



## **FIX Trading Community's response to ESMA Consultation Paper – 23<sup>rd</sup> March 2016**

### **Introduction**

Please find below the responses from the FIX Trading Community to the Consultation paper. These responses have been prepared by the FIX Trading Community's MiFID subgroups relating to Clock Synchronisation, Order Data and Record Keeping, Microstructure and Reference Data. The FIX Trading Community has over 280 member firms spanning market operators, sell-side firms, buy-side firms, vendors, trade associations and regulators.

We have elected to respond to a sub-set of the questions asked and our responses are focused on the use of free and open standards to maximise simplification and minimise cost to the industry of implementing the measures outlined in MiFID II and MiFIR. We also note that there are areas where continuing analysis and more detailed specification will be required and, where those areas cross with our expertise, we would be glad to assist in this process.

The FIX Trading Community's responses to section 2 have been put together by its MiFID Microstructure subgroup and Order Data and Record Keeping subgroups, covering all aspects of RTS 6 including record keeping. We note that the order record keeping requirements of RTS 6 (investment firms) are similar to those for RTS 24 (trading venues) and, while noting that this consultation paper explicitly refers to RTS 24, have taken the opportunity to provide comments on the implications for investment firms' obligations under RTS 6. This has included some analysis of various trading scenarios to consider how the two sets of record keeping requirements can be used to produce a full record of trading detail without imposing an excessive implementation burden on industry participants.

As always we appreciate your thoughts on our comments and are of course open to further dialogue to help the industry to implement these requirements.

#### **Q47: Are there any other swap scenarios which require further clarification?**

Comment 1 – Inclusion of examples for the population of associated RTS 23 fields

For some interest rate swap scenarios, there appears to be an overlap between the fields in RTS 22 and RTS 23. In these cases, we suggest that the scenarios provide examples for how to populate both the RTS 22 and RTS 23 fields, in order to remove any ambiguity.

For example, we note that scenario (g), Plain-vanilla interest rate swap traded on a trading venue (instrument available in the ESMA list), requires the population of the ISIN, together with the fixed rate of the swap (field 33 of RTS 22). We further note that RTS 23 defines the fixed rate of the instrument as part of the static reference data of the ISIN (fields 43/44 of RTS 23).

Given the overlap of fields between the RTS 22 and RTS 23, we believe extending the scenarios for derivative instruments to include the population of the RTS 23 fields in addition to the existing examples on RTS 22 fields will be extremely valuable to provide clarity.

For example, it is unclear from the existing scenario how to handle the case where the fixed rate value supplied with the ISIN reference data (RTS 23) is different from the fixed rate of the reported transaction (RTS 22).

- If the fixed rates in the transaction report and the reference data report always need to match, what is the purpose of supplying the value in RTS 22, given that it has already been supplied in RTS 23?
- If they can be different, what is the purpose of supplying the fixed rate value in RTS 23?

Comment 2 – Inclusion of examples where the pricing for the swap transaction is not based on the fixed rate.

Continuing with scenario (g), Plain-vanilla interest rate swap traded on a trading venue (instrument available in the ESMA list), we note the example is for a trade that has been negotiated based on the fixed rate of the swap.

However, for some interest rate swaps trades, the fixed rate may be constant and the negotiation may be on the spread over the floating rate. Other interest rate swap trades may have constant fixed rate and constant spread over the floating rate, and the price negotiation is over the initial fee.

It is unclear how to indicate the type of price (whether it is a fixed rate or a spread over the floating rate or whether it is the initial fee) within the transaction report. It is also unclear whether the above 3 cases will result in different types of instruments and therefore different entries in the RTS 23 reference data fields or the same instrument/ISIN but 3 different types of transaction reports.

Therefore it will be useful to have these cases as additional scenarios to provide clarity.

#### **Q50: Is the difference between aggregated orders and pending allocations sufficiently clear?**

Yes, the difference is clear.

**Q51: Do you require further clarity on the proposals made in sections 2.1 to 2.11? Please elaborate.**

## **2.2 Sequence number**

We welcome the clarification that trading venues may maintain unique sequence numbers at the matching engine level. Maintaining a sequence across multiple matching engines is unlikely to be accurate. Timestamping will allow regulators to rebuild activity across matching engines in a more meaningful way.

In RTS 6 annex 2 table 3 (field 25) Sequence number we note that the description suggests the investment firm assigns a unique sequence number across all of its trading activity. In any distributed trading infrastructure or record keeping architecture, it would not be practical to apply sequencing of records across trading systems. The implementation effort would be significant for those firms who operate such distributed systems. The combination of sequencing within each trading system and the available timestamp information should be sufficient to determine the order of events should further investigation be required. We assume that orders processed by non-electronic means (e.g. phone calls) would still require sequence numbering which also argues for having them sequenced separately to other (perhaps electronic) order flows.

