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MiFIR Review - Consultation Package 3; Technical advice (Section 3), RTS 1 (Section 4), the RTS on input/output data for shares and ETFs CTP (Section 8) and the flags under RTS 2; Consultation Package 3; SI ITS (Section 5), RTS 3 (Section 6) and RTS 7 (Section 7)"

Q1: Should the use of alternative data to perform the calculations (i.e. as described under Option 2 above) be feasible, what would be the costs and the benefits of such a change for different categories of market participants, including in relation to the change and run costs of reporting systems, data quality assurance and other relevant aspects? 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?

Whilst we would not be against option 2 on principle, we would need to better understand from ESMA what changes are needed to transaction reporting in order to make FITRS/DVCAP reporting redundant. Our preference is for both FITRS and DVCAP to be made redundant if Option 2 goes ahead rather than only keep FITRS. Therefore, we find it difficult to support that any move way from FITRS & DVCAP across to a transaction reporting basis would provide any benefits that could be proportional to the degree of change required.

If this was to be introduced, it should be phased in with plenty of time given how big of a change this would be.

Whilst the Article 26 data may be more ephemeral and add more variance to the transparency calculations and to the DVC outcomes which would not be welcome.

Q2: Do you agree with the proposal on the start day of application of the transparency calculations? Please explain.

Yes, we agree with the proposal to the use of the new field 6b. We note that it will require the common application of a technical lift to implement, as our trading venue membership would then require a novel external feed to understand which venue first reported the instrument.

Q3: Do you agree with the proposal on the denominator of the (i) ADT, (ii) ADNTE and (iii) for specifying daily traded parameter? Please explain.

Yes, we agree with the proposal for the denominators together with the calculation of the daily traded parameter because these should both clarify and simplify the application.

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Q4: Do you agree with the proposal on the liquidity determination for shares? Please explain.

Yes, we agree with the transition to market capitalisation, and agree with the approach to calculate the market capitalisation which is anyway a much-used metric by the industry. We note that the impact as shown in table 1, especially on the major markets is minimal.

Q5: Do you agree with the proposal on the liquidity determination for other similar financial instruments? Please explain.

Yes, we agree with the ESMA proposals to clarify for similar financial instruments, although there may become a threshold where ETFs could appear to be more liquid than the underlying shares.

Q6: Do you agree with the proposal to remove the field "holdings exceeding 5% of total voting rights" from the legal text but keeping it in the XML schema of the reporting without being obliged to report such information? Pease explains.

No, we would prefer that the technical standards remove field #7, "holdings exceeding 5% of total voting rights" entirely where it have been discontinued in the level 1 text.

Q7: Do you in general agree with the content of the proposed Tables 1a and 1b? Please specify (i) which fields you consider as not necessary (ii) any amendments that you consider necessary to the columns "Description and details to be published," "Type of execution or publication venue," "Type of trading system" to ensure that the information to be provided is clear and unambiguous (iii) the instruments and the circumstances when it is necessary to report the field price with a price notation different from "MONE" – Monetary value.

Overall, we note that the approach proposed turns on the assumption that trading venues, even where they are identified at overall MIC granularity, would operate a single and uniform trading type methodology. To the contrary, we understand that even at Segment MIC granularity, almost all trading venues, whether equity or non-equity, choose to offer a variety of trading modes and phases, often overlapping or coincidental. This would either mean that all venues establish themselves under the hybrid label, or they denote their most prevalent mode.

It may be that ESMA should map the trading mode at trade-by-trade granularity, presumably as a flag, or seek to deploy the role of the Segment MIC more effectively.

Within the RTS ESMA should readdress auction start/end messages across auction types to either validate and underscore the ESMA Opinion on periodic auction guidance from 04th

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October 2019 regarding the application of pre-trade transparency and price determination in frequent batch auctions; or clearly revise and restate that guidance as part of the RTS (https://www.esma.europa.eu/press-news/esma-news/esma-opinion-clarifies-application-pre-trade-transparency-and-price).

We note that section 8.2.2 contains examples of both matched and unmatched periodic auctions (figures 15 and 16 respectively) with only a matched auction example provided in section 4.1.3.1 (figure 3). We note that there is no language in RTS 1 Annex 1 Table 1 catering for unmatched periodic auctions. On this basis, we recommend that wording and examples that refer to CTP input or output data for unmatched periodic auctions be removed.

We would also like to suggest that, given the usefulness of the examples given in figures 1-4 and 14-16, that they be included in RTS itself, likely in the text but otherwise as a guidance annex that could be updated autonomously and periodically.

We note that Figure 2 (quote driven markets) requires that the identity of the "*market maker"* be provided. This is not a defined term in MiFID II, nor MiFIR, nor their revisions; but it is a term that engenders a meaning concerned with formal obligations. The scope of market-making agreements is ephemeral and unclear enough to consider the capacity of a counterparty on a trade-by-trade basis. Given that the specificity of "*market maker"* is also missing from both Tables 1a and 1b, we believe that for consistency, the term should be removed elsewhere in the RTS for a more generic term to denote the price maker.

