

**FIX Trading Community – Draft Responses to MiFID II/MiFIR ESMA Consultation Paper 25
February 2015-02-27**

Chapter 2 – Investor Protection

Q30. Do you agree with the approach taken by ESMA? Would a different period of measurement be more useful for the published reports?

We are fully supportive of the statements regarding standardised reporting and, in particular, using the same data standards as used for post-trade transparency.

Chapter 3 - Transparency

Q38. Do you agree with the proposal to determine on an annual basis the most relevant market in terms of liquidity as the trading venue with the highest turnover in the relevant financial instrument by excluding transactions executed under some pre-trade transparency waivers? Please provide reasons for your answers

Though this is not directly related to the question, we also strongly recommend that the identity of 'most liquid market' be made available as part of ESMA's consolidated instrument reference data extract (further elaboration on this point can be found in the response to Q235).

Q47 Do you agree with the proposed classes by average value of transactions and applicable standard market size? Please provide reasons for your answers.

We strongly recommend that the values for LIS and SMS be made available as part of ESMA's consolidated instrument reference data extract (further elaboration on this point can be found in the response to Q235).

Q49 Do you agree with the proposed list of information that trading venues and investment firms shall made public? Please provide reasons for your answers

We believe that the information should explicitly include a trade identifier. Where a trading venue or investment firm is reporting through an APA, then the APA should assign the trade identifier; otherwise, the reporting trading venue/investment firm should do this. As per our response to Q141 we further recommend that the format of trade IDs be defined such that trades from a single APA or reporting trading venue/investment firm can be unambiguously sequenced regardless of the level of granularity of timestamp used (e.g. by embedding a sequence number or similar) or that a distinct sequence number field be provided. We request therefore that RTS 8 Annex I Table 1 include an additional row for Trade ID.

For completeness, we would also like to see an additional row added to RTS 8 Annex I table 1 referring to Trade Identifiers (we note this could potentially be confused with 'Trade IDs' and hence suggest the term 'Trade Flags' be used instead). We further note that this list requires further structure as there are some identifiers that are complementary to each other and others that are not. For example, trade flags A and C are mutually exclusive (on the basis a trade message cannot be both a cancellation and an amendment) whereas other flags (e.g. the algorithmic flag, the deferred publication flag) can be used in conjunction with each other and certain other flags. We do not attempt to outline the available combinations here, this being work that will require both the final set of flags and subsequent scenario analysis, but emphasis that the MMT structure is designed to achieve precisely this and hence recommend it as the basis for such a model. We have significant experience in such modelling and would be happy to assist in this regard.

Finally, we note that mention is made in various places (e.g. the table in RTS 8 pertaining to this section) of ISO4217 for currency codes which does not (officially) support minor currencies (e.g. pence). So we therefore assume that all reporting is to be done in major currency but seek clarification on this point.

Q50 Do you consider that it is necessary to include the date and time of publication among the fields included in Table 1 Annex 1 of Draft RTS 8? Please provide reasons for your answer

The FIX Trading Community convened a working group of exchanges, market data vendors and sell side firms (the Trade Data Standardisation Working Group) to cover questions such as this. This specific topic was covered and the consensus opinion was ‘yes’ due to:

- The possibility of delay (e.g. due to technical faults).
- The possibility of cancellation or amendment on a day later than trade date (or even if on trade date, this will naturally happen at a time different to the time of execution).

For completeness, the APA publication ‘time’ should include the date and hence we recommend that RTS 8 Annex I Table 1 include the publication date and time in addition to the trading date and time. We note that we have made a similar recommendation for RTS 9 under our response to Q73.

Q51 Do you agree with the proposed list of flags that trading venues and investment firms shall made public? Please provide reasons for your answers

Some of this response also applies to questions 74 and 220 and hence relevant sections have been replicated for those questions.

