

ESMA

CONSULTATION PAPER ON THE REVIEW OF RTS 1 (EQUITY TRANSPARENCY) AND RTS 2 (NON-EQUITY TRANSPARENCY)

Transaction Reporting Services to review question 12-15 in Section 3.3

Question 12: Do you agree with the changes proposed to Table 3 of Annex I of RTS 1 (List of details for the purpose of post-trade transparency) presented above? If not, please explain and provide any alternative proposal you might have. Are there other issues to be addressed and how?

Finance Finland (FFI) notes that ESMA refers to “EU trading venues” and “non-EU venues” in the consultation paper. To our understanding, venues established within EEA countries (such as Norway) are to be considered as EU venues for the purposes of ESMA’s Transparency Opinion. Since it is very important from a legal and operational perspective that the scope of the transparency provisions is clear, we would appreciate if ESMA confirms this interpretation as regards EEA venues in the final report.

Fixed Income Trading to review question 24-29 in Section 4.1

Question 25: Do you agree with the proposal to specify the fields to be populated for pre-trade transparency purposes? If not, please explain. In case you support the proposal, please comment on the fields proposed, in particular whether you would consider them necessary and/or whether additional information is required.

While FFI is generally in favour of standardising information to be disclosed, we are concerned with the proposal in point 242 which suggests that ESMA wants to extend the requirements to systematic internalisers (SI) without a legal mandate to do so. In our view, ESMA should wait for the level 1 review. In particular, it is surprising to see that ESMA includes variables related to SIs in legal text without such mandate (see e.g. field 18 where SINT denotes systematic internaliser).

Moreover, if SIs are encouraged to apply these standards like ESMA proposes, FFI is generally of the opinion that the attributes may make sense for trading venues, but not necessarily when it comes to pre-trade transparency as an SI. FFI questions if all the fields are relevant for pre-trade purposes. If ESMA intends to pursue this route, the required information should be limited to only the necessary fields. While a comprehensive set of fields is relevant in a reporting context (transaction and trade repository reporting), the disclosure of quotes serves a different purpose. Market participants and customers that are the receivers of such information are primarily interested in price/rate, quantity and other quote-specific components. Therefore, such fields that are related to the SI (primarily fields 16–20) could be omitted. Furthermore, the fact that the quoting obligation can be fulfilled by means of quote streaming supports our view that the information to be disclosed should be limited to only what is necessary.

There are also a fields which may be partly questioned – for example, field 9 (Quantity) should specify the types of instruments in scope, as e.g. OTC derivatives should fall outside. Finally, the fact that some fields (such as 1 and 17) are not applicable for SIs regarding RTS 1/equity would create uncertainty for SIs on the non-equity side and what fields they should disclose thereof. Although the assumption here is that an SI should not disclose such fields, there is a need for clarification.

Transaction Reporting Services + Fixed Income Trading to review question 37-41 in Section 4.4

Question 40: Do stakeholders agree with ESMA's proposal to introduce a general waiver flag for non-equity transactions benefitting from a waiver? For LIS, should it be limited to completely filled LIS orders?

FFI considers that changes to the flags regarding waivers and deferrals should wait for MiFID Review on level 1. In our view it can be of value to be able to distinguish between different waivers, and we are concerned with the risk of temporary solutions that will be costly from an IT perspective to implement.

Question 41: Do you agree with ESMA's proposal to introduce a flag for pre-arranged nonequity transactions?

FFI considers that changes to the flags regarding waivers and deferrals should wait for MiFID Review on level 1. In our view it can be of value to be able to distinguish between different waivers, and we are concerned with the risk of temporary solutions that will be costly from an IT perspective to implement.

All to review question 42-43 in Section 5 and Section 6.3

Question 42: Do you agree with the proposal on the delayed implementation of certain provisions of the amended RTS 1 & 2 ? Do you have proposals to minimise the delay?

FFI generally agrees with the delayed implementation of certain provisions of the amended RTS 1 and 2. Many of the proposals involve substantive IT changes which will be very costly and operationally burdensome for investment firms to implement. It is therefore very important to ensure that all amendments are made subject to a thorough cost/benefit analysis and to avoid temporary or interim solutions that may be overhauled by a forthcoming level 1 MiFID Review.

Additionally, a minimum period of 6 months may be too short for all investment firms to conform, and we believe that the regime would benefit from increasing the minimum implementation period to 9 months.