We note that in Figure 3, (pp 35) the displayed volumes in the example should likely be the same because ESMA, in its opinion sought to define Application of pre-trade transparency by FBA systems as, "*'the price at which the auction trading system would best satisfy its trading algorithm in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system and the volume that would potentially be executable at that price by participants in that system'.*

Table 1a

Field MIC

i. Can this be either added or corrected to being a "Segment MIC" to be clear which is the case and to align with RTS2.
    a. We note again that neither MIC, nor Segment MIC maps to any single mode of trading other than 'Hybrid'

Table 1b

Field 1:

i. Level 1 requires a timestamp for order entry into an order book. However, table 1b Submission date/time contradicts this. We therefore need to define timestamps for both aggregated and disaggregated market models which together, can be collated as,

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'*the timestamp of an instruction, order or indication that causes the best bid price or volume, offer price or volume, or auction price or volume to change*' such that the following events are articulated under a collective title of "'Update/Event Time":

a. the execution of the transaction and any amendment thereto,
b. the entry of the best bids and offers into the order book,
c. the indication, in an auction trading system, of the prices or volumes.

ii. For disaggregated or for non-aggregated market models, the wording is adequate, however the term '*submitted for execution…*' should be more clearly defined as being the time at which the order is acknowledged to be received by the trading venue, rather than that time when it was allegedly sent by a market participant to that venue, or similarly instructions or indications were received to consider an order to be cancelled, modified or executed.

iii. For aggregated market models, this should be the timestamp when the trading venue changes the price or quantity at the best bid or offer, usually consequent to the reception of an order creation, modification or cancellation, or the event of an execution.

iv. For trading venues operating an auction trading system, this needs to be further specified between a continuous auction process or, as is more likely, to a periodic auction trading activity.

a. This needs to be clearly delineated in the RTS, especially since continuous auction trading may be covered in the above market models. Consequently, this timestamp represents the date and time of the generation of the recalculation of the auction's indicative price and size.
b. For periodic auction trading activity, the relevant data should be matched trades and therefore the duality of both prices and volumes mapping onto 'bids' and 'offers' should be removed and replaced with the singular indicative 'auction' price and volume. This would better align with the relevant fields 10 and 11 respectively in Table 5 for CTP output.

v. For the content of the field, the RTS should explicitly state that level of granularity should be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574

For field 3.

ESMA should delineate the table such that:

i. Continuous Auction Trading: BID or OFFER
ii. Quote Driven or Request for Quote Systems ["RFQ"]: BID or OFFER
iii. Periodic Auctions ["PATS"]: to align with comments above such that the price is singular and indicative only (no Bid and no OFFER as such). We would suggest INDX records.
iv. Per the reference to the ESMA 01st October 2019 Opinion on frequent batch auctions ["FBAs"]; This field should explicitly adopt that approach or that guidance opinion should be revised and incorporated into the RTS.

For field 4.

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ESMA guidance should expressly consider and provide examples to transmit the behaviour of price and volume when a change in *trading phase* occurs, especially at the end of continuous trading and at the termination of both continuous and periodic auctions.

i. At the termination of both continuous trading and of continuous auctions, the trading venue should supply both BUY and SELL messages with zero price and volume
ii. At the termination of periodic auctions, the trading venue should supply an INDX message with zero price and volume.
iii. In any mode, the trading venue should report an action type as an end of trading phase.
iv. The RTS should additionally provide guidance here for the following circumstances:
    a. Trading venue messaging protocols regarding the price when there is no size
    b. Where a trading venue operator or Investment Firm controls multiple and different venues under the same MIC or the same Segment MIC who each undertake different market models at the same time, or where they coincidentally operate the same market model at the same time. Here is not clear that the CTP will delineate adequately or if it would seek to publish a feed per trading type.
    c. Similarly, ESMA should develop, and the RTS should contain clear guidance as to messaging protocols where a singular trading venue operator or Investment Firm controls multiple venues which are each in auction phase at the same time.
v. It would be helpful for ESMA to explicitly state that systems where orders and quotes are published on an aggregated basis solely considers handling as a CLOB. Therefore, any considerations where this mode or approach would be appropriate for auction systems should be specified and examples provided.
vi. It would be helpful for ESMA to explicitly define or qualify the term 'submitted.' As per prior answers, ESMA should delineate the actions and event types where a market participant dispatches an order, quote, instruction, modification or cancellation, from those where the trading venue acknowledges and accepts any such.
vii. Per previous comments, the protocols considering the actions and events during both continuous and periodic auctions should be delineated and granularly developed, and the RTS should contain clear guidance as to those under a collective title of "'Update/Event Time" in order to standardise the date and time of the generation of any indicative price and volume:

    - the execution of the transaction and any amendment thereto,
    - the entry of the best bids and offers into the order book,
    - the indication, in an auction trading system, of the prices and volumes.

viii. Again, we note that the same operator of multiple venues or segments thereof may be running multiple auctions at the same time. Therefore, clear mapping and assignment by both segment MIC and trading phase is required. This may be achieved utilising the types of '*trading systems*' for field 11 were it to be reconstituted as '*type of trading,*' given that the pre-trade data transparency requirements are determined by the type of trading activity taking place on a system.

