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FIA Response to ESMA's Consultation Paper on the Review of RTS 22 on transaction data reporting under Art. 26 and RTS 24 on order book data to be maintained under Art. 25 of MiFIR

The Futures Industry Association (FIA)¹ welcomes the opportunity to respond to ESMA's [consultation paper](#) setting out proposed revisions to the technical standards RTS 22 and RTS 24.

FIA's feedback includes comments on several elements of ESMA's proposals. These are addressed in response to ESMA's questions below.

Q8: Do you have any further comment or suggestion in relation to the inclusion of a new field to capture the effective date in transaction reports?

FIA response:

FIA members welcome ESMA's ongoing efforts to standardise and harmonise reporting requirements across EU reporting regimes, including MiFIR, EMIR and SFTR. Furthermore, we support efforts to streamline reporting obligations in order to reduce costs and complexities whilst ensuring that regulatory bodies collate necessary data components in order to conduct market oversight duties, including detection of market manipulation and assessing systemic risk in derivative markets.

With that being said, it is essential that any updates or changes to reporting requirements must be proportionate and must be considered essential to fulfilling the objectives of that particular reporting regime.

In the case of MiFIR transaction reporting, the objective is to provide complete and accurate data in order to assist regulatory bodies in monitoring of market abuse and market integrity.

FIA members are not convinced that the addition of a new field to capture the effective date, in order to identify the date when the obligation under the transaction in financial instruments becomes effective, provides additional benefits to regulators in order to detect market abuse.

This sentiment is especially true when we consider exchange-traded instruments where a future forward date is not applicable.

FIA recommends that ESMA reconsiders proposals to include a new field to capture the effective date. If ESMA were to take this proposal forward, we recommend that ESMA explicitly state within the revised RTS that this new field does not apply to ETD contracts.

¹ FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, DC. Our membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers.



Q11: Do you agree with the assessment that the TVTIC reporting requirement applies to all type of on venue executed transactions (e.g., negotiated trades)?

FIA response:

FIA members agree with ESMA's assessment that the obligation to report the TVTIC should apply to all on-EEA venue transactions. Furthermore, FIA agrees that the obligation to generate and disseminate the TVTIC should originate from the Trading Venue operator.

As such, FIA agrees that ESMA should take all necessary steps to ensure the consistent transmission of the TVTIC for transactions executed on EEA venues in order to minimise data quality issues that presently exist. The validation rules must be implemented accordingly, requiring the mandatory submission of this information for transactions concluded on EEA venues when field 36 (Venue) is populated with a valid EEA venue MIC code.

While FIA agrees with ESMA's assessment relating to on-EEA venue transaction, our members are concerned by ESMA's proposal to extend the reporting of such code (TVTIC or other) to transactions executed on non-EEA venues.

We are concerned that ESMA lacks the jurisdictional authority over non-EEA venues to mandate that they generate and disseminate a TVTIC. As a result, this will severely impact ESMA's proposal set out within the Consultation Paper as non-EEA venues have no regulatory obligation to generate and share a TVTIC.

Furthermore, global regulatory authorities who oversee non-EEA venues may view ESMA's proposal as regulatory overreach where ESMA attempts to place certain requirements venues beyond its purview.

To reduce inaccuracies and the potential for incomplete reporting, ESMA is encouraged to seek alternative solutions. An option may be to align the approach for the reporting of trades on non-EEA venues with trades executed off-venue.

One suggestion may be to develop a waterfall to address industry concerns. If a non-EEA venue fails to generate and disseminate a TVTIC, counterparties should establish arrangements to ensure that a unique code is generated and shared amongst parties within the execution chain. This would align with ESMA's proposals relating to the new transaction identification code (TIC) set out within the consultation paper.

An important distinction should be made in relation to the UK. Given that MiFIR reporting obligations apply within the UK, it should be noted that UK venues, unlike other non-EEA venues, will generate and disseminate a TVTIC. FIA members share the view that ESMA's revised RTS should clearly state that where a TVTIC is provided by EEA/UK venues, this code should be populated within relevant transaction reports.

FIA members welcome guidance from ESMA in order to define the TVTIC code's syntax that combines and concatenates information such as ISIN and LEI of the generating entity, alongside other data attributes such as Date, Time and Quantity. This would streamline the generation and concatenation process, ensuring consistency and uniqueness, whilst also allowing for counterparties to generate and disseminate the TVTIC independently in the scenario where a non-EEA venue fails to comply with ESMA's proposal.



