**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 **3 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\_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 GROUP (SIX GROUP) |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |  |
| Country/Region | Spain |

# 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\_CP3\_01>

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<ESMA\_QUESTION\_CP3\_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\_CP3\_02>

This divergence has not led to any operational issues for BME. BME ensures transaction reporting for non-MiFID firms trading on our venues. The current process remains stable without relying on the MRMTL concept.

<ESMA\_QUESTION\_CP3\_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\_CP3\_03>

For equity instruments, BME supports that the RCA should be determined based on the venue of admission, tied to where the issuer raised capital and the first admission date. This ensures data quality and aligns with ESMA's proposals for newly listed instruments.

<ESMA\_QUESTION\_CP3\_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\_CP3\_04>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_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\_CP3\_05>

BME suggests that initial admission to trading should be treated equally across both regulated markets and Multilateral Trading Facilities (MTFs). Therefore, we recommend that ESMA extend the new field 6b in RTS 23 ("venue of first admission to trading") to include all trading venues. This would allow field 6b, along with field 11 ("date and time of admission to trading or date of first trade"), to be used in determining the MRMTL when there is insufficient data to calculate turnover. The focus should be on where the issuer has specifically requested the security to be admitted.

Furthermore, new ISINs can arise from non-IPO listings, such as mergers and splits. It is crucial to establish a clear link between the old and new ISINs to ensure continuity with the MRMTL before the corporate action.

<ESMA\_QUESTION\_CP3\_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\_CP3\_06>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_06>

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

<ESMA\_QUESTION\_CP3\_07>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_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\_CP3\_08>

The concept of “effective date” is not applicable to some asset classes, such as bonds and equities.

We have understood that ESMA is considering requiring the intended Settlement Date to be populated in the new “Effective Date” field to capture the intended Settlement Date of the transaction. If this is the expectation, this requirement should be explicitly specified in the updated RTS 22 Annex to provide regulatory certainty to reporting firms of the information they should report.

BME advocates for maintaining the transaction reporting regime as simple as possible, balancing the need for information to ensure market integrity and supervision without overwhelming supervised entities with requirements beyond that sufficiency point.

While full alignment between different transaction reporting regimes may sometimes be desirable, it is crucial to strike the right balance to avoid collecting data that might have limited value to regulators.

The proposal for a revised RTS 22 includes over 125 fields, nearly doubling the current version’s 65 fields. We suggest a thorough assessment of the necessity for each additional field and a cost-benefit analysis to find a balanced approach that does not hinder the EU market’s competitiveness on the global stage.

<ESMA\_QUESTION\_CP3\_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\_CP3\_09>

No.

<ESMA\_QUESTION\_CP3\_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\_CP3\_10>

Please see answer to Q8.

Additionally, the specific example provided in the CP refers to a case where the reporting entity (i.e., the trading venue on behalf of a member or firm not subject to MiFIR) is obliged to report according the text of MiFIR Art. 26.5, which states: *‘The operator of a trading venue shall report details of transactions in financial instruments traded on its platform which are executed through its systems by any member, participant or user not subject to this Regulation in accordance with paragraphs 1 and 3.*’

The third party that submits the report acts merely as an IT provider and hence does not need to be identified from a transaction reporting perspective.

Therefore, it is unclear if the value this field adds, given the the reporting obligation is legally mandated, overweights the burden of including an additional field and the associated set of validation rules.

Validation rules need to be revised accordingly to ensure a homogeneous application.

<ESMA\_QUESTION\_CP3\_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\_CP3\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_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\_CP3\_12>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP3\_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\_CP3\_13>

For the sake of consistency and data usability maximization, BME would advocate for a functional approach in this regard (i.e., same business, same rules). Hence, it would make sense to ensure that the same set of data is collected for every transaction subject to transaction reporting in the EU, whether executed on venue, off venue, or in non-EEU venues.

However, requiring non-EEA venues to generate and disseminate a TVTIC could be beyond the reach of ESMA as it remains unclear how could such a duty be enforced on entities out of the supervisory scope of ESMA. From a market integrity perspective one could question whether the benefict of the eventual rejection of transactions carried out on non-EEA venues lacking a TVTIC would be preferable to accepting such reports despite lacking the TVTIC. In this regard, keeping the statu quo or making this filed voluntary might be sub-optimal options to explore in order to ensure market integrity does not deteriorate.