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a. We consider that this is particularly relevant in the context of CLOBs which deploy two or more different types of trading activity with different pre-trade transparency requirements. Rather, the scope of the inclusion of CLOB should be closely reconsidered in tandem with the definitions in CP1 concerning the delineation from continuous auction methodologies, and where appropriate this should be replaced with "*continuous auction trading*".
b. This delineation and mapping are additionally relevant in regard to questions in ESMA CP1 and RCB considerations elsewhere referring to '*regulatory data*'.

Field 5:

It would be helpful for ESMA to provide guidance and examples within the RTS across cases where some instruments quote and trade in minor currencies. Field 8 does not explicitly state the same requirement for major currencies and it's unclear why those approaches in both currency fields should not be harmonised under their ISO standard requirements.

Field 11:

As per prior we underscore that most trading venues operate multiple types of trading across both the same and different phases of trading. Guidance would therefore be helpful to set out whether the dominant type of trading should be stated, and where the applicability of the term hybrid is most appropriate, since otherwise it may become the standard output.

i. In this regard, it's important to be clear that the type of trading activity taking place on a system is independent of that system in itself. Therefore, there is no mechanical mapping between the Segment MIC and the type of trading; notwithstanding that the trading model informs the pre-trade data transparency requirements.
ii. Therefore, the proposals are unlikely to be able to fulfil the purpose and an explicit field to set out the 'type of trading' would remedy this. This would be akin to flagging each competed trade with the type of trading model under which it was matched, noting that in respect of pre-trade information, it may have been entered into multiple models or phases to achieve a match.
iii. As stated previously, adequate delineation between 'CLOB central limit order book' and continuous auction trading should be provided for.

Field 12.

We suggest that in order to be explicit that Field 12 applies to the trading venue time stamp for pre-trade transparency rather than any obligation or provision to the CTP, that the first sentence be extended to reference the relevant MiFIR article as follows: "*Date and time when the information was published in line with the fourth clause of MiFIR article 2 36b point vii*".

Q8: Do you agree with the proposed amendments to Article 4? Please explain.

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No. We are unclear what rationale ESMA is deploying that would allot primacy to a regulated market ["RM"] where an MTF has greater volume or activity. We also note that there may not be a mechanical relationship between price-forming activity and executed volume. Furthermore, the most relevant trading venue may not be within the EU.

Under the approach to the "*Most relevant market in terms of liquidity*," we consider that ESMA should adopt a natural language, or plain-speaking interpretation of the term as the law would understand it. Therefore, should there be an MTF or similarly recognised trading venue in a third country then that would deliver the most effective outcomes, then it would take precedence over an EU authorised RM. In order to determine this, we would suggest that ESMA task its industry specialist advisory groups to make periodic recommendations to the Secondary Markets Committee.

Q9: Do you agree with the proposed amendment to Article 6 of RTS 1? Please explain.

Yes, we agree.

Q10: Do you agree with the proposed amendments to Article 7 of RTS 1? Please explain.

Yes, we agree.

Q11: Do you agree with the proposed amendments to Article 8 of RTS 1? Please explain.

Yes, we agree.

Q12: How could ESMA take into account international best practices and competitiveness for the determination of the threshold up to which SIs have to be pre-trade transparent? Please explain.

No comment on systematic internalisers.

Q13: Do you agree with the new AVT buckets and related SMS? Would you set a higher SMS for the AVT bucket [0-10000) (e.g. 10,000)? Please explain.

No comment on systematic internalisers.

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Q14: Do you agree with ESMA's proposal of the new threshold#1 for shares? Please explain.

No comment on systematic internalisers.

Q15: Do you agree with ESMA's proposal of the new threshold#2 for shares? Please explain.

No comment on systematic internalisers.

Q16: Do you agree with the new AVT buckets and related SMS? Would you set a lower SMS for the AVT bucket [0-10000) (e.g. 5,000)? Please explain.

No comment on systematic internalisers, nor on depositary receipts.

Q17: Do you agree with ESMA's proposal of the new threshold#1 for DRs? Please explain. 181

No comment on systematic internalisers, nor on depositary receipts.

Q18: Do you agree with ESMA's proposal of the new threshold#2 for DRs? Please explain.

No, comment on systematic internalisers, nor on depositary receipts.

Q19: Do you agree with the new AVT buckets and related SMS? Please explain.

No comment on systematic internalisers, nor on ETFs.

Q20: Do you agree with ESMA's proposal of the new threshold#1 for ETFs? Please explain.

No comment on systematic internalisers, nor on ETFs.

Q21: Do you agree with ESMA's proposal of the new threshold#2 for ETFs? Please explain.

No comment on systematic internalisers, nor on ETFs.

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Q22: Do you agree with the proposed amendments to Article 11 of RTS 1? Please explain.

No comment on systematic internalisers, nor on ETFs.

Q23: Do you agree with the proposed new Article 11a of RTS 1? Please explain.

No comment on systematic internalisers, nor on ETFs.

Q24: Do you agree with the proposed new Article 11b of RTS 1? Please explain.

No comment on systematic internalisers, nor on ETFs.