Q12: Do you have views on how to improve the consistency of the reporting of TVTICs? Please provide your view on the proposal of making mandatory the reporting of such information in validation rules when the MIC code is provided.

FIA response:

Reporting of the MIC code is essential for regulatory oversight as it provides regulatory authorities with information as to where the trade was executed.

FIA members share the view that reporting of TVTIC should not be mandatory based on the reporting of the MIC code.

As noted in our response to Q.11, we encourage ESMA to work with industry stakeholders in order to ensure the consistent transmission of the TVTIC for transactions executed on EEA venues in an effort to minimise data quality issues that presently exist.

With respect to non-EEA venues, FIA members caution against the proposals set out within the Consultation Paper for the reasons outlined in our response to Q.11.

FIA members do not support the rollout of TVTIC to non-EEA venues and we encourage ESMA to seek alternative solutions. One suggestion may be to develop a waterfall whereby, if a non-EEA venue fails to generate and disseminate a TVTIC, counterparties should establish arrangements to ensure that a unique code is generated and shared amongst parties within the execution chain. This would align with ESMA's proposals relating to the new transaction identification code (TIC) set out within the consultation paper.

FIA members welcome guidance from ESMA in order to define the TVTIC code's syntax that combines and concatenates information such as ISIN and LEI of the generating entity, alongside other data attributes such as Date, Time and Quantity. This would streamline the generation and concatenation process, ensuring consistency and uniqueness, whilst also allowing for counterparties to generate and disseminate the TVTIC independently in the scenario where a non-EEA venue fails to comply with ESMA's proposal.

Q13: Do you have views on how to improve the consistency of the TVTIC (non-EEA TV TIC) generation process for transactions executed in non-EAA venue? Please provide your view on the proposed syntax methodology based on the already reported fields or suggest alternatives.

FIA response:

As noted within our response to Q.11, in an effort to reduce inaccuracies and the potential for incomplete reporting as a result of requesting compliance by non-EEA venues, we encourage ESMA to seek alternative solutions and believe there may be benefits to aligning the approach for the reporting of trades on non-EEA venues with trades executed off-venue as explained in our response to Q.11 and Q.12.



Q14: Do you agree with the proposal of identifying the non-EEA TV as the primary entity responsible for the creation of the non-EEA TV TIC code and for disseminating it?

FIA response:

FIA members do not agree with the proposal of identifying the non-EEA Trading Venue as the primary entity responsible for the creation and dissemination of TVTIC for trades on non-EEA venues.

As noted in our response to Q.11, we are concerned that ESMA lacks authority over non-EEA venues to place the obligation of creating and disseminating the TVTIC code. As a result, this will severely impact ESMA's proposal set out within the Consultation Paper given that non-EEA venues do not have a regulatory obligation to generate and share a TVTIC. . Without binding regulatory obligation, successful implementation will be severely impacted.

Furthermore, global regulatory authorities who oversee non-EEA venues may view ESMA's proposal as regulatory overreach where ESMA attempts to place certain requirements venues beyond its purview.

FIA members stand ready to engage further with ESMA and welcome feedback on proactive steps that ESMA plans to take in order to change the process where non-EEA venues currently do not generate and disseminate a TVTIC where they have no regulatory obligation to fulfill such duty.

Q17: Do you have any further comment or suggestion in relation to the inclusion of a new field (INTC identifier) to capture in detail the aggregate orders? Please provide views on the proposed methodology for defining a common syntax or suggest valuable alternatives

FIA response:

FIA members are concerned that the syntax proposed within the consultation paper will not work in the scenario where multiple (partial) street-side executions occur (assuming that the execution timestamp refers to the execution of the street-side order). We encourage ESMA not to be overly prescriptive and ask that the generation of the internal ID code, and the logic used to determine this, is left to the investment firm.

Q19: Do you agree with the proposal of how to report such additional field to identify and link chains in transaction reports? Please provide views on the key information to be considered for defining a common methodology for the syntax. Otherwise, please suggest alternatives for defining it and improve the linking process among chains.

FIA response:

FIA members are concerned by ESMA's proposal to include a new and unique code (Chain Identifier) that is transmitted across all counterparties involved in the chain flow. This proposal is a new form of data generation and dissemination which does not exist today.

While linking transaction reports within a chain would improve ESMA's ability to link the trading pattern's history and reduce double counting for the same transaction, market participants share the view that the Chain Identifier, as proposed by ESMA, would not work in practice for a number of reasons.