We note that there is some overlap between the values that have been assigned in RTS 8 and 9 (i.e. for equity and non-equity instruments) and replicated in part under RTS 32 Annex I Table 1 for transaction reporting. To eliminate any potential for confusion or ambiguity we recommend that different values be assigned where there is currently an overlap. Specifically:

- “S” is used for “special dividend trades” for equities and “trades executed under the post-trade size specific deferral” for non-equities. We also note that value “D” exists for deferred trade reporting for equities and so suggest that either “D” be used to replace “S” for non-equities (i.e. in RTS 9 Annex I Table 2) or that a new letter (not present in either table) be assigned.
- “G” is used for “non price-forming trades” for equities and “daily aggregated transaction flag” for non-equities and so recommend that a new letter (not present in either table) be assigned in either the RTS 8 or RTS 9 table.
- Any changes made to the trade identifiers referenced in either RTS 8 or RTS 9 should be made, where appropriate, to the RTS 32 Annex I Table 1 (identifiers used in transaction reporting).

With regards to the ‘algorithmic order flag’ we note that it is possible for an algorithmic order to be executed against a non-algorithmic order and seek clarity as to whether the resultant execution should include the algorithmic order flag or not, noting that however this is done, this will result in ambiguity in counting algorithmic executions. We would also like to point out that the reference to the MiFID Article 4(1)(49) in the definition of this flag should be instead to Article 4(1)(39).

We note that values ‘T’ and ‘G’ have the same definition and recommend therefore that one be redefined or removed as appropriate (we note that the MMT coding, which was based on the original CESR technical advice on post-trade transparency, uses ‘T’ for this type of transaction). We note also that the distinction between flags N (negotiated trades in liquid financial instruments) and O (negotiated trades in illiquid financial instruments) can also be achieved by reference to ESMA’s instrument database. We therefore note that there are two possible implementations (noting that members do not have a consensus view as to which is better):

- Use the separate flags as per the current RTS.
- Use a single flag (N, say) for ‘negotiated trades subject to currency market price’) and refer to the liquid/illiquid instrument flag on reference data where further distinction is required. This option eliminates the risk of a reporting firm making an erroneous report due to incorrect or stale instrument data, though does require that when looking at historical data, correctly classifying trades on liquid instruments vs. illiquid instruments would require a history of any changes in liquidity status for such instruments.

Finally, as custodians of the MMT standard for trade reporting codes, we commit to any required modifications or extensions of the MMT standard to meet the requirements of MiFID/MiFIR and offer our assistance in any further analysis in this regard (specifically as regards the modelling of trade flag combinations as per our response to Q49).

Q73 Do you consider that it is necessary to include the date and time of publication among the fields included in Annex II Table 1 of Draft RTS 9? Please provide reasons for your answer

The FIX Trading Community convened a working group of exchanges, market data vendors and sell side firms (the Trade Data Standardisation Working Group) to cover questions such as this. This specific topic was covered and the consensus opinion was ‘yes’ due to:

- The possibility of delay (e.g. due to technical faults).
- The possibility of cancellation or amendment on a day later than trade date (or even if on trade date, this will naturally happen at a time different to the time of execution).

For completeness, the APA publication ‘time’ should include the date and hence we recommend that RTS 9 Annex II Table 1 include the publication date and time in addition to the trading date and time. We note that we have made a similar recommendation for RTS 8 under our response to Q50.

Q74 Do you agree with ESMA’s proposal on the applicable flags in the context of post-trade transparency?

Some of this response also applies to questions 51 and 220 and hence relevant sections have been replicated for those questions.

We note that there is some overlap between the values that have been assigned in RTS 8 and 9 (i.e. for equity and non-equity instruments) and replicated in part under RTS 32 Annex I Table 1 for transaction reporting. To eliminate any potential for confusion or ambiguity we recommend that different values be assigned where there is currently an overlap. Specifically:

- “S” is used for “special dividend trades” for equities and “trades executed under the post-trade size specific deferral” for non-equities. We also note that value “D” exists for deferred trade reporting for equities and so suggest that either “D” be used to replace “S” for non-

equities (i.e. in RTS 9 Annex I Table 2) or that a new letter (not present in either table) be assigned.

- “G” is used for “non price-forming trades” for equities and “daily aggregated transaction flag” for non-equities and so recommend that a new letter (not present in either table) be assigned in either the RTS 8 or RTS 9 table.
- Any changes made to the trade identifiers referenced in either RTS 8 or RTS 9 should be made, where appropriate, to the RTS 32 Annex I Table 1 (identifiers used in transaction reporting).

