

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_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 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 under the headings 'Legal notice' and heading '[Data protection](#)'..

1. General information about respondent

Name of the company / organisation	Finance Denmark
Activity	Banking sector
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Denmark

2. Questions

Q1 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>

No comments or objections. We are pleased that scope has changed. |

<ESMA_QUESTION_CP3_01>

Q2 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>

No comments or objections. |

<ESMA_QUESTION_CP3_02>

Q3 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>
[No comments or objections.]
<ESMA_QUESTION_CP3_03>

Q4 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>
[No comments or objections.]
<ESMA_QUESTION_CP3_04>

Q5 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>
[No comments or objections.]
<ESMA_QUESTION_CP3_05>

Q6 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>
[No comments or objections.]

<ESMA_QUESTION_CP3_06>

Q7 Do you agree with the proposed amendments to RCA determination rules for index derivatives and depositary receipts?

<ESMA_QUESTION_CP3_07>

[No comments or objections.]

<ESMA_QUESTION_CP3_07>

Q8 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>

[We would prefer if effective date could follow and be aligned with EMIR Refit field 2.43 as mentioned in recital 53, and that it only be applicable for OTC derivatives and not for equity and debt instruments. Only relevant for Article 8a instruments.]

<ESMA_QUESTION_CP3_08>

Q9 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 it does not apply to shares or debt instruments. If equity should be included it should not be settlement but always execution date as effective date.]

<ESMA_QUESTION_CP3_09>

Q10 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>

[No comments or objections]

<ESMA_QUESTION_CP3_10>

Q11 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>

[Intentions for TVTIC are good both for venue and also for negotiated trades, but hard to implement both on aligned syntax and Non-EEA venues. No need to make a new TVTIC syntax but focus on the venues that do not deliver consistent TVTIC in current setup.]

<ESMA_QUESTION_CP3_11>

Q12 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>

[It does not appear to be ideal to base TVTIC on (existing) fields like ISIN code, LEI/MIC, Date, Time and Quantity. First of all because that can be derived by the authorities based on the received transaction reports, and secondly, because it does not ensure uniqueness when there are multiple fills in the same instrument where quantity and price are the same within the same (mili)second. This can be especially be relevant for transactions done on opening and closing auctions.]

<ESMA_QUESTION_CP3_12>

Q13 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>

Making TVTIC mandatory (supported by validation rules) for on venue transactions on EEA trading venues should be OK. However, we do not believe that making TVTIC mandatory for transactions executed on non-EEA trading venues - also because there is a risk, that the FSAs will not be able to reconcile the non-EEA TVTIC if the counterparty is a non EEA firm for whom MiFIR article 26 does not apply. |

<ESMA_QUESTION_CP3_13>

Q14 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>

Yes, but we are unsure of the implementation since ESMA do not have jurisdiction, and therefore Non-EEA venues will have no obligation to generate this code. |

<ESMA_QUESTION_CP3_14>

Q15 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>

The only cases when a TIC code will be of use for reconciliation purposes for authorities are for off venue transactions between EU Investment firms with a transaction reporting obligation under MiFIR art. 26. However, that vast majority of all off venue transactions are with clients, resulting in the TIC code to be superfluous and thus undermining the purpose of reporting a TIC code. In addition we see a high level of complexity in the process for generating and distributing the TIC code

between investment firms for different product systems, trading systems - also when trading is done with non EEA Investment firms. And if the syntax suggested is based on data already available to FSAs it does not give new value except for extra cost and complexity for the industry. |

<ESMA_QUESTION_CP3_15>

Q16 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>

|It will be hard to impose and exchange in time, it will be like a UTI setup all over which can be hard to exchange T+1 in time for EMIR reporting.

If TIC are to be implemented please provide good examples on when ex. two Inv.firm facing each other, what about Inv.firm facing customer? and different cases like that. |

<ESMA_QUESTION_CP3_16>

Q17 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>

|No, it is a good idea and all info on broker trades will be visible with these INTC identifier down to the allocations.

We would prefer to use own internal INTC identifier instead of a set syntax. |

<ESMA_QUESTION_CP3_17>

Q18 Do you agree that the executing investment firm should be responsible for generating consistently the INTC identifier?

<ESMA_QUESTION_CP3_18>

|Yes, if needed. |

<ESMA_QUESTION_CP3_18>

Q19 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>

Maybe the hardest identifier to implement and report down the chain if out of house, and out to Non-EEA CP2.

But if needed the syntax should be clear so each part to the trade can generate it.

But problem if there are multiple parts in (many-to many, so there are multiple ids./fill in to separate out to many end clients/funds)

We see problems if there are more then two investment firms involved in a chain.

We see a big need for good and both simple and complex cases on Chain identifier cases. |

<ESMA_QUESTION_CP3_19>

Q20 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>

|Yes, if needed. |

<ESMA_QUESTION_CP3_20>

Q21 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, good with alignment to benchmark regulation. |

<ESMA_QUESTION_CP3_21>

Q22 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>

[We agree that the date by which transactions are to be reported should be equal to the date of application of the revised RTS 22.

However, for several reasons, we see significant implications in relation to back reporting of erroneous transaction reports with trade date prior to the date of application of the revised RTS 22. Assuming that it would be impossible to report fields that have been deleted (e.g. short selling), it would be essential, that validations would cater for cases of back reporting, e.g. based on population of trading date time. In addition, it would be beneficial if ESMA in Guidelines could exemplify how back reporting should be done – especially in relation to population of new and amended fields.]