Q25: Do you agree with the proposed amendments to Article 12 of RTS 1? Please explain.

Yes, we would support the use of consistent field names in Table 3 of Annex I.

Q26: Do you agree with the proposed amendments to Table 3 of Annex I of RTS 1? Please explain.

Yes, we broadly agree. We repeat that considering the type trading system does not directly map either to the type of trading venue, nor its individual segment MIC; but that is not directly relevant here. Therefore, its most important to underline the fact that ESMA's proposed changes will require upgrades and technology development across the whole market scope. Firms shall need to ensure that upstream systems can enable reporting of the relevant flags being required by ESMA. We therefore oppose changes to reporting requirements which do not result in tangible and demonstrable improvements for end-users. For instance, when considering transmission protocols, we reiterate the technical matter of the use of commas as a separator between post-trade data elements in CSV format which would segregate the string elements constituting that single field.

We also repeat prior concerns regarding the bundling of CLOB and continuous auctions as these represent different phases in the activities of a trading venue. It should therefore be made clear that for the utility purposes of post-trade transparency and/or for onwards transmission to a CTP, that both segments can be collated together.

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Mindful that both trading systems and market participants are deployed around the globe, we would also ask that ESMA ensure that the all the formats to be populated into Table 2 are always consistent with relevant international standards and with ISO 20022 in particular. This means that guidance around the underlying composition of the TVTIC should be reconsidered to conform explicitly to the "Global UPI" where used together with the LEI of the trading venue.

Q27: Do you agree with the proposed amendments to Table 4 of Annex I of RTS 1? Please explain.

No, we disagree with the proposed set of flags in Table 4 of Annex I of RTS 1 because it fails to harmonise the scope and application of flags with those of the UK in accordance with the specific advice of the ESMA Stakeholders recommendations on the MiFIR Review package as adopted on 16th September 2024.

Specifically, ESMA should revise the approach, likely under MOU discussions with the UK, to voluntarily add in any other flags included in UK finalised revisions, most notably "CLSE," "NTLS" whilst also taking steps to remove intra-group transactions from the scope of the transparency requirements in order to further harmonise the cross-border approaches.

Q28: Would you consider that the SIZE, ILQD, RPRI flags could be removed? Please, explain.

Yes. We note that in the UK the FCA has confirmed by publishing its Policy Statement in May 2023 setting out changes to equity secondary markets (PS 23/4) that it is proceeding with its proposal to delete SI-related flags "SIZE" and "ILQD" and "RPRI" (as well as its proposal to delete flags such as "ACTX" and "DUPL").

Q29: Would you consider that the ACTX flag could be removed? Please, explain.

Yes. It follows for both reasons of harmonisation and for those set out by the FCA in Policy Statement PS 23/4 in May 2023 setting out changes to equity secondary markets that the ACTX is superfluous.

Q30: Would you further reduce the maximum time for disclosing pre-trade transparency "as close to real-time as technically possible"? If so, what maximum limit would you suggest? Please explain.

No. Specifying the maximum time for disclosing pre-trade transparency would require firms to report consequential breaches to their national competent authority. This imposes additional risk, costs to both parties and regulatory burden on trading venues and participant firms' alike which does not provide any additional value.

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We note that there are a variety of reasons why the ultra-fast latency within trading systems may not be collated, transposed and transmissible outside of those trading architectures. We would advocate not changing the current approach, and indeed to do so may well seek to advantage specific market users with the appropriate tools over the "public" as intended in the level 1.

Q31: Do you agree with the proposed amendments to Article 15 of RTS 1? If not, please explain.

Yes, we agree with the amendment in Annex 10.4. 2..

Q32: Which option do you prefer: Option A (status quo), Option B (add layer for technical trades), Option C (add layer for technical trades and waivers)? Please explain.

We would prefer to remain with Option A (status quo) at this stage until the costs and benefits become clearer to commit to the technical uplift involved for the second two options. That is not to say there is no value in adding a layer for technical trades, since we do consider that the identification of non-price forming trades would be important to the current ambitions for a meaningful tape. However, it is a question of sequencing and certainty, since the very substantial further quantum of additions to provide the respective data across the types of waivers appears to go well beyond any reasonable cost-benefit balance.

For example, pan-industry work already done on identifying and classifying non-price forming trades has already proven to be far from simple. However, there is now an adequate FIX framework to achieve and to label this. This is notwithstanding that gaps in the definitions of 'non-price forming' has provided impetus for industry voluntary flags such as [IGRP] and [GIVE].

Q33: Do you agree with the proposed amendments to Annex IV of RTS 1 in relation to Option B and Option C? Please explain.

Yes.

Further optional scope may be considered when considering that gaps in the definitions of 'non price forming' has provided impetus for industry voluntary flags such as [IGRP] and [GIVE].

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Q34: Do you agree with the proposed amendments to Articles 16 to 19 of RTS 1? Please explain.

Yes.

Q35: Do you agree with the proposed different application dates for the different provisions in Article 20 of RTS 1? Please explain.

No. It would be preferable to only have the 18-month date for implementation, because the single implementation date makes a significant difference to the processes and linkages for the technical and system rebuilding.