Validation rules need to be revised accordingly to ensure a homogeneous application.

<ESMA\_QUESTION\_CP3\_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\_CP3\_14>

Please see answer to Q13.

<ESMA\_QUESTION\_CP3\_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\_CP3\_15>

From a transaction reporting perspective, there should be a common approach to how on-venue and off-venue transactions are reported to ensure homogeneous market surveillance by supervisors.

However, this ability might be hindered when it comes to reportable transactions carried out in non-EEA venues, as stated in previous answers. We would suggest reflecting on whether there is merit in pursuing a change, despite the fact that it could deliver incomplete results, or whether the data currently collected provides sufficient information for supervisory purposes to ensure market integrity does not deteriorate.

Validation rules need to be revised accordingly to ensure a homogeneous application.

<ESMA\_QUESTION\_CP3\_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\_CP3\_16>

Should the revised TVTIC generation regime be endorsed, we would support the approach of placing the responsibility to generate the TVTIC for off-venue transactions onto a market facing firm (i.e., any of the counterparties to a transaction).

However, we are agnostic on which of the counterparties (i.e., seller or buyer) it needs to be placed onto, especially considering that it will not impact the reportability of the transaction nor the criteria to accept / reject a reported transaction.

<ESMA\_QUESTION\_CP3\_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\_CP3\_17>

The reporting of allocations remains a very operationally challenging activity for trading venues. The requirement to track additional data points, such as the INTC identifier, will increase the operational burden yet further. BME believes that creating a new field solely to combine data from existing fields is unnecessary and inefficient.

ESMA should limit transaction reporting by trading venues to the “market-side”, i.e. without any allocations. This would level the playing field with OTC trading, where MiFID counterparties of non-MiFID firms do not have to report their counterparties’ allocations.

BME would like to underline the difficulties and costs associated with collecting information from external sources and would appreciate that the regulators take into account the special situation faced by trading venues. As operator of trading venues, we are required to report under Art. 26 MiFIR on behalf of non-MiFIR firms. However, since trading venues would not possess the relevant information to produce the relevant INTC identifier, our non-MiFIR members would be required to provide this identifier to the respective trading venue. Previous experience has shown that relying on members’ input to be able to provide comprehensive transaction reporting data entails significant effort for both the trading venue and the non-MiFIR member. As a result: (1) data quality might be compromised, or the transaction reporting might be incomplete upon transmission; (2) trading venues cannot validate the accuracy of the third-party information they receive; and (3) – data privacy rules may be violated.

Additionally, the inclusion of the INTC identifier implies the need to upgrade the systems used, as is the case with any newly added field. Introducing a new field in the transactions reporting file has an IT impact (including validation rules) and thus a cost-benefit assessment would be required.

<ESMA\_QUESTION\_CP3\_17>

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

<ESMA\_QUESTION\_CP3\_18>

The reporting of allocations remains a very operationally challenging activity for trading venues. The requirement to track additional data points, such as the INTC identifier, will increase the operational burden yet further. BME believes that creating a new field solely to combine data from existing fields is unnecessary and inefficient.

ESMA should limit transaction reporting by trading venues to the “market-side”, i.e. without any allocations. This would level the playing field with OTC trading, where MiFID counterparties of non-MiFID firms do not have to report their counterparties’ allocations.

BME would highlight that if the executing investment firm is made responsible for generating the INTC identifier, this will not cover the Article 26(5) scenario, in which trading venues would still need to produce the INTC identifier. Unless or until Article 26(5) is limited to market-side reports, as advocated by ESMA, this will remain the case.

Should the inclusion of a new INTC identifier field be endorsed, we would support the approach of placing the responsibility to generate it on the participant that originates the aggregation / linkage of orders to ensure proper identification.

<ESMA\_QUESTION\_CP3\_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\_CP3\_19>

While a Chain Identifier code could prove useful, the CP recognizes the difficulty of enforcing the generation or transmission of it where non-EEA firms are part of the transmission chain.

Similar to our answer to Q13, requiring non-EEA venues to generate and pass through the code could be beyond the reach of ESMA and NCAs. From a market integrity perspective one could question whether the benefit of the eventual rejection of reported transactions lacking the Chain Identifier would be preferable to accepting such reports despite the absence of the code. In this regard, keeping the statu quo or making this field voluntary might be options to explore.