We would also like to comment on RTS 6 annex 2 table 3 field 26 (type of event). The list of event types used in RTS 6 is the same as that from RTS 24 and includes a number of events that are not currently communicated to investment firms from trading venues, for example:

- Iceberg order refreshes
- Peg order refreshes
- Stop order triggers

We note that requiring trading venues to publish this information and their members/participants to receive and store it would require considerable implementation effort and would simply result in the same information being recorded twice. We therefore recommend that the RTS 6 usage of this field be limited to events other than those listed above (i.e. everything that trading venues communicate to their members/participants already) and seek clarity that this is actually the intention of RTS 6. We are also assuming that RTS 6 annex 2 table 3 only contains records for event notifications **received** from trading venues (or other investment firms), not events arising from sending orders/cancellations/amendments **to** trading venues/investment firms.

We have provided two simple examples to indicate how we are interpreting the record keeping requirements, noting that there are many more examples (including RFQ trading) which would also require analysis and we would be glad to assist in that regard.

An investment firm sending an order to a trading venue which acknowledges it and fills it. This would result in the following records being generated in the order shown (note in these scenarios, all investment firms are assumed to be covered by the HFT record keeping requirements):

Record Creator	Record Type	Description
Investment firm	RTS 6 annex 2 table 2	For the order being generated by the investment firm
Trading venue	RTS 24	Event type NEWO (for the order acknowledgement by the trading venue)
Investment firm	RTS 6 annex 2 table 3	Event type NEWO (for the same order acknowledgement)
Trading venue	RTS 24	Event type FILL (for the full fill by the trading venue)
Investment firm	RTS 6 annex 2 table 3	Event type FILL (for the same fill)

Where an investment firm is acting as a DEA client using a second investment firm (a DEA provider) to access a trading venue, then the following records would be generated:

Record Creator	Record Type	Description
DEA client	RTS 6 annex 2 table 2	For the order being generated by the DEA client
DEA provider	RTS 6 annex 2 table 2	For the order being generated by the DEA provider
Trading venue	RTS 24	Event type NEWO (for the order acknowledgement by the trading venue)
DEA provider	RTS 6 annex 2 table 3	Event type NEWO (for the same order acknowledgement)
DEA client	RTS 6 annex 2 table 3	Event type NEWO (for the same order acknowledgement)
Trading venue	RTS 24	Event type FILL (for the full fill by the trading venue)
DEA provider	RTS 6 annex 2 table 3	Event type FILL (for the same fill)
DEA client	RTS 6 annex 2 table 3	Event type FILL (for the same fill)

## 2.7 Client id (and investment decision/execution within firm ids)

The clarification that only the direct client should be populated is helpful. It would also be useful to positively confirm that this field should be left blank when a participant has traded as principal, and should be populated when they have traded as agency or matched principal.

Further to the above, we have discussed the usage of the Client id (RTS 6 annex 2 table 2 field 2 and RTS 24 table 2 field 3), Investment decision id (RTS 6 annex 2 table 2 field 6 and RTS 24 table 2 field 4) and Execution within firm id (RTS 6 annex 2 table 3 field 4 and RTS 24 table 2 field 5) and have drawn up some example trading scenarios with a request for you to validate or otherwise correct our thinking (assume that all investment firms in these scenarios are covered by the RTS 6 record keeping requirements):

### Scenario 1: Investment firm trading on own account using an algorithm

Event	RTS table	Client id	Invest decision	Execution within firm
Investment firm's algorithm sends an order	RTS 6 table 2	Blank	Firm's algo id	n/a
	RTS 24	Blank	Firm's algo id	Firm's algo id
	RTS 6 table 3	n/a	n/a	Firm's algo id

*Scenario 2: Investment firm trading on own account manually*

Event	RTS table	Client id	Invest decision	Execution within firm
Investment firm trader sends an order manually	RTS 6 table 2	Blank	Trader's id	n/a
	RTS 24	Blank	Trader's id	Trader's id
	RTS 6 table 3	n/a	n/a	Trader's id

*Scenario 3: Investment firm acting as a DEA client going through a DEA provider, where the DEA provider is routing orders to venues without using an algorithm*

Event	RTS table	Client id	Invest decision	Execution within firm
DEA client trader sends an order to DEA provider to send to a specific trading venue	RTS 6 table 2	Blank	DEA client trader's id	n/a
	RTS 6 table 3	n/a	n/a	DEA client trader's id
DEA provider sends the order to the trading venue	RTS 6 table 2	DEA client's LEI	Blank	n/a
	RTS 24	DEA client's LEI	Blank	DEA provider trader's id
	RTS 6 table 3	n/a	n/a	DEA provider trader's id