The application dates as suggested, seem to be unnecessarily complicated as well as mixing a fixed date with others which are contingent upon the after the date of entry into force of RTS 23. This appears not only complicated, but also not to allow for sufficient time to implementation for the various changes required.

Q36: Do you agree with the ESMA's proposed approach? Please elaborate.

No, comment on systematic internalisers.

Q37: Do you think the fields included in the new form are exhaustive? If not, which other information are missing for the purpose of the template? Do you consider all requested fields to be needed? What is your perspective on the potential inclusion of a dedicated field for entering the MIC of the APA utilized by the SI during the notification submission process? Please elaborate.

No, comment on systematic internalisers.

Q38: Do you think that two weeks would be a processing time long enough for the investment firms that intend to continue/start carrying out activities as SIs in any class of financial instruments to submit the new notification to the respective NCAs? Please elaborate.

No, comment on systematic internalisers.

Q39: Are there any other suggestions you would like to propose? Please elaborate.

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No, comment on systematic internalisers.

Q40: Do you agree with the proposed amendments to RTS 3, including the Annex? If not, please explain.

Yes, we agree with the proposed amendments to RTS 3, other than the advocacy for JSON under paragraphs 192 and 193.

Q41: Do you foresee any challenges 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.

No, we do not believe JSON is any more suitable for CTP data requirements than the Single Binary Encoding formats, such as FAST and SBE which support XML and FIX protocols. Moreover, industry has generally adopted XML and FIX protocols, whereas it has not adopted JSON. We underscore that JSON is unsuitable for machine-readable data when compared to the performance of SBE as the presentation format.

Performance and Compatibility can be a factor of all three of application, presentation and session layers, Security relates to presentation and session layers, and Reliability relates to the session layer. This would facilitate industry to select and adopt solutions that are most suitable for the different requirements of latency, throughput, and contributor base for each of equities pre-trade, equities post-trade and non-equities post-trade,

For example:

i. Equities pre-trade data: very high throughput requirement, low latency, relatively small number of contributors, heavy usage of low latency binary protocols, extensive footprint of existing data aggregation solutions.
ii. Equities post-trade data: reasonably high throughput requirement, relatively small number of contributors, a mixture of low latency binary protocols (trading venues often combine this with their pre-trade feeds) and FIX, extensive footprint of existing data aggregation solutions.
iii. Non-equities post-trade data: relatively low throughput requirement, relatively large number of contributors, limited data aggregation footprint.

The MiFIR text is not specific as to whether it is referring just to the application layer, the presentation layer, or a combination of these with or without the session layer. The OSI Model (ISO/IEC 7498) is a reference model on which there are three layers:

i. the 'application' layer (Layer 7, containing the business content),

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ii. the 'presentation' layer (Layer 6, describing how the business content is represented on the wire, otherwise known as 'encoding')
iii. the 'session' layer (Layer 5, describing aspects such as authentication, message recoverability and similar).

ISO 20022 sits at the OSI application layer and, at the time of writing, two encodings (XML and ASN.1) and no defined session layer. The FIX suite of standards similarly splits into the FIX Protocol (application layer), various encodings (including FIX's own ISO 3531-1 FIX TagValue encoding, Simple Binary Encoding and FIXML, but can equally be used with other encodings such as ASN.1, JSON, and Google Protocol Buffers) and various session layers (including ISO 33531-2 FIX Session Layer, FIX Performance Session Layer).

Q42: What is your preferred option for the frequency of reporting of data to ESMA from trading venues, and CTPs upon request: a) maintain bi-weekly reporting as present or b) switch to monthly reporting, on the 16th day of the month for the previous month? Please justify your answer and provide examples and data on the costs and benefits of your preferred approach.

We would support a switch to monthly reporting, on the 16th day of the month for the previous month.

Q43: Do you agree with the proposed Article 1 – Definitions? Please explain.

No, we disagree with the second part of the definitions in the proposed Article 1.

Whilst we do agree with the substantial first part concerning each: 'Algorithmic trading systems'; 'Circuit breakers'; 'Trading halts'; & 'Price collars'; we do not agree with the wording of part 2: "*For the purposes of this Regulation, it is considered that a trading venue allows or enables algorithmic trading where order submission and order matching is facilitated by electronic means.*"

Clearly each and any trading venue and each of its component parts, use and deploy a panoply of electronic tools to bring liquidity together and to attempt to match various facets of the underlying core economic terms, if not the entire instrument or the entire interest displayed in that instrument. That is, each and any trading venue uses "Electronic means", uses "IT and Computers" and now likely uses AI in some form within their toolsets to "facilitate" matching.

Therefore, the wording in Article 2 simply catches any activity at all, and if preserved would simply become redundant. *Rather the term should seek to identify algorithmic trading as that subset which requires process- and rules-based computational formulas for fully executing trades in the instruments and formats presented to the trading venue without any discretion or*

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human intervention and therefore doing substantially more than mere facilitating the matching process.