Validation rules need to be revised accordingly to ensure an homogeneous application.

<ESMA\_QUESTION\_CP3\_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\_CP3\_20>

In line with the answer to Q18, should the inclusion of a new Chain Identifier field be endorsed, we would support the approach of placing the responsibility to generate it on the participant that originates the transmission of orders to ensure proper identification.

However, in line with the answer to Q16, the definition of which firm within the chain bears responsibility for the creation of the code should not impact on the reportability of the transaction nor on the criteria to accept / reject a reported transaction.

<ESMA\_QUESTION\_CP3\_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\_CP3\_21>

Yes. A clearer perimeter is preferable.

<ESMA\_QUESTION\_CP3\_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\_CP3\_22>

BME agrees with the CP on the approach to set the date by which transactions are to be reported equal to the date of application of the revised RTS 22. However, considering the interdependence with other regulatory changes (e.g., RTS 23, RTS 1 and RTS 2), we would advocate for a sufficient implementation timeline to ensure a robust functioning of the relevant systems.

While alignment across all these RTS is highly preferable, as a general remark we wish to state that lead times of 18 months are generally more suitable over 12 months. These would provide market participants with sufficient time to implement all the required system changes, for the sake of data quality and a smooth industry transition.

Complying with the revised regime requires the correct preparedness by the relevant industry players. Avoiding unnecessary IT effort and stress would be needed to ensure robust and well functioning adaptations. A common and sufficient timeline is desirable to allow for proper analysis, IT development and both internal and external testing. The lack of a common approach could result in a high degree of confusion and IT development effort.

<ESMA\_QUESTION\_CP3\_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\_CP3\_23>

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<ESMA\_QUESTION\_CP3\_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\_CP3\_24>

In principle, alignment of definitions and the contents associated with each of them with other reporting regimes may prove useful as it may enhance comparability and clarity. In this vein, we would like to draw your attention to the wording of fields 51 and 52, which includes the expression ‘[…] and similar products.’.

BME suggests avoiding this sort of open categories (e.g., similar) as they bring uncertainty and leave room for subjective interpretation, leading to divergent implementation and compliance with the RTS. A more exhaustive typification would be preferable.

For field 53 (Option Style): in cases where a specific instrument (Ex Corporate Warrant CFI start with RW\*) cannot use the values EURO/AMER/BERM, there is the risk of rejection. We suggest it should be possible to maintain the value OTHR.

<ESMA\_QUESTION\_CP3\_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\_CP3\_25>

Regardless of the approach eventually endorsed, clarifying ambiguous or not straightforward cases should prove beneficial. Changes should be limited to those cases for which the current approach is suboptimal.

Validation rules need to be revised accordingly to ensure a homogeneous application.

<ESMA\_QUESTION\_CP3\_25>

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

<ESMA\_QUESTION\_CP3\_26>

Please see the answer to Q25.

<ESMA\_QUESTION\_CP3\_26>

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

<ESMA\_QUESTION\_CP3\_27>

In line with the answer to Q24, alignment of concepts between the reporting regimes may prove useful as it may enhance comparability and clarity. In this case, while this approach is still valid, the MiFIR approach to complex trades seems clearer.

<ESMA\_QUESTION\_CP3\_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\_CP3\_28>

While a ‘Package transaction price’ might prove useful, ARMs should not be required to validate if such price is calculated correctly by the reporting entity.

<ESMA\_QUESTION\_CP3\_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\_CP3\_29>

BME cautions against requiring multiple identifiers to identify the same financial instrument. ISIN should be sufficient for MiFIR transaction reporting.

Should a ‘Digital Token Identifier’ be included, ARMs should not be required to validate the existence or the validity of any such identifier.

<ESMA\_QUESTION\_CP3\_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\_CP3\_30>

Should the sending of orders by an investment firm acting on its own account (DEAL) to other firms for execution be compatible with the concept of transmission of orders, there seems to be no logical reason not to treat them similarly.

<ESMA\_QUESTION\_CP3\_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\_CP3\_31>

Similar to the answer to Q30, should the case of both portfolio and fund managers be alike, they need to be treated similarly. Also, should the current example 69 of the ESMA Guidelines and the Q6 of the Q&A provide for an efficient and acceptable approach to reporting investment decisions by portfolio and fund managers on behalf of a client or fund respectively, it might prove useful to reflect this in RTS.