*Scenario 4: Investment firm execution via a broker (another investment firm), where the broker is routing orders to venues using an algorithm (e.g. smart order router)*

Event	RTS table	Client id	Invest decision	Execution within firm
Investment firm "client" trader sends a smart routable order to the broker	RTS 6 table 2	Blank	DEA client trader's id	n/a
	RTS 6 table 3	n/a	n/a	DEA client trader's id
Broker's smart router sends the order to a trading venue	RTS 6 table 2	Client's LEI	Blank	n/a
	RTS 24	Client's LEI	blank	Broker's algo id
	RTS 6 table 3	n/a	n/a	Broker's algo id

## 2.8 Liquidity provision

We believe that clarification of scenario c) is required. Where a firm is executing orders on behalf of a client we don't believe that the firm itself is engaged in a liquidity provision activity. The client maybe, but this would not necessarily be known by either the participant or the trading venue and wouldn't be captured under the trading venue order record keeping requirement.

**Q52: Do you agree require further clarity on the proposals made in section 2.12? Please elaborate.**

2.12.1.1 Receipt of new order – here and elsewhere the text uses the term “received by the gateway” to describe the moment an event is timestamped. Such an approach is likely to lead to records that do not makes sense when rebuilding order book activity. Not only is gateway an imprecise term, it will lead to inaccuracy as many messages bound for one order book could route through different gateways, with different latencies. Article 4 of RTS 24 states that “except for the recording of the date and time of the rejection of orders by trading venue systems, all events referred to in field 21 of the Annex shall be recorded using the business clocks used by trading venue matching engines.”

2.12.9 – Trading phases – the worked example for auctions includes a record for indicative uncrossing price and volume. Different venues have different approaches to implementing auction transparency and the production (if at all) of indicative uncrossing price and volume. These might be produced by a system that is separate to the matching engine. Accordingly, there is a risk that, as a result of latency between the matching engine and the market data system, the timestamps don’t allow for accurate sequencing.

Other venues that operate auctions may publish full order book depth along with the details of their uncrossing algorithm to meet the transparency requirement, rather than publishing a real time uncrossing price and volume. In this case the venue should not be required to create a record of something that has not been produced.

This could be addressed by adding guidance with the example stating that the indicative uncrossing price and volume need only be included where those values are generated in real time by the matching engine.

In all other cases, given that NCAs will have full records of all orders, it would make more sense to use the logic of the auction algorithm to reconstruct the indicative uncrossing price and volume if required.

We have taken the opportunity to consider how order identifiers and related fields work with specific reference to:

- RTS 6 annex 2 table 2 field 7 Initial order designation.
- RTS 6 annex 2 table 3 field 5 Submitted order id.
- RTS 6 annex 2 table 3 field 6 and RTS 24 field 20 Order identification code (we are assuming that for orders sent to trading venues, these two order identifiers should be the same in both tables).
- RTS 6 annex 2 table 3 field 26 and RTS 24 field 21 Event type.

We have provided four simple examples to indicate how we are interpreting the record keeping requirements, noting as before that there are many more examples (including RFQ trading) which would also require analysis and we would be glad to assist in that regard.

***Scenario 1: Investment firm trading on a trading venue***

Event	Record creator	RTS table	Initial order id	Submitted order id	Order id code	Event type
Investment firm sends an order to a trading venue	Inv firm	RTS 6 table 2	IF1	n/a	n/a	n/a
Trading venue acknowledges the order	Trading venue	RTS 24	n/a	n/a	TV1	NEWO
	Inv firm	RTS 6 table 3	n/a	IF1	TV1	NEWO
Trading venue fills the order	Trading venue	RTS 24	n/a	n/a	TV1	FILL
	Inv firm	RTS 6 table 3	n/a	IF1	TV1	FILL

***Scenario 2: Investment firm acting as a DEA client accessing a trading venue through a DEA provider***

Event	Record creator	RTS table	Initial order id	Submitted order id	Order id code	Event type
DEA client sends an order to DEA provider	DEA client	RTS 6 table 2	DC1	n/a	n/a	n/a
DEA provider sends the order to a trading venue	DEA provider	RTS 6 table 2	DP1	n/a	n/a	n/a
Trading venue acknowledges the order	Trading venue	RTS 24	n/a	n/a	TV1	NEWO
	DEA provider	RTS 6 table 3	n/a	DP1	TV1	NEWO
	DEA client	RTS 6 table 3	n/a	DC1	DP1	NEWO
Trading venue fills the order	Trading venue	RTS 24	n/a	n/a	TV1	FILL
	DEA provider	RTS 6 table 3	n/a	DP1	TV1	FILL
	DEA client	RTS 6 table 3	n/a	DC1	DP1	FILL

