS2224\_48>

No comment.

<ESMA\_QUESTION\_RTS2224\_48>

1. Do you have further suggestions to improve or streamline the other fields in RTS 24?

<ESMA\_QUESTION\_RTS2224\_49>

No comment.

<ESMA\_QUESTION\_RTS2224\_49>