In any case, we would not go against the current meaning of Art. 7.2 by which the portfolio or the fund manager are to be identified as the decision makers which is the ultimate activity they undertake. From a legal perspective, the client or the fund could be said to be the buyer or seller of the transaction as they hold the economic impact of the transaction (i.e., beneficial ownership).

Validation rules need to be revised accordingly to ensure a homogeneous application.

We also note that Regulation (EU) 2024/791 (“MiFIR Review”) Article 1(46) envisages a review of the scope of reporting firms to include AIFMs and UCITS ManCos. Currently, trading venues are required to report for such firms where they execute transactions on their venues, which represents a significant operational burden for trading venues. Furthermore, it must be considered that having oversight only of on-venue transactions for such firms represents a gap for competent authorities. Therefore, we support the change in scope to include AIFMs and UCITS ManCos as reporting firms.

<ESMA\_QUESTION\_CP3\_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\_CP3\_32>

As expressed in the text of the CP, it seems that at the time of publication of the CP ESMA does not have all the elements to develop a complete proposal. In the absence of such a complete proposal it is hard to provide useful feedback. We would suggest not implementing partial changes to RTS 22 in order to minimize uncertainty and complexity derived from different dates of application for interdependent regulatory requirements (e.g., RTS 23).

Also, we would advocate against an excessive atomization of data to be collected and exceptions for the treatment and systematization of such data (e.g., paragraph 114 refers to IRS’s effective and expiry dates as not considered reference data and thus to be reported under RTS 22; however, they are not to be put together, making it more difficult to gather a comprehensive view of the report).

From a market integrity and efficiency perspective, it seems reasonable to implement a full block of changes at once unless doing so could seriously damage to the overall functioning of the market.

As a general remark, to avoid duplication in reporting and possible issues with overall data quality, it is very important to maintain the current approach, where referential data for instruments already present in the FIRDS system (RTS 23) are not duplicated in transaction reports.

<ESMA\_QUESTION\_CP3\_32>

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

<ESMA\_QUESTION\_CP3\_33>

The reporting of allocations remains a very operationally challenging activity for trading venues. The requirement to track additional data points, such as the INTC identifier, will increase the operational burden yet further. BME believes that creating a new field solely to combine data from existing fields is unnecessary and inefficient.

ESMA should limit transaction reporting by trading venues to the “market-side”, i.e. without any allocations. This would level the playing field with OTC trading, where MiFID counterparties of non-MiFID firms do not have to report their counterparties’ allocations.

As a general comment, it should be highlighted that trading venues who report transactions on behalf of non-MiFID firms should not be accountable for these fields, since trading venues would not be in a position to verify them, but can only rely on the information provided by their clients. Similarly, ARMs should not be required to validate the content of any of these fields.

BME does not support the proposal to include the client category in the reporting details. Client-related information is already specified in RTS 22. In addition, third-country clients might not be permitted to provide personal data including any categorisation making the compliance of trading venues with Article 26(5) MiFIR to report on behalf of third-country clients even more difficult.

Regarding the validity timestamp – Action type: it is not clear from the proposal what logic ESMA is expecting reporting firms to follow. We strongly encourage ESMA to define this precisely in the technical standards to ensure firms report this field consistently and in line with regulatory expectations.

<ESMA\_QUESTION\_CP3\_33>

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

<ESMA\_QUESTION\_CP3\_34>

It is not clear whether the changes to Field 35 Net Amount should apply to certain types of instruments (e.g., shares) where the concept of clean price, coupons or nominal value might not be applicable. The indicator NOAP implies the data is not available while for certain instruments this is not accurate and rather the field is not populated because the data is non-existent.

Should this change be endorsed, validation rules need to be revised accordingly to ensure a homogeneous application.

<ESMA\_QUESTION\_CP3\_34>

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

<ESMA\_QUESTION\_CP3\_35>

Yes. The usage of this indicator seems to have been very limited so far.

<ESMA\_QUESTION\_CP3\_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\_CP3\_36>

Yes. If the exemption implies that these reports need to be rejected if submitted, the validation rules need to be revised accordingly to ensure proper management.

