



European Securities and
Markets Authority

Response Form to the Consultation Paper

MiFIR review report on the obligations to report transactions and reference data



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in the Annex. 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 **20 November 2020**.

All contributions should be submitted online at 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:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA_QUESTION_CP_TRRF_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. 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.
4. When you have drafted your response, name your response form according to the following convention: ESMA_TRRF_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_TRRF_ABCD_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA's website (www.esma.europa.eu under the heading "Your input – Open Consultations" → "Consultation paper on MiFIR review report on the obligations to report transactions and reference data").

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 heading [Legal Notice](#).

Who should read this paper?

This document will be of interest to all stakeholders involved in the securities markets. It is primarily of interest to competent authorities and firms that are subject to MiFID II and MiFIR – in particular, investment firms and credit institutions performing investment services and activities and trading venues. This paper is also important for trade associations and industry bodies, institutional and retail investors and their advisers, and consumer groups, as well as any market participant because the MiFID II and MiFIR requirements seek to implement enhanced provisions to ensure the transparency and orderly running of financial markets with potential impacts for anyone engaged in the dealing with or processing of financial instruments.

General information about respondent

Name of the company / organisation	FIX Trading Community
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

Introduction

Please make your introductory comments below, if any

<ESMA_COMMENT_CP_TRRF_1>

The FIX Trading community welcomes the opportunity to participate in this discussion and would like to make it clear that our responses above are focused on addressing the standards and governance elements and does not consider any commercial or market structure aspects.

FIX Trading Community is the non-profit, industry-driven standards body (representing the entire industry including buy side, fintech providers, sell side, and trading venues) at the heart of global trading. The organization is independent and neutral, dedicated to addressing real business and regulatory issues impacting multi-asset trading in global markets through standardization, delivering operational efficiency, increased transparency, and reduced costs and risks for all market participants. Central to FIX Trading Community's work is the continuous development and promotion of the FIX family of standards, including the core FIX Protocol messaging language, which has revolutionized the trading environment and has successfully become the way the world trades.

Understanding the data needs of the market is at the heart of the work that the FIX Trading Community does to ensure that the users of the protocol can work with clear and unambiguous standards. It is also critical that the data elements defined are usable across all jurisdictions and asset classes.

In our experience Industry-led solutions are a good way to provide the industry with what it needs, however, we recognise that in order to meet the needs of the markets and the regulators the most effective solutions are industry led initiatives in cooperation and with guidance from the commission and regulators. The industry is continually evolving, and any adopted standards must be flexible in order to adapt to those changes and continually create and develop best practice.

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Due to the number of industry participants using FIX for a significant portion of their trading lifecycle, the FIX Trading Community would welcome the opportunity for FIX to be mandated as a complementary standard alongside ISO 20022 XML. FIX is committed to the ongoing interoperability and convergence of FIX with ISO 20022.

As market structure develops, the FIX Trading Community is happy to provide assistance to ESMA where necessary to reach their goals in the best interest of providing healthy and robust markets.<ESMA_COMMENT_CP_TRRF_1>

Questions

Q1 : Do you foresee any challenges for UCITS management companies and AIF managers in providing transaction reports to NCAs? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_1>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_1>

Q2 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_2>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_2>

Q3 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_3>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_3>

Q4 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_4>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_4>

Q5 : Do you envisage any challenges in increasing the scope including derivative instruments traded through an SI as an alternative to the expanded ToTV concept? Please justify your position and if you disagree please suggest alternatives.

<ESMA_QUESTION_TRRF_5>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_5>

Q6 : Do you agree that the extension should include all Systematic Internalisers regardless of whether they are SI on a mandatory or voluntary basis? Please justify your position.

<ESMA_QUESTION_TRRF_6>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_6>

Q7 : Do you envisage any challenges with the approach described in paragraphs 45-46 on the scope of transactions to be covered by the extension? Please justify your position and indicate your preferred option for SIs under the mandatory regime explaining for which reasons. If you disagree with all of the outlined options, please suggest alternatives.

<ESMA_QUESTION_TRRF_7>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_7>

Q8 : Do you foresee any challenges with the proposal to replace the reference to the term “index” in Article 26(2)(c) with the term “benchmark” as defined under the BMR? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_8>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_8>

Q9 : Which of the three options described do you consider the most appropriate? Please explain for which reasons and specify the advantages and disadvantages of the outlined options. If you disagree with all of the outlined please suggest alternatives.

<ESMA_QUESTION_TRRF_9>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_9>

Q10 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_10>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_10>

Q11 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_11>

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<ESMA_QUESTION_TRRF_11>

Q12 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_12>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_12>

Q13 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_13>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_13>

Q14 : Did you experience any difficulties with the application of the defined list concept? If yes, please explain.

<ESMA_QUESTION_TRRF_14>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_14>

Q15 : Do you foresee any challenges with the approach as outlined in the above proposal? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_15>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_15>

Q16 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_16>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_16>

Q17 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_17>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_17>

Q18 : Do you foresee any challenges with the approach outlined in paragraphs 75 and 76? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_18>

We welcome changes that provide the industry with greater transparency, however we need to be mindful as to how requests for change balance the benefit of the additional transparency it brings vs. the implementation cost for the industry. Consequently, we feel that a strong cost benefit analysis would be appropriate here. The addition of new codes relating to trading venues, and a code linking execution to transactions in the way outlined in the CP needs to be better clarified.<ESMA_QUESTION_TRRF_18>

Q19 : Do you foresee any difficulties with the implementation of an additional code generated by the trading venue to be disseminated down the transaction chain in order to link all transactions pertaining to the same execution? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_19>

Again, we need to be mindful as to balance the benefit these changes vs the implementation cost across the industry. For some venues however, this functionality is already in common use, but for others the implications could be significant. Consequently, we feel that a strong cost benefit analysis may be required here. Also it is not clear where some existing standards such as the Unique Transaction Identifier (UTI) might fit in. Ideally before greater transparency requirements are written into legislation it would be useful to clarify how best this might be achieved in the context of existing standards and methodologies.

