Reply Form

**to the Consultation Paper on Draft implementing technical standards on the extension of the use of the alleviated format of insider lists**

Responding to this Consultation Paper

ESMA invites comments on all matters in this Consultation Paper and in particular on the specific questions summarised in Annex 1. 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 **03 June 2024.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

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\_CPIL\_0>. 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\_CP1\_ CPIL\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP1\_ CPIL\_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* 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 heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

All interested stakeholders are invited to respond to this consultation paper. This consultation paper is of primary interest to issuers, including SMEs, and trading venues, but responses are also sought from any other market participant including trade associations and industry bodies, institutional and retail investors, consultants and academics.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | BETTER FINANCE |
| Activity | NGO |
| Are you representing an association? |  |
| Country / Region | Belgium, Brussels |

# Questions

1. Do you agree with the proposed approach? Please explain.

<ESMA\_QUESTION\_CPIL\_1>

The European Commission’s latest proposal to extend the simplified insider list regime - originally designed for SME Growth Market issuers – to *all* listed companies is presented as a step towards greater regulatory efficiency. While BETTER FINANCE supports burden reduction, it is critical weight this approach against the need to uphold the core objectives of the Market Abuse Regulation (MAR), particularly in terms of market integrity and transparency.

In line with the ITS’s objective, simplification should be pursued through greater standardisation. One effective measure would be mandating an EU-wide electronic format for insider lists and establishing a centralised submission platform managed by ESMA. This would streamline communication with National Competent Authorities (NCAs), enhance supervisory cooperation, and eliminate inefficiencies stemming from fragmented bilateral exchanges. Another step toward standardisation could be the introduction of an automated, supervisory-access-only unique identifier assigned to each individual appearing on insider lists. If implemented through a digital ESMA-managed platform, this could reduce – rather than add to – administrative burden. Such an identifier would support secure and consistent tracking of individuals across time, events, and issuers, particularly in complex scenarios involving consultants, external service providers, or entities listed in multiple jurisdictions.

SMEs have long argued that the administrative burden of maintaining detailed insider lists is disproportionate to their size and resources. The simplified regime, which requires only the names of individuals who regularly have access to inside information, rather than everyone with temporary access, was perceived positively by SMEs and aligned with the principle of proportionality. However, with this alleviation now proposed for all companies, we caution that the core rationale for insider lists - providing a clear and comprehensive audit trail for regulators in cases of suspected market abuse - may be undermined. Therefore, limiting insider lists to “regular insiders” introduces two significant risks:

First, reduced traceability: temporary insiders such as consultants, lawyers, or IT specialists, who may have access to sensitive information at critical moments, could be left off the list, making it more difficult for regulators to reconstruct the flow of information during investigations. Second, increased risk of abuse: with fewer names on the list and less detailed records, the deterrent effect of MAR is weakened, potentially emboldening those who might otherwise be discouraged by the prospect of scrutiny.

The burden of compliance is real, but so is the threat of insider trading and market manipulation. The end question is, what is most valuable for SMEs? If simplified insider lists are extended to all companies, large companies stand to benefit the most. Large companies, which are often at the centre of high-stakes market activity, would benefit from reduced compliance costs but also face less stringent tracking of insider information. This could make it easier for leaks or manipulation to go undetected, precisely in situations where the stakes and potential profits from abuse are highest. For SMEs, the simplified regime is about survival and efficiency; for large companies, it could become a means of weakening market oversight at the very top end of the market, where robust controls are most necessary.

In summary, while reducing the compliance burden is a valid and important goal, it should not come at the expense of market integrity and effective oversight. The most balanced approach would be to enhance standardisation through an EU electronic format and a centralised ESMA-managed submission point for NCAs access and cross-border collaboration, rather than a blanket extension of simplified insider lists to all issuers. This would ensure the regulatory framework remains both efficient and robust, streamlining insider list managements for SMEs, and issuers in general, without creating new vulnerabilities in the broader market. <ESMA\_QUESTION\_CPIL\_1>

1. Do you consider the permanent section of the insider list for all issuers (and SMEs GM issuers in those MS that have opted out of the simplified regime) contained in Annex I useful?

<ESMA\_QUESTION\_ CPIL\_2>

BETTER FINANCE has always considered the permanent section of the insider list a useful and necessary tool, provided it is implemented with a strong commitment to traceability and supervisory effectiveness.

While we acknowledge the aim of reducing administrative burdens on issuers, we are concerned that proposed reductions in mandatory data – under the label of “burden reduction” – could compromise the effectiveness of insider identification, particularly over time. For supervisory authorities, insider lists are essential for reconstructing the flow of sensitive information and for investigating potential market abuse. Weakening the information requirements risks erasing the very purpose of these lists (see our points in Q1).

In particular, the proposal to allow omission of the national identification number (ID) if the date of birth is provided is problematic. Both the date of birth and national ID should remain mandatory elements of the permanent insider list. These are not redundant: an individual may change nationality or national ID, but their birthdate does not change – and both data points together ensure enduring traceability.

In our view, framing this reduction as a “burden relief” is counterproductive, as it may instead create “gaps in traceability” that hinder market abuse investigations. We therefore recommend the following:

* For permanent insider lists, both the date of birth and national ID must be required. Where one is missing, the record should only be considered provisional, with a clear obligation on the issuer to complete the information as soon as possible.
* For event-based lists, limited simplification could be accepted – allowing one identifier as a minimum. However, we strongly advise that both identifiers still be encouraged to ensure completeness.

These requirements should not be seen as administratively excessive. With the proposed move toward standardised electronic formats, issuers would be well-equipped to manage timely and efficient updates to insider lists. In fact, digitisation should be leveraged to strengthen oversight without increasing complexity.

In conclusion, the permanent section of the insider list is not only useful but essential – especially for ensuring long-term accountability in financial markets. It should be preserved and reinforced, not diluted. For the protection of retail investors and to uphold the integrity of EU markets, traceability must remain a non-negotiable principle.

<ESMA\_QUESTION\_ CPIL\_2>