MiFIR transaction reporting is a T+1 reporting regime. Some reporting entities have established frameworks to essentially allow for real-time reporting. Subject to the number of entities within a given chain, passing the Chain Identifier code across all counterparties will put significant strain on reporting firms and may threaten firms' ability to satisfy the T+1 reporting deadline. Furthermore, adopting the Chain Identifier would severely limit a firm's ability to conduct real-time reporting.

In order for this identifier to be successfully implemented, transmission of the chain identifier would need to be a real-time process, for example, via real-time execution confirmations. It is our understanding that messaging services do not currently support this.

Furthermore, the implementation of this identifier is likely to force DEA providers to insert this identifier in the execution confirmations before sending confirmations to clients. This process will cause latency issues. Similarly, for the service of sponsored access, the sponsored access provider (who will be responsible for generating the chain identifier) does not forward execution confirmations to the client. As a result, a new communication link between sponsored access provider and client would need to be established.

In the case of INTC executions, each client leg is the start of a separate chain for which the investment firm that is executing the INTC transactions will have to create a chain identifier.

Challenges in adopting a linking code across all entities within a chain are further compounded in the event that non-MiFIR firms and/or non-EEA venues are counterparties within the chain. In this scenario, transmission of a unique code will break given that these entities have no regulatory obligation to transmit the code to their counterparty.

Another barrier to successfully implementing the code will exist where an entity, who has transmitted the order, does not have a reporting obligation yet arguably forms part of the chain. As such, providing an identifier to a non-reporting entity, with the expectation that they share the identifier further within the chain, is not a practicable solution.

The challenges and barriers to successful implementation of the Chain Identifier code outweigh any benefits offered to regulatory authorities. As a result, we encourage ESMA to reconsider this proposal and consider alternative methods of linking transaction reports within a chain.

ESMA may wish to consider establishing standard practices on how to construct the identifier, for example, by concatenating specific attributes of existing fields. This potential solution will alleviate the dependencies on firms further up the chain who may not be mandated to share this.

Similar efforts under other regulatory reporting regimes, for example, the Unique Trade Identifier and Report Tracking Number under EMIR remain error-prone despite years of industry best efforts.

Q20: Do you agree with the proposal of identifying the entity executing transaction as the primary entity responsible for the creation of such code and for disseminating it?

FIA response:

As highlighted in our response to Q.19, FIA members are concerned by ESMA's proposal to include a new and unique code (Chain Identifier) to be transmitted across all counterparties involved in the chain flow. The



challenges and barriers to successful implementation of the Chain Identifier code outweigh the benefits offered to regulatory authorities. As a result, we encourage ESMA to reconsider this proposal and consider alternative methods of linking transaction reports within a chain.

While linking transaction reports within a chain would improve ESMA's ability to link the trading pattern's history and reduce double counting for the same transaction, market participants share the view that the Chain Identifier, as proposed by ESMA, would not work in practice for the reasons set out in our response to Q.19 above.

Q22: Do you see a need to specify the 'date by which the transaction data are to be reported' different from the date of application of the relevant RTS 22 or have other comments with regards to the proposed timeline? If so, please specify.

FIA response:

FIA members seek clarification from ESMA on the proposed timeline by which the transaction data is to be reported. There appears to be a discrepancy within the consultation paper. Paragraph 86 states that the application date should be '12 months from when the technical documentation is available'. However article 17 of draft RTS 22, it is noted that the implementation timeframe is 18 months after the entry into force.

FIA recommends that an 18-month implementation should be adopted and should commence once the final RTS and updated validation table(s) are published by ESMA.

This 18-month implementation timeline mirrors recent changes under EMIR Article 9 (EMIR Refit) and will grant sufficient time to ensure readiness and address any discrepancies.

Q26: Do you agree with the proposed approach for the alignment of reporting of the information related to price?

FIA response:

FIA members welcome ESMA's ongoing efforts to standardise and harmonise reporting requirements across EU reporting regimes, including MiFIR, EMIR and SFTR.

Aligning the reporting of information related to price is a positive step. In order to do so, ESMA must ensure that the reporting obligations are clear. Section 4.17 entitled 'Price, notional and quantity fields' of ESMA's Guidelines, published to provide clarification regarding the compliance with the EMIR technical standards, states that, for certain derivative contracts, including but not limited to, interest rate options, equity options and commodity options, the Price field should not be reported as it is understood that the information in fields 'Strike price' and 'Option premium amount' are interpreted as the price of the derivative.