It would appear from the examples given in section 2.12 of the consultation paper that order ids do not change when orders are cancelled or replaced, for example:

*Scenario 3: Investment firm sends an order to a trading venue and then cancels it*

Event	Record creator	RTS table	Initial order id	Submitted order id	Order id code	Event type
Investment firm sends an order to a trading venue	Inv firm	RTS 6 table 2	IF1	n/a	n/a	n/a
Trading venue acknowledges the order	Trading venue	RTS 24	n/a	n/a	TV1	NEWO
	Inv firm	RTS 6 table 3	n/a	IF1	TV1	NEWO
Investment firm cancels the order						
Trading venue accepts the cancellation	Trading venue	RTS 24	n/a	n/a	TV1	CAME
	Inv firm	RTS 6 table 3	n/a	IF1	TV1	CAME

*Scenario 4: Investment firm sends an order to a trading venue and then amends it*

Event	Record creator	RTS table	Initial order id	Submitted order id	Order id code	Event type
Investment firm sends an order to a trading venue	Inv firm	RTS 6 table 2	IF1	n/a	n/a	n/a
Trading venue acknowledges the order	Trading venue	RTS 24	n/a	n/a	TV1	NEWO
	Inv firm	RTS 6 table 3	n/a	IF1	TV1	NEWO
Investment firm amends the order	Inv firm	RTS 6 table 2	IF1			
Trading venue accepts the cancellation	Trading venue	RTS 24	n/a	n/a	TV1	CAME
	Inv firm	RTS 6 table 3	n/a	IF1	TV1	CAME

Note in this scenario, RTS 6 article 28 only refers to ‘each placed order’ with no reference to order amendments so we would like to confirm what the record keeping obligation is for investment firms under RTS 6 with regards to order amendment, e.g.:

- No RTS 6 annex 2 table 2 record at all for the amendment
- An RTS 6 annex 2 table 2 record for the order details using the original order’s order id (as per the table above)
- An RTS 6 annex 2 table 2 record for the order details using a new order id

**Q53: Do you require further clarity on the proposals made in section 2.13? Please elaborate.**

The proposals provide sufficient clarity for RFQ recordkeeping at this point.



**Q54: Are there any further clarifications required on the concept of ‘reportable event’? If yes, please elaborate.**

No, we do not believe further clarification from ESMA is required. We are pleased ESMA has taken the approach that reportable events are functional or business events, as opposed to technical events, such as when a message enters or leaves a switch, which would be unworkable. A functional approach enables the reporting entity to determine how to apply the timestamp to reportable events, provided this is done consistently and is appropriately documented.

**Q55: Is it sufficiently clear at what point OTC transactions shall be time-stamped? If not, please elaborate.**

We believe it is clear for genuinely OTC transactions. However, there is a related scenario where we believe clarity from ESMA would be helpful. Table 2 of RTS 25 makes it clear that members or participants of trading venues are required to timestamp negotiated transactions to a granularity of 1 second. However, the venues that process and publish those transactions are required to timestamp all events to one millisecond or microsecond, depending on their gateway to gateway latency. While venues are able to timestamp to the appropriate level of granularity the specific time that the trade was reported and published to the market, they are dependent on the member or participant that reports a negotiated transaction to provide the trade time. If venues are required to record and publish a trade time with that enhanced level of granularity then they would have to impose that higher level of granularity on the member or participant, removing the very reasonable latitude that would otherwise be allowed under Table 2.

We don't believe that this is ESMA's intention so it would be helpful to include either a clarifying statement, or an additional row in Table 1 for negotiated transactions and other transactions where the time of the trade is determined outside a venue's systems.

**Q1: Do you require further clarity on the content of Article 4 of RTS 25? Please elaborate.**

No, we do not require ESMA to provide further clarity. We support ESMA's approach of not being overly prescriptive in terms of establishing a system of traceability to UTC. We are pleased to see that ESMA's approach allows flexibility in implementation, avoiding any mandatory external validation, while focused on the demonstration of sound engineering principles such as measurement and monitoring to evidence good practice. This allows firms of all sizes to choose either in-house or external services, as best fits their needs.

**Q2: Do you agree with the proposals made in sections 3.2 to 3.4? Please elaborate. Are there any further clarifications required?**

Yes, we broadly agree with the proposals in sections 3.2 to 3.4