We would add that we firmly support ESMA's proposed treatment for a proportionate approach towards the establishment of both static and/or only dynamic circuit breakers, depending upon the assessment and disclosures of the trading venue. Clearly any trading venue operator will have a wide variety of instruments under any Segment-MIC whose liquidity and latency, and therefore suitability to trading controls will vary both amongst each other and over the lifespan of the traded instrument.

Whilst far more relevant to the generally episodic and illiquid markets under the scope of RTS2, we believe ESMA should establish a principles-based approach across RTS 1, RTS 2 and RTS 3, which we understand is the intention as proposed because most types of circuit breakers are solely applicable to liquid and latent markets for which there is a single or a distinctly primary market venue.

As set out, the application to RTS 1 the question therefore arises whether all trading venues should be categorised as "*algorithmic trading*" by definition, or whether there is a further step required to trigger that classification, even if it would tend to describe the superset of RTS 1 trading venues.

Q44: Do you agree with the proposed Article 17 – General principles in the establishment of Circuit Breakers)? Please explain.

No, we disagree. The proposed Article 17 fails to take into account the specific language within level 1 for trading venues to assess the suitability of circuit breakers to their market methodologies and to the characteristics of the markets being operated. Simply put, Article 17 should narrow the application of all trading halts only to CLOB trading methodologies which admit algorithmic trading to liquid markets. It may also be prudent to restrict the application of circuit breakers to markets with a trading venue obligation. It is clearly unreasonable, costly and without any benefits to apply circuit breakers to episodic markets that rarely trade and are admitted across multiple venues.

Whilst the suitability and applicability of circuit breakers & trading halts is alluded to across paragraph (8) of Article 18, the implementation of these practical applications and the role of proportionality needs to be made more explicit in the technical standards. For example, trading halts should not apply during the middle of periodic auctions, nor should they apply to hybrid trading methodologies, nor to episodic and illiquid trading instruments.

Q45: Do you agree with the proposed Article 18 – General principles in the establishment of the methodology for the calibration of Circuit Breakers? Please explain. 184

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Yes, the general principles are appropriate. We again note that the scope of application needs to be restricted to the subset of markets where the algorithmic access, together with the liquid instruments and the continuous trading methodology make sense.

Q46: Do you agree with the proposed Article 19 – Disclosure requirement regarding circuit breakers? Please explain.

Yes, we agree with the proposed Article 19.

Q47: Article 19(1)(f) mandates trading venues to disclose "information on the triggering of circuit breakers, with at least an annual frequency". Do you support such disclosure, and do you think ESMA should further specify the type of information that should be disclosed? Please explain.

Yes, we agree with the proposed Article 19 (1)(f). Currently we foresee no need for ESMA to further specify the type of information that should be disclosed, although there may be scope for an opinion or guidance should that become important under review.

Q48: Do you agree with the proposed template to report information to NCAs? Please explain.

Yes, we agree with the proposed template.

Q49: Do you agree with the proposal to delete Articles 15 of RTS 7 ('Business continuity arrangements')? Please explain.

Yes, we agree with the proposal to delete Articles 15 of RTS 7.

Q50: Do you agree with the proposed way forward on Article 8 of RTS 7 ('Testing of trading systems')? Please explain.

Yes, we agree with the proposed way forward on Article 8 of RTS 7.

This seems appropriate to triage those operational resilience aspects mitigated by DORA from those aspects more focused on orderly trading and outages.

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Q51: Do you agree with the proposed way forward on Article 23 of RTS 7 ('Security and limits to access')? Please explain.

Yes, we agree with the proposed way forward on Article 23 of RTS 7.

This seems appropriate to triage those operational resilience aspects mitigated by DORA from those aspects more focused on orderly trading and outages.

Q52: Do you agree with the proposed amendments to Article 6 of RTS 7 ('Outsourcing and procurement'), Article 16 ('Business continuity plan') and Article 17 ('Periodic review of business continuity arrangements')? Please explain.

Yes, we agree with ESMAs analysis and conclusions concerning the aspects of mitigation and consequent duplication by DORA versus those aspect tailored to MiFIR trading venues.

Q53: Do you suggest the deletion of other RTS 7 provisions due to the amendments to Article 48 of MiFID II? Please explain.

None.

Q54: Do you suggest the amendment to other provisions of RTS 7, due the amendments to Article 48 of MiFID II? Please explain.

None.

Q55. Do you agree with the proposal for the Data related to the status of individual financial instruments? If not, please explain.

Yes, we agree with the proposal for "Regulated Data," but would like to understand whether ESMA intends a similar approach for non-equities CTP submissions as well. Whilst supportive of the proposals for all types of CTP submissions, we make the following comments and observations in respect of equities:

i. Instrument and market status are already published by exchanges over their market data feeds but generally using separate application messages. This would be consistent with the proposal to include 'regulatory data' in CTP scope, but ESMA should consider supplementing the table with message specification protocol in order to seek to standardise the formats of such own exchange messages.