<ESMA_QUESTION_TRRF_19>

Q20 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_20>

This would be in line with the current practice under MiFID II/MiFIR and we would support that the LEI should be duly renewed and maintained for those entities which are eligible to receive them.

All of the entities eligible for LEIs should in most cases already have them. We would support regulatory encouragement for all LEIs involved in the reporting process to be appropriately maintained and renewed, not simply issued. We also support the use of National Identifiers for those not eligible for LEI, and would suggest that the wording is changed to allow also for any future natural persons identifier scheme which may be developed.<ESMA_QUESTION_TRRF_20>

Q21 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_21>

We support retaining the existing Algo ID scheme <ESMA_QUESTION_TRRF_21>

Q22 : Which of the two approaches do you consider the most appropriate? Please explain for which reasons.

<ESMA_QUESTION_TRRF_22>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_22>

Q23 : Do you foresee any challenges with the outlined approaches? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_23>

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<ESMA_QUESTION_TRRF_23>

Q24 : Do you foresee any challenges with the outlined approach to pre-trade waivers? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_24>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_24>

Q25 : Have you experienced any difficulties with providing the information relating to the indicators mentioned in this section? If yes, please explain and provide proposals on how to improve the quality of the information required.

<ESMA_QUESTION_TRRF_25>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_25>

Q26 : Do you foresee any challenges with this proposal? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_26>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_26>

Q27 : Do you agree with this approach? If not, please clarify your concerns and propose alternative solutions

<ESMA_QUESTION_TRRF_27>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_TRRF_27>

Q28 : Do you agree with this analysis? If not, please clarify your concerns and propose alternative solutions.

<ESMA_QUESTION_TRRF_28>

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<ESMA_QUESTION_TRRF_28>

Q29 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_29>

We would prefer that the existing MiFIR text is retained to offer the possibility to minimize the reporting burden going forward.

We note ESMA's comments on alignment of data elements and common XML templates, which we welcome. <ESMA_QUESTION_TRRF_29>

Q30 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_30>

We would like to see ESMA prioritise the use of relevant identifiers in a consistent manner for the purpose for which they are intended. In particular our understanding is that ISIN and UPI (currently in development) will be two separate ISO standards. This would indicate that there will be no formal multi-level hierarchy for the OTC ISIN. So whilst there will undoubtedly be a relationship between UPIs and OTC Derivative ISINs, likely a one to many relationship, this will not be baked into either standard. We note that the industry expectation is that the CFI, UPI, and OTC ISIN will operate in a strict hierarchy so that data alignment is maintained, to ensure consistent application and adoption. This approach is consistent with the intent of the original industry study group (ISO SG2) set up to investigate the requirements underpinning the adoption of identifiers for the OTC derivatives market.

Given this reality, and the close relationship between the UPI and OTC ISIN for the identification of OTC derivatives products and instruments, we once again recommend that ESMA performs an in-depth review of the role of the UPI and OTC ISIN in order to establish best practice use of each identifier for all regulatory use cases involving OTC derivatives. Such an analysis should include a full transaction lifecycle analysis of the different options, and be performed with industry input. This review should consider whether utilisation of the UPI in MiFIR reports may provide an alternate route to achieve the same benefits currently provided by the use of the OTC ISIN. The FIX Trading Community would be pleased to provide input to such a review.<ESMA_QUESTION_TRRF_30>

Q31 : Are there any specific aspects relating to the ISIN granularity reported in reference data which need to be addressed? Is the current precision and granularity of ISIN appropriate or is (for certain asset classes) a different granularity more appropriate?

<ESMA_QUESTION_TRRF_31>

As noted in our response to Q30, FIX proposes that a review with industry input be undertaken as to the optimum usage of the ISIN and UPI for OTC derivative products in regulatory reporting (including in MiFIR).

We are aware that the current granularity of data elements required against each OTC ISIN produces in some cases a large number of ISINs for very similar OTC products. It is important that ESMA works with the industry, including the FIX Community, in order to optimize the identification of OTC derivatives in regulatory reporting. This should include consideration as to whether the UPI could be considered as an alternate identifier for these products, and/or how the UPI can best be used in combination with the OTC ISIN. <ESMA_QUESTION_TRRF_31>

Q32 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_32>

We do not see any need for the level of extra detail ESMA is proposing to insert in the level one text articles concerning reference data standards used in MiFIR reporting. Such changes can be managed in the level 2 technical standards more effectively. As a standards organization it is important that where possible legislation maintains a level of flexibility to ensure that the implementation details can be adapted as standards choices change and develop.<ESMA_QUESTION_TRRF_32>

Q33 : Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

<ESMA_QUESTION_TRRF_33>

We do not see any need for the level of extra detail ESMA is proposing to insert in the level one text articles concerning reference data standards used in MiFIR reporting. Such changes can be managed in the level 2 technical standards more effectively, which can be adapted as standards choices change and develop.

To illustrate this, the industry has made significant improvements with respect to issuer and fund manager LEIs. However, while the described approach may work for primary listing regulated markets, secondary market MTFs have no ability to require issuers to provide LEIs. It would be even more challenging where such issuers are 3rd country entities and outside of any EU Regulation.

It is therefore important that where possible legislation maintains a level of flexibility to ensure that the implementation details can be adapted as standards choices change and develop.<ESMA_QUESTION_TRRF_33>