<ESMA\_QUESTION\_CP3\_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\_CP3\_37>

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<ESMA\_QUESTION\_CP3\_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\_CP3\_38>

In line with the answer to Q36, should the exemption imply that these reports need to be rejected if submitted, the validation rules need to be revised accordingly to ensure proper management.

<ESMA\_QUESTION\_CP3\_38>

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

<ESMA\_QUESTION\_CP3\_39>

Yes, we agree. However, given the nature of the data, ARMs should not be required to validate its correctness.

<ESMA\_QUESTION\_CP3\_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\_CP3\_40>

BME notes that ESMA is considering the use of JSON format for reporting in a number of areas (i.e. RTS 3, 21, 22, 23 & 24). It is critical that any approach ESMA decides to take in relation to reporting formats must be holistic and seek to progressively extend to all areas and reporting layers; otherwise, it will not produce benefits and instead will lead to additional complexity and unnecessary costs. The conclusion not to change to JSON formatting in the Final Report on Commodities (published on 16 December 2024) is already a dent in this approach, and would therefore make it questionable that ESMA reaches a different conclusion for other RTS reporting. It is critical that a thorough cost / benefit analysis is carried out by ESMA before proceeding with such a significant change.

In this regard, we would discourage the adoption of JSON for transaction reporting purposes as it does not seem to bring an efficient solution and raises some risks.

JSON could reduce the ability to manage an increasing set of fields and data validations needed to ensure a well-functioning system that allows for proper market abuse and market integrity thoughout the EU.

Please find below some arguments against switching to JSON for transaction reporting::

* XML has worked properly through the years, and no market failure has been evidenced in this regard. The IT systems of exchanges, ARMs, and industry participants, including NCAs and ESMA, are working properly, and there are no indications of jeopardy to market abuse and integrity monitorization ability.

* XML is more suitable than JSON for complex document structures that require data interchange.
* While JSON may allow a higher speed of processing, XML is more detailed, allowing a more efficient management of a wider and more complex set of data as the transaction reporting data requires.
* JSON supports a limited range of data types, such as strings, numbers, and objects. XML is more flexible and supports complex data types, such as binary data and timestamps, which are essential for transaction reporting purposes.
* The potential speed of processing gains with JSON are not relevant in the context of transaction reporting, where no real time data processing is required.
* XML checks for errors in complex data more efficiently than JSON and has a more advanced set of tools and libraries.
* While XML is complemented by XSD, JSON is complemented by JSON Schema. XSD allows for more complex validations and a greater number of them to be deployed, minimizing reporting errors compared to JSON Schema.

In the absence of a JSON Schema comparable to current XSD’s ability to cope with both syntactic and semantic validation rules, a whole new set of validation arrangements would need to be set up within the source code of the software. This implies higher risk, less agile management of changes and software versions and potentially a higher ratio of reporting and validating errors.

* Implementation costs would be incurred not only at the industry participant level but also at the ESMA and NCAs level to adopt a format which might be suboptimal for transaction reporting purposes.
* Moving into JSON from XML might not be coherent as:
  + EMIR and SFTR reporting is carried out on XML, even after implementation of EMIR Refit earlier in 2024. The CP points to an alignment effort between the three reporting regimes in MiFIR, EMIR and SFTR, and the adoption of a different format in the case of MiFIR transaction reporting deviates from that approach.
  + The CP proposes a significant enlargement of the number of fields and data to be reported under the revised RTS 22 (i.e., i.e., from 65 to over 120 fields) and the associated validation rules. Reducing the ability to cope with a heavier load of fields, data, and validations might not be an efficient move.

<ESMA\_QUESTION\_CP3\_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\_CP3\_41>

BME agrees to avoid duplicative submissions of quantitative data under RTS 1, 2, and 3 to avoid duplicative submissions.

With regards to non-equities, BME supports ending with these reporting flows due to the MiFIR Review's shift to static thresholds and characteristics. However, for equities, BME does not forsee significant cost savings and are concerned about potential data quality issues from relying solely on transaction reporting.

BME suggests that ESMA further refines transaction reporting before seeking further efficiencies. Trading venues may still need to submit the same data for different purposes. Hence using both transaction reporting and FITRS data for checks would be impossible if venues stop reporting to FITRS and DVCAP. Removing trading venues’ high quality data would hamper reliability of the data used.