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ii. Together, segment MIC and trading system type do not adequately identify operating characteristics of a trading venue. As per prior we reiterate that any venue with one segment MIC may likely be operating multiple market models simultaneously and should not be shoehorned under a single trading system type. Certainly, for MTFs (and OTFs under RTS2) those trading venue market models do not directly map onto to those in the list of trading system types

Considering Table 1:

iii. We note the intention is for instruments to be in regular trading status by default. Therefore, the absence of a status message implies the instrument is actively trading. To indicate the resumption of trading after a suspension/halt, a message would be published with the suspension/halt status and an end date/time. We think this is a complex way of implementing this requirement and very different to how the industry generally receives these data. We think it more appropriate to have an explicit 'OK' status or similar to be published when an instrument resumes trading.
iv. By the same token, a simple "Closed" message should also be added to indicate that trading has ceased, but without any extraneous reasons.
v. Furthermore, we underscore that trading venues commonly publish the "*trading phase*" of individual equity instruments as discussed by ESMA elsewhere in this consultation. Indeed, the same ISIN instruments will change their trading phase at different times on different trading venues operating different market models. As proposed, it appears any "*trading phase*" messages would be additional and complementary to the proposed "Halted/ Removed/ Suspended" status. This should be changed such that the 'Instrument status' includes it "*trading phase.*" Consequently, trading system type should be added to Table 1 to allow instrument status and phase to be defined all the way down to the level of trading system type.
vi. This could be simply achieved by use of the already widely adopted FIX Org "MMT" which contains the '*trading mode*' and is widely adopted. For the avoidance of doubt, this would require that venues publish a trading status and phase across all TOTV instruments at the start of each trading session. We further recommend that trading system type also be added to Table 1 to allow instrument status and phase to be defined all the way down to the level of trading system type.
vii. We consider that currency should be added, as the combination of ISIN and segment MIC does not in all cases uniquely identify a tradable instrument.
viii. As a more general point, it's important to underscore that segment MIC and trading system type do not in all cases uniquely identify the trading behaviour of a trading venue. For instance, a venue with one segment MIC may be operating multiple market models simultaneously yet denoted under a single trading system type.
ix. Furthermore, some trading venue market models do not directly correlate to those in the list of trading system types; for example, a lit order book, a 'dark' order book and a conditional order model would all operate under the same Segment MIC.

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Q56. Do you agree with the proposal for the data related to the status of status of systems matching orders? Would you consider that other identifiers of the trading system type should be used? Please explain.

As per question 55 and cross referencing those comments to be applicable to Q56, we are supportive of the proposals, and make the following comments and observations:

i. Together, segment MIC and trading system type do not adequately identify operating characteristics of a trading venue. As per prior we reiterate that any venue with one segment MIC may likely be operating multiple market models simultaneously and should not be shoehorned under a single trading system type. Certainly, for MTFs (and OTFs under RTS2) those trading venue market models do not directly map onto to those in the list of trading system types
ii. The market status, including "*trading phase*," is currently widely published by exchanges over their market data feeds, albeit using separate messages. Other than the proprietary message specification, this would be consistent with the proposal to include 'regulatory data' in CTP scope.
iii. This also therefore means that the status of the system to be both "open and green light ["OK"]" as well as "closed but capable to work normally" should be added alongside the trading phases.
iv. The market status, including "trading phase," is generally not published by MTFs. It appears that ESMA is intending to apply these rules to all trading venues and therefore needs to be proportionate to the nature, the extent and the time required to replicate the exchange architecture, especially where monopoly IP does not enable proprietary technology.
v. In respect of Table 2, Field 2 ["Trading system type"]. It would be helpful if ESMA actively delineate "Periodic Auction" from "Continuous Auction" in respect of Table 2. Allied to that, guidance or definitions within the RTS concerning the application of the tables to Frequent Batch Auctions, which we presume to be a subset of "Periodic Auctions" would clarify the proposed approach. It may even be the case that "Trading system type" is not sufficiently relevant for system messages where all types of system are under the same obligation, in contrast to the rules concerning pre-trade transparency. In which case Table 2, Field 2 could be removed, mindful that Field 1 provides the necessary information.

Considering Table 2:

vi. The proposals should be modified such that 'VOIC' on venue can be clearly segregated from 'OFFB,' to reflect the fact that off-book activity brought on venue is different than where voice arranges and trades.
vii. The proposals should better and closely align with FIX Org "MMT" protocols given the extensive implementation footprint of MMT, particularly by trading venues. This would facilitate the usage of MMT for system status, specifically the identification of trading phases. We recommend the use of MMT's 'trading mode' (MMT level 2) for this purpose, being already widely adopted. Note this would require that venues publish a trading status/phase for all their instruments at the start of each trading session. We further recommend that trading system type also be added to Table 1 to allow

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instrument status/phase to be defined all the way down to the level of trading system type. However, we propose that frequent batch auctions be excluded due to the high volume of data and ability to infer status from pre-trade transparency data.

viii. We underscore that in general, trading venues operate multiple market methodologies which are all assigned to the same segment MIC. Certain instances also demonstrate that the individual trading methodologies are assigned to different segment MICs and therefore we would suggest that the "trading system type" be made independent of, and not mapped to the segment MICs.

ix. Field 8 [Quantity Currency]; this should also be included in the CTP output data, but where that data set consists of quantities in different currencies, then clearly these items should not be aggregated by the CTP.

x. Field 9 [Aggregated number of orders and quotes]; this is not required in the CTP output data; therefore, it should not be required the input data to the CTP.