With regards to the ‘algorithmic order flag’ we note that it is possible for an algorithmic order to be executed against a non-algorithmic order and seek clarity as to whether the resultant execution should include the algorithmic order flag or not, noting that however this is done, this will result in ambiguity in counting algorithmic executions. We would also like to point out that the reference to the MiFID Article 4(1)(49) in the definition of this flag should be instead to Article 4(1)(39).

We note that values ‘T’ and ‘G’ have the same definition and recommend therefore that one be redefined or removed as appropriate (we note that the MMT coding, which was based on the original CESR technical advice on post-trade transparency, uses ‘T’ for this type of transaction). Finally, as custodians of the MMT standard for trade reporting codes, we commit to any required modifications or extensions of the MMT standard to meet the requirements of MiFID/MiFIR and offer our assistance in any further analysis in this regard (specifically as regards the modelling of trade flag combinations as per our response to Q49).

Q84. Do you agree with ESMA’s proposal with regard to the temporary suspension of transparency requirements? Please provide feedback on the following points:

We have no view on the proposal other than to ensure that such information be available in as real time as possible (and in a publicly available, machine readable and unambiguous format).

Q87. Do you agree with the proposed draft RTS in respect of implementing Article 22 MiFIR? Please provide reasons to support your answer

We have no view on the proposal but would be happy to assist in the generation of any data and/or messaging standards.

Q102. Is there any additional element to be addressed with respect to the testing obligations?

We recommend that trading venues be required to support test instruments (similar to those such as symbol ‘ZVZZT’ used in the US equity markets and similar products available on some European equity markets). We completely agree that systems should be tested adequately in dedicated test environments and that a live production environment is not to be used for such a purpose, while also recognising that there are certain types of tests that really can only be performed on the production system. Examples of the latter include:

- The first step of a controlled rollout of a new system or algorithm (or upgrade to an existing system or algorithm) to ensure that it processes market data and orders correctly.

- A regular start of day check to ensure that all components of an investment firm's trading infrastructure are functioning correctly and can connect to the trading venue.

Such test instruments should be made available on all venues across all asset classes and, where a trading venue operates sub-markets or trades multiple asset classes, that multiple test instruments exist for that venue in order to ensure adequate coverage of the technical and functional scope of that venue.

Test instruments should have complete reference data (including public instrument identifiers) and should be handled in trading venues' and investment firms' trading systems as 'normal' instruments. They must, however, be blocked from feeding any post trade settlements infrastructure.

Chapter 4 – Microstructural Issues

Chapter 5 – Data Publication & Access

Q139. Do you agree with this definition of machine-readable format, especially with respect to the requirement for data to be accessible using free open source software, and the 1-month notice prior to any change in the instructions?

Our opinion is that 3 months is more appropriate to allow for analysis, recoding and testing. We note that trading venues today typically provide at least 3 months' notice for such changes, both for changes to their trading system protocols/functionality and market data feeds.

Regarding the 'free open source software' we think the requirement should actually read 'free, non-proprietary and open standards', which we feel closer represents what ESMA are looking to achieve (in terms of avoiding vendor lock-ins) without mandating the presence of a free open-source software to fulfil the regulatory requirement. We also believe that the mandate to use open standards is required in order to facilitate consolidation of data, i.e. simply having machine-readable data is not by itself a sufficient requirement.

Q141. Do you agree that CTPs should assign trade IDs and add them to trade reports? Do you consider necessary to introduce a similar requirement for APAs

The FIX Trading Community convened a working group of exchanges, market data vendors and sell side firms (the Trade Data Standardisation Working Group) to cover questions such as this. This specific topic was covered and the view of that group was that APAs should assign trade ids (as otherwise you would end up with different CTPs carrying the same trade with different ids). This is not to say that CTPs cannot add supplementary IDs for their own technical or functional reasons, but the 'official' trade ID would always be that provided by the APA. We also recommend that the format of trade IDs be defined such that trades from a single APA can be unambiguously sequenced regardless of the level of granularity of timestamp used by the APA (e.g. by embedding a sequence number or similar) or that a distinct sequence number field be provided.

Q142. Do you agree with ESMA's proposal? In particular, do you consider it appropriate to require for trades taking place on a trading venue the publication time as assigned by the trading venue or would you recommend another timestamp (e.g. CTP timestamp), and if yes why?

The FIX Trading Community convened a working group of exchanges, market data vendors and sell side firms (the Trade Data Standardisation Working Group) to cover questions such as this. This group concluded that the minimum requirements for time stamping were the time of execution and the time of publication. For trading venues, the publication time would be the time the trading venue publishes the trade on its market data feeds. For investment firms using an APA, the publication time would be the time the APA published the trade (not the investment firm). We believe that CTPs should be able to add further timestamps if they desire for their own functional or technical reasons, but that is not a mandatory requirement. Specifically, it will be possible to identify any delays between APA publication and receipt of the data (whether or not this is caused by an intermediary CTP) without the need for further timestamps as the receiving firm/system can add its own timestamp at that point if required. For completeness, the APA publication 'time' should include the date. We note our response to Q50 where we recommend the addition of both publication time and data to RTS 8 Annex I Table 1.

Q143. Do you agree with ESMA's suggestions on timestamp accuracy required of APAs? What alternative would you recommend for the timestamp accuracy of APAs?

We note that there are requirements under section 8.3 of the CP to record details to microsecond accuracy or even lower based on the capabilities of the originating trading system or service, and so we recommend a similar approach here. We also note that, regardless of the level of granularity chosen, it would still in theory be possible to have two trades occurring so close to each other as to have the same timestamp, and recommend that either the trade identifier format be defined such that it achieves this, or that trades carry a sequence number to allow trades with the same timestamp to be unambiguously sequenced (i.e. takes the requirement from RTS 34 Article 5 paragraph 2 and applies this also to APAs).

Q144. Do you agree with ESMA's proposal? Do you think that the CTP should identify the original APA collecting the information from the investment firm or the last source reporting it to the CTP? Please explain your rationale

It is our view that each CTP trade report should both contain the identifier of the trading venue (or OTC etc. as appropriate) and the APA (where distinct from the trading venue). It is recommended that the venue identifiers be as defined elsewhere in the requirements on trade reporting (e.g. MICs) and that APAs be assigned identifiers with a centralised list published by ESMA.

Chapter 8 – Market Data Reporting

Q213. Which of the formats specified in paragraph 2 would pose you the most substantial implementation challenge from technical and compliance point of view for transaction and/or reference data reporting? Please explain.

It is the view of our members that:

- It is acceptable to use different protocols for transaction reporting and reference data transmission given the real time nature of the former and batch-like nature of the latter.
- We would like to note that there are potential implementation synergies in using a single protocol across asset classes and so recommend that the ability to operate across asset classes be an important consideration when selecting a protocol to use.

- The protocol(s) chosen should be free, open and non-proprietary with no ties to specific vendors or infrastructure. This minimises implementation cost and also keeps costs down on an ongoing basis.

The FIX protocol meets the above criteria and has a significant install base across the industry. Use of FIX for these requirements would, for many firms, involve building on something they already have and use heavily rather than building from scratch and so would significantly reduce implementation costs.

Q220. Do you foresee any problem with identifying the specific waiver(s) under which the trade took place in a transaction report? If so, please provide details

Some of this response also applies to questions 51 and 74 and hence relevant sections have been replicated for those questions.

We note that there is some overlap between the values that have been assigned in RTS 8 and 9 (i.e. for equity and non-equity instruments) and replicated in part under RTS 32 Annex I Table 1 for transaction reporting. To eliminate any potential for confusion or ambiguity we recommend that different values be assigned where there is currently an overlap. Specifically:

- “S” is used for “special dividend trades” for equities and “trades executed under the post-trade size specific deferral” for non-equities. We also note that value “D” exists for deferred trade reporting for equities and so suggest that either “D” be used to replace “S” for non-equities (i.e. in RTS 9 Annex I Table 2) or that a new letter (not present in either table) be assigned.
- “G” is used for “non price-forming trades” for equities and “daily aggregated transaction flag” for non-equities and so recommend that a new letter (not present in either table) be assigned in either the RTS 8 or RTS 9 table.
- Any changes made to the trade identifiers referenced in either RTS 8 or RTS 9 should be made, where appropriate, to the RTS 32 Annex I Table 1 (identifiers used in transaction reporting).

We note also that the distinction between flags N (negotiated trades in liquid financial instruments) and O (negotiated trades in illiquid financial instruments) can also be achieved by reference to ESMA’s instrument database. We therefore note that there are two possible implementations (noting that members do not have a consensus view as to which is better):

- Use the separate flags as per the current RTS.
- Use a single flag (N, say) for ‘negotiated trades subject to currency market price’ and refer to the liquid/illiquid instrument flag on reference data where further distinction is required. This option eliminates the risk of a reporting firm making an erroneous report due to incorrect or stale instrument data, though does require that when looking at historical data, correctly classifying trades on liquid instruments vs. illiquid instruments would require a history of any changes in liquidity status for such instruments.

Q222. Do you agree with the proposed standards for identifying these instruments in the transaction reports?

Regarding baskets, we recommend that, rather than attempting to have a number of instrument identifiers in a single field, the message be constructed using a nested data construct (e.g. repeating group of underlying instrument identifier and related data such as its code type).

Q228. Do you foresee any difficulties with the proposed differentiation between electronic trading venues and voice trading venues for the purposes of time stamping? Do you believe that other criteria should be considered as a basis for differentiating between trading venues?

As a standards body, we caution against anything that could create a false impression of accuracy. For example identifying the precise second in which voice trade can be said to have taken place simply may not be possible and as such believe it to be more appropriate to set timestamp granularity to minute intervals rather than second intervals, with the use of a sequence number to allow events to be sorted in the correct order.

Q233. Do you agree with the proposed criteria for calibrating the level of accuracy required for the purpose of clock synchronisation? Please elaborate

We agree with the overall approach. For firms that participate only in high touch business, we propose that clocks be synchronised to 1 second.

Q234. Do you foresee any difficulties related to the requirement for members or participants of trading venues to ensure that they synchronise their clocks in a timely manner according to the same time accuracy applied by their trading venue? Please elaborate and suggest alternative criteria to ensure the timely synchronisation of members or participants clocks to the accuracy applied by their trading venue as well as a possible calibration of the requirement for investment firms operating at a high latency

Current technology permits clock synchronisation to at least one microsecond and the fastest trading venues operating today match orders with a latency of around 50 microseconds. We believe that were a trading venue to move to a matching speed of under one microsecond, that the jump in clock synchronisation accuracy from 1 microsecond to 1 nanosecond is too great and instead recommend incremental steps of 100 nanoseconds, 10 nanoseconds and then 1 nanosecond. So for example, if a trading venue can match orders in 500 nanoseconds then it would be more appropriate for investment firms wishing to trade on that venue to synchronise their clocks to the nearest 100 nanoseconds rather than the nearest 1 nanosecond. It should be noted however that this could impose a significant cost, especially for smaller participants.

Q235. Do you agree with the proposed list of instrument reference data fields and population of the fields? Please provide specific references to the fields which you are discussing in your response

A number of new instrument attributes are mentioned in the MiFID/R documentation and it would significantly benefit the industry to have a single 'golden source' copy of such data, especially where the original source of such data may be the various NCAs. Having industry participants having to collate such data themselves and/or derive it themselves would impose an unnecessary implementation burden and inevitably result in the usage of erroneous data. It is therefore suggested that such attributes be added to ESMA's centralised instrument reference data file as per the list at RTS 33 Annex I. This would include:

- Large in scale value
- Standard market size
- Tick scale identifier
- Indicator of whether the instrument is subjected to the double volume cap and date on which this occurred
- Identity of most relevant market (using its MIC)

We also recommend that the reference data be stored with effective and termination dates ('bitemporal') as this provides support for future-dated data (e.g. details of an instrument in the process of listing, or where an annual calibration has resulted in an anticipated change in, for example, tick scale liquidity band). Having this data to load into the systems of investment firms in advance reduces operational risk.

Finally we note that there is no currency field in the table pertaining to equities (there are currency fields in the table but they are marked as being for specific products such as swaps or debt instruments). There are examples of instruments being listed on the same trading venue in multiple currencies and so currency is required to remove any ambiguity.