**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 | European Fund and Asset Management Association (EFAMA) |
| Activity | Investment Services |
| Are you representing an association? |[x]
| Country/Region | Belgium |

# 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>

EFAMA welcomes this opportunity to share our views on ESMA's Consultation on the Review of RTS 22 on Transaction Data Reporting and RTS 24 on Order Book Data. While our membership is less impacted by the proposed changes—given that it is more common for our member firms to operate under AIFMD and UCITS licenses, exempting them from transaction reporting under RTS 22—we do have well-developed views on a limited number of key topics contained in the consultation. Moreover, some of our member firms have located trading, execution and RTO activities in affiliated entities which are pure MiFID firms.

Generally speaking, we do not see the benefit from the majority of proposed amendments, some of which will generate disproportionate implementation and maintenance costs. Notably, the reporting format change is very heavy to absorb, and it is not clear to us why the current format should be abandoned.

We are concerned about revised rules requiring new data fields or existing data to be reported differently to only generate substantial IT costs for actors without improving transparency for regulators. The requested granularity of information seems disproportionate. Moreover, we consider moving in this direction to be diametrically opposed to the European Commission’s target of reducing reporting burdens by 25%, as outlined in the Commission’s long-term competitiveness communication of 16 March 2023.

Most importantly, we take this opportunity to address the cost-benefit analysis that ESMA and the Commission are due to undertake on the possibility of extending the requirements of Article 26 to AIFMs and UCITS Management Companies, as mandated under Article 52(14)(b) of the MiFIR review. To our knowledge, neither ESMA nor the European Commission has reached out to EFAMA, national EU fund and asset management associations, or any individual fund and investment management firm to complete the required cost-benefit analysis. At a minimum, we believe completing such an assessment by 29 March 2025 is no longer feasible.

*We have elaborated further in the attached letter for ESMA’s consideration. We remain available should you have any questions or wish to arrange a meeting to discuss this issue in greater detail.*

**Concerning question 1,** we have no particular comment on scope apart from the observation that ISIN codes for instruments executed outside of venues/platforms are nearly impossible to obtain. Therefore, and in the same vein as for FX transactions, we recommend limiting the reporting obligation to instruments traded on venues or with an underlying identifier registered in FIRDS.

<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>

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<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>

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<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>

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<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>

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<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>

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<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>

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<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>

We believe that the definition of this new field needs to be clarified, particularly where a transaction provides for intermediary payments between the Effective Date and the Maturity Date.

<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>

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<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>

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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>

We are already observing in-scope venues failing to transmit TVTIC, and this will likely be a consistent issue with non-EEA venues, where we lack sufficient leverage to obtain these. Dissemination of the TVTIC along the chain is complex and heavy to build. To illustrate, we take the example of an order-initiated voice between an order placer and its EEA broker that executes on a venue/platform. The venue/platform-generated TVTIC will be provided to the broker, who must manually transmit it to the order placer, who in turn must manually integrate that information into their order.

Moreover, the rationale for requiring a TVTIC from a non-EEA venue is unclear to us. We do not see the justification for this obligation, particularly when an EU investment firm executes a client order on a non-EEA venue where only single-sided reporting is required. Similarly, we question the requirement for the seller to create a TIC for off-market trades. This results in costly adjustments to reporting for fields where data is not transmitted.

<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>

We do not believe the proposed changes will improve data/reporting quality; instead, we fear that reporting transparency will decline due to increasing complexity. To our understanding, the legislative intention seems biased because the rules do not capture non-EEA TVs.

<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>

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<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>

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<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>

As already pointed to under Q11, we expect severe difficulties and complexities around the creation of TICs, notably where the seller is not subject to transaction reporting obligation

<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>

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<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>

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<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>

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<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 anticipate significant challenges in introducing a Chain Identifier as proposed, given the complexity of establishing a harmonised industry approach and the practical difficulties in implementation.

The requirement to communicate the identifier down the transaction chain introduces delays, particularly in complex chains involving multiple entities. The risk of failures or delays is even higher when non-EEA entities are involved, as they have no regulatory obligation to generate or transfer the identifier. A key concern arises in use cases involving external investment managers, particularly those operating outside the EU. Enforcing the use of a Chain Identifier in such cases would be extremely challenging and could result in gaps within the transaction chain, particularly on the Management Company’s side.

Moreover, challenges arise in use cases where orders are split during execution. For example, if 200 units are ordered and executed in parts (i.e. 150 units and 50 units), the requirement would necessitate two identifiers, even though only one can be reported.

<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>

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<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>

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<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 believe the proposed timeline for implementing RTS 22 needs to be adjusted to account for market readiness. Specifically, we support requiring Approved Reporting Mechanisms (ARMs) to be prepared to implement the Level 2 measures six months ahead of market participants.

This approach reflects discussions held with regulators, such as BaFin, where market participants highlighted the importance of ARMs being ready in advance. The proposal is rooted in lessons learned from the implementation of EMIR Refit, during which many firms encountered significant challenges due to Trade Repositories (TRs) not being fully prepared for User Acceptance Testing (UAT) and live reporting.

Requiring ARMs to finalise their systems ahead of market participants would help mitigate similar issues, ensure a smoother transition, and reduce operational risks. This staggered timeline would allow firms sufficient time to test and align their systems with ARM capabilities, thereby enhancing overall reporting quality and efficiency.

<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>

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<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>

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<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>

While technical implementation seems feasible, it would generate costly system adaptations. We strongly recommend using the existing nomenclature in the OTC space of **payer/receiver** as a simple way to obtain the same result without generating costly IT developments.

<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>

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<ESMA\_QUESTION\_RTS2224\_26>

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

<ESMA\_QUESTION\_RTS2224\_27>

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<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>

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<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>

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<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>

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<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>

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<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>

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<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>

These are examples of new data fields for which we do not see benefits compared to IT costs when adapting systems. We take the example of Field 47 and the requirement to report the ISIN of each Index constituent. For instance, TOPIX contains 1900+ constituents. The requirement seems disproportionate.

<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>

We reiterate our position as stated in Q33.

<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>

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<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>

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<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>

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<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>

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<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>

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<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>

We believe transitioning from XML to JSON as the reporting format would present significant challenges for the industry, particularly following the recent and demanding shift from CSV to XML. While the move to XML has been beneficial, introducing another format change in such a short timeframe would impose unnecessary operational and financial burdens on market participants. Most importantly, a shift to JSON would signal divergence from EMIR, which newly obligated a switch to XML. This divergence represents further costs.

From a buy-side perspective, there has been no strong push from counterparties or stakeholders to adopt JSON. Any perceived benefits must, therefore, be carefully weighed against the value of maintaining XML, a widely adopted and proven format that effectively supports reporting requirements. Before considering such a transition, clear and demonstrable advantages for the industry must be outlined, including a thorough cost-benefit analysis and a realistic implementation timeline

Moreover, mandating a single reporting format in the RTS may not be the most effective approach. As technology evolves, new digital reporting solutions or alternative formats to both XML and JSON may emerge. A more appropriate solution would be for ESMA to focus on ensuring consistent data content and structure while allowing sufficient flexibility for market participants to adopt different reporting formats.

<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>

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<ESMA\_QUESTION\_RTS2224\_41>

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

<ESMA\_QUESTION\_RTS2224\_42>

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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>

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<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>

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<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>

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<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>

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

<ESMA\_QUESTION\_RTS2224\_47>

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<ESMA\_QUESTION\_RTS2224\_47>

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

<ESMA\_QUESTION\_RTS2224\_48>

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

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