<ESMA\_QUESTION\_CP3\_41>

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

<ESMA\_QUESTION\_CP3\_42>

BME agrees with ESMA's additional information on the proof of concept, but is also concerned about how accurate is the data and if could be reliable to support trading metrics. Key issues include:

* Difficulties in determining the LIS threshold, as significant discrepancies between data sets make reconciliation challenging.
* The low results for the LIS threshold may point to problems with waivers, as firms may lack full visibility of waivers used in trading systems, potentially requiring unnecessary updates.
* Uncertainty over whether regulators should retain waiver-related information to track volumes.

BME is concerned about MiFIR data submission deadlines, particularly the alignment of transaction reporting with reference data, which is leading to rejections. These issues must be addressed before ESMA can move forward with the proposal.

<ESMA\_QUESTION\_CP3\_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\_CP3\_43>

Regarding equities, BME suggests ESMA should work on further refining transaction reporting first and then, once this has been delivered, there could be further consideration of where efficiencies could be achieved.

<ESMA\_QUESTION\_CP3\_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\_CP3\_44>

Please refer to our response to Q40 for our general views on ESMA’s proposals to use JSON for Order Record Keeping reporting.

<ESMA\_QUESTION\_CP3\_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\_CP3\_45>

Please refer to our response to Q40 for our general views on the proposals to use JSON for various regulatory reporting requirements under multiple RTS.

Regarding Order Record Keeping reporting, we believe JSON does not offer sufficient additional benefits to justify the costs that markets would incur.

BME believes that moving to either a common XML format or JSON would incur costs, which are difficult to estimate without further clarity on the specific changes required. It is important to ensure that these templates do not impose unnecessary burdens or costs on NCAs and trading venues, as these could ultimately be passed on to market participants.

Should any change be requested we strongly recommend making it mandatory for regulators to provide a transition phase when the JSON format is approved or the schema is updated.

Inclusion of SIs in scope:

We note that the MiFIR review under the Listing Act has not mandated a common template for investment firms under Article 25(1). However, we strongly believe that standardised pre-trade information requirements should apply to all execution venues, including SIs, which would also allow for simpler processing for regulators.

Under the amended MAR regulation, the Commission is required to deliver a report seven years after its entry into force on the functioning of the mechanism to exchange order data under MAR Art. 25a, including the potential inclusion of SIs. Applying common templates to SIs would certainly facilitate their future inclusion, which BME strongly advocates to ensure effective market surveillance and a level playing field with trading venues. All transactions, whether on multilateral or bilateral systems, can be negotiated under unequal or manipulated terms or involve potential insider trading. Given that SIs now represent a significant share of trading, not requiring the same information from them as from regulated markets and MTFs poses a risk to market integrity.

<ESMA\_QUESTION\_CP3\_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\_CP3\_46>

BME is fully supportive of maintaining alignment between reporting under RTS 24 and RTS 22. We consider that aligning the fields between RTS 24 and RTS 22 ensures consistency across regulatory reporting regimes, which can streamline processes and reduce the risk of errors.

<ESMA\_QUESTION\_CP3\_46>

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

<ESMA\_QUESTION\_CP3\_47>

Including this information can improve transparency and accuracy in reporting cancelled transactions. It ensures that all relevant information is captured, even for transactions that do not proceed to execution or settlement.

However, BME considers that adding a new field to capture the date when a transaction is cancelled is not necessary as the current “Date and Time” field can show that information. Currently “CAME” flag represents the event of a cancellation of an order, a new flag in field 21 can be added to represent the cancellation of a trade.

<ESMA\_QUESTION\_CP3\_47>

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

<ESMA\_QUESTION\_CP3\_48>

BME agrees with the addition of the value “NORE” to identify that the execution decision has not been taken by the market participant but by a third party, instead of leaving it empty. This change can help distinguish between decisions made internally and those influenced by external parties.

We consider this a positive change as it enhances the alignment between between ORK and Transaction Reporting

Regarding the field 3 of RTS 24 for indicating an aggregate client account INT instead of AGGR, BME understands that alignment of this field with RTS 22 by using INTC for aggregate client accounts (instead of AGGR) ensures consistency across reporting frameworks. This amendment can simplify the reporting process and reduce confusion.

<ESMA\_QUESTION\_CP3\_48>

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

<ESMA\_QUESTION\_CP3\_49>

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<ESMA\_QUESTION\_CP3\_49>