<ESMA_QUESTION_CP3_22>

Q23 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>

[No, all the alignment with EMIR and SFTR, and the international standards ISIN, CFI, UPI etc. used here is good.]

<ESMA_QUESTION_CP3_23>

Q24 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>

[Yes, makes good sense to align field name and values with EMIR and SFTR.

But we do not see the added value of all these extra fields from EMIR in the purpose of market surveillance under MIFIR.]

<ESMA_QUESTION_CP3_24>

Q25 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>

|Yes, makes good sense to leave buyer/seller for all products and align to also add where relevant the logic for payer/receiver from EMIR.

But as for the above question we do not see the added value of all these extra fields from EMIR in the purpose of market surveillance under MiFIR. |

<ESMA_QUESTION_CP3_25>

Q26 Do you agree with the proposed approach for the alignment of reporting of the information related to price?

<ESMA_QUESTION_CP3_26>

|We generally agree with the proposed alignment. However, in relation to FXFWDs and FXSWAPs it appears unclear how the price should be reported / what is meant by “exchange rate”. The issue is further complicated by the fact that there are different approaches in the industry in relation to reporting of FXSWAP transactions as either a near leg and a far leg or as a “single instrument”. |

<ESMA_QUESTION_CP3_26>

Q27 Do you agree with the proposed alignment of the concept of complex trades with EMIR?

<ESMA_QUESTION_CP3_27>

|Yes agree. |

<ESMA_QUESTION_CP3_27>

Q28 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>

|Yes agree, but no strong preference. |

<ESMA_QUESTION_CP3_28>

Q29 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>

|Yes, but not relevant for us. |

<ESMA_QUESTION_CP3_29>

Q30 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>

|We are unsure of the entended change in Art. 4 recital 1.a.

Please provide example on when this is relevant and cases when it is not relevant. |

<ESMA_QUESTION_CP3_30>

Q31 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>

|Yes, that is how we already report today. |

<ESMA_QUESTION_CP3_31>

Q32 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>

|No comments or objections.

We do not see RTS 23 effecting our TRS reporting, only if there will be changes to validations so we only can make our RTS 22 reporting with only the ISIN and not all fields 42-56 if we have already done a RTS 23 reporting on these fields.

And for must other derivatives where we are not SI/DPE we already report fields 42-56 |

<ESMA_QUESTION_CP3_32>

Q33 Do you support inclusion of the new fields listed above? Please provide details in your answer.

<ESMA_QUESTION_CP3_33>

|Yes, if it can help the NCAs in any way. |

<ESMA_QUESTION_CP3_33>

Q34 Do you agree with the amendments listed above for the existing fields? Please provide details in your answer.

<ESMA_QUESTION_CP3_34>

|No comments or objections. |

<ESMA_QUESTION_CP3_34>

Q35 Do you support suppressing the reporting of the field listed above? Please provide details in your answer.

<ESMA_QUESTION_CP3_35>

|No comments or objections. |

<ESMA_QUESTION_CP3_35>

Q36 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, we agree.

But can we get clarified that validation rules will be changed resulting in CON-160 being left out and it being ok to have sellers LEI being Retired or Inactive because of this. |

<ESMA_QUESTION_CP3_36>

Q37 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>

[Yes, we agree, but would like to see equity corporate actions included in scope for exclusions.]

<ESMA_QUESTION_CP3_37>

Q38 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>

[Not relevant]

<ESMA_QUESTION_CP3_38>

Q39 Do you agree with the proposal of narrowing the perimeter of the exempted novations to transactions having clearing purposes?

<ESMA_QUESTION_CP3_39>

[No comments or objections.]

<ESMA_QUESTION_CP3_39>

Q40 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>

[Agree to change to JSON.]

<ESMA_QUESTION_CP3_40>

Q41 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>

[Agree to use transaction data to DVCAP etc.]

<ESMA_QUESTION_CP3_41>

Q42 Do you have any comments on the methodological approach outlined above?

<ESMA_QUESTION_CP3_42>

[No comments or objections.]

<ESMA_QUESTION_CP3_42>

Q43 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>

[No comments or objections.]

<ESMA_QUESTION_CP3_43>

Q44 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>

[Yes we agree with adoption of the change to JSON format]

<ESMA_QUESTION_CP3_44>

Q45 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>

No strong views.

If ESMA on all new regulatory changes will adopt JSON format, and RTS 22 also will be in JSON it makes good sense to adopt JSON and align.

It is not cheap to implement the change to JSON, an estimate is a million Euro pr bank. |

<ESMA_QUESTION_CP3_45>

Q46 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>

We prefer alignment between regulations and RTSs where possible. |

<ESMA_QUESTION_CP3_46>

Q47 Do you support inclusion of the new fields listed above?

<ESMA_QUESTION_CP3_47>

No comments or suggestions. |

<ESMA_QUESTION_CP3_47>

Q48 Do you agree with the amendments listed above for the existing fields?

<ESMA_QUESTION_CP3_48>

Yes agree, makes good sense to align with RTS 22 logic. |

<ESMA_QUESTION_CP3_48>

Q49 Do you have further suggestions to improve or streamline the other fields in RTS 24?

<ESMA_QUESTION_CP3_49>

[No comments or suggestions.]

<ESMA_QUESTION_CP3_49>