Q57: Do you agree that the pre-trade data to the CTP should be that included in Table 1b in section 4.1.3.1 except for fields 8 and 9? Please explain.

No, we do not consider that CTP submissible pre-trade data needs to be included in Table 1b. This would be in accordance with paragraph 286 of the consultation.

We also reiterate the major versus minor European denomination currency point in respect of Field 8 [Quantity Currency]; this should also be included in the CTP output data, but where that data set consists of quantities in different currencies, then clearly these items should not be aggregated by the CTP.

Q58: Do you agree with the proposal for the output table? Please explain.

Noting that the definitions are set out in Table 5 on (page 338) should clearly align with the "core market data" in the MiFIR level 1 Q&A definitions Q36b. Relatedly, references to Regulation 2015/587 are likely outdated and links should all map to Regulation 2017/587.

i. Field 6 [EBBO timestamp]; Needs properly defining since this field isn't defined in MiFIR and it does not address the specific wording, "Date and time of the EBBO." Since the proposals are not sufficiently descriptive, we commend setting out that this would likely be the date/time that the CTP publishes this EBBO record. "Price Notation" should also be included in Table 5 and that data with different values of this field should not be aggregated.

ii. Fields 3, 4, 5, 7, 8, 9 [Best Bids and Offers]; Needs properly defining. Likely they are a property of the trading venue rulebook rather than a common understanding, but ESMA should make that explicit. In general, the "Best Entry," should be set out as the Date/ Time of the publication by a data contributor which impacts the EBBO record.

iii. Field 8 [Publication date and time]; Should also be included in Table 5, with the clear stipulation that data with different values of this field should not be aggregated.

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iv. Field 11 [Trading System]; Should be included in table 5 and that data with different values of this field should not be aggregated.
v. Field 12 [Dissemination date and time]; Should be linked to the MiFIR text, therefore; "Date and time when the information was published in line with the fifth clause of MiFIR article 2 36b point vii"
vi. Field 13 [Quantity Currency]; Needs properly defining. This would likely be the Date/ Time of the publication by a data contributor that impacts the EBBO record. Furthermore, there doesn't appear to be any justification for separate fields to inform on best bid currency and best offer currency. To align with Table 1b, and top account for auction currency, these should be amalgamated to denominate the common currency across all the best bids and offers.
vii. Reiterating that Price Currency is on both the input and output tables, therefore data with different values of this field would not be aggregated in the CTP.
viii. Conversely, "Place of listing" should be added into Table 5; to clarify that data with different values of this field should not be aggregated.
ix. Given that section 8.2.2 contains examples of both matched and unmatched periodic auctions (figures 15 and 16 respectively) with only a matched auction example provided in section 4.1.3.1 (figure 3). We note that there is no language in RTS 1 Annex 1 Table 1 catering for unmatched periodic auctions. On this basis, we recommend that wording and examples that refer to CTP input or output data for unmatched periodic auctions be removed.

Q59: Do you agree with the proposal for the input and output tables for the post-trade equity CTP? Please explain.

Yes, we agree with the post-trade input and output tables.

Regarding the addition of a flag 'NLTS' which is used by the FCA in the UK. We note that Table 2 of Annex III of the Draft RTS on input/output data for shares and ETFs CTP now encompasses 'NLTS', but without any proposal being made in the consultation text. Furthermore, we would understand that NTLS is applicable to Trading Venues rather than to APAs, which is the exact reverse as it is proposed in Table 2).

Whilst clearly supportive of this harmonisation with the UK, we also note that it should therefore also be added to the equivalent Table 4 of Annex I in RTS 1.

Q60: Do you agree with the proposed amendments to flags in Table 3 of Annex II or RTS 2? In particular, do you consider that the flag 'ACTX' should be deleted?

Yes, we agree that ACTX usage is extremely rare, of little use, and can be removed.

We agree in principle with the introduction of the MHPT flag for venue Matched Principal trading. However, we fail to understand the proposed practical application as it does not adequately cope with different prices between the buy and sell legs. Concisely, we would welcome clarity from ESMA on whether MPTs should be reported as one single transaction

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with a clean price or two separate transactions which takes into account matters including brokerage, accruals and any other market conventions between a “clean” and a “dirty” price. ESMA’s commentary would appear to allow for either method to be utilised, but there are different and sometimes conflicting views on this most fundamental component. We would therefore request that ESMA provide clarity within the RTS.

It also needs to be more widely applied, particularly to MTFs for whom Matched Principal trading is the default model, albeit with the insertion of an intermediate facility to manage the MiFIR restrictions. IT should also be applied to XOFF trades and specific guidance, and examples given. Consequently, EVIA could only support the idea if it was further developed and detailed such that if the application could be applied to the common situations where trade legs have different prices and where the scope is widened out beyond narrowly OTFs to include XOFF trades and MTF trade model where a settlement facility is deployed as an intermediary.

Regarding the deferral flags, we note the additional complexity this will introduce to the data and that there will be an implementation burden for market participants, while also recognising the benefits of the additional granularity and opportunity for data quality checking.

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