We welcome feedback as to whether ESMA intends to align the reporting requirements under MiFIR and EMIR to state that Price should not be reported for certain derivative contracts and, rather this should be reflected in the Strike Price and Option Premium Amount fields.



Q27: Do you agree with the proposed alignment of the concept of complex trades with EMIR?

FIA response:

Agreed

Q28: Do you agree with adding the field ‘Package transaction price’ to align the reporting under MiFIR with EMIR Refit and CDE Technical Guidance?

FIA response:

ESMA’s proposal is to capture the price of the entire package. While the ‘Price’ field in each transaction report would reflect the price of the individual component, FIA members support this alignment as the existing reporting of strategy or average price is misleading and can lead to inaccuracies in reported data.

Q29: Do you agree with the proposed additional fields to allow for the reporting of the ISO 24165 Digital Token Identifier for DLT financial instruments and underlyings?

FIA members support the adoption of standards and identifiers in order to improve efficiencies and usability of reporting data.

To ensure that the implementation of the ISO 24165 Digital Token Identifier (DTI) is successful, we encourage ESMA to share guidance to enable firms to identify the DLT “financial instrument code” and “underlying identification code” in transaction reports for financial instruments that are natively issued on a blockchain and for financial instruments that are re-issued in a tokenised form.

Given that a DLT financial instrument or underlying may be admitted to and/or traded on a regulated market, we anticipate that these products would, or at least should, have an ISIN.

It is our interpretation, therefore, that in such instances, the report would include an ISIN and a DTI. Furthermore, it is our interpretation that the ISIN remains essential in order to capture details of the security while the DTI capture details relating to the token. As such, in this instance, one identifier does not supersede the other. Clarification on these assumptions would be appreciated.

We understand that there may be instances where multiple DTIs may be linked to a specific ISIN. In this scenario, guidance from ESMA is necessary to understand expectations.

Q30: Do you agree with the proposed amendments to Art.4 to extend the transmission of order agreement also to cases of acting on own account? Please detail your answer.

FIA response:



FIA members see have no major concerns with the proposed amendments to Art. 4 but request that ESMA provide further guidance on its impact and relationship to field 25 ‘Transmission of order indicator’.

FIA members argue that the inclusion of ‘TBUY’ and TSEL’ are somewhat redundant given this information can be obtained via fields 26 ‘Transmitting firm identification code for the buyer’.

Q31: Do you agree with the proposed amendments to Art.7 to include specific cases of portfolio and fund managers? Please detail your answer.

FIA response:

FIA members are concerned that ESMA’s efforts to clarify Article 7 may lead to inconsistencies in interpretation due to the various roles that may exist during the process of executing a trade.

Our interpretation of 109 within the Consultation Paper reflects the scenario where an investment firm with a discretionary mandate, or an individual on the investment firm’s payroll, has authority to manage a specific client (investment/portfolio manager) fund.

When considering submission of transaction reports relating to activity for the fund, this field will be populated where the decision maker is the individual on the investment firm/broker’s payroll. Our expectation is that this scenario is not a regular occurrence.

Further guidance from ESMA would be appreciated in order to be more precise in terminology by defining each of the roles described in 109 of the Consultation Paper.

Q33: Do you support inclusion of the new fields listed above? Please provide details in your answer.

FIA response:

With respect to ESMA’s proposals relating to the inclusion of a new field relating to client categorization, FIA share the view that while the proposal set out in 4.2.5 may help to facilitate NCAs to accurately identify retail clients, for example, for the purpose of monitoring of the distribution of certain complex products to investors or to identify market trends when analysing the data on transaction reporting, the issues noted by ESMA which must be addressed appear to go beyond this.

Historically, ESMA has highlighted deficiencies in the oversight of emissions markets. We believe that the proposal set out in 4.2.5 will not resolve this issue.

Is it correct to assume that this new field would only be applicable for the clint-facing report? In addition, which category does this identifier apply? Should this refer to the buyer, or seller, or decision-maker?

FIA members question whether reports submitted in compliance with RTS 22 are the most efficient means of obtaining this information and suggest that a register may be an alternative solution to remedy this oversight gap.



Furthermore, non-EEA branches that service non-EEA clients do not have an obligation to categorise their clients. So although we see added value in including the client category, it should not be a mandatory field.

With respect to ESMA's proposals relating to the inclusion of a new field relating to validity timestamp, members generally agree with the inclusion of this field in order to enhance ESMA/NCA's ability to identify the last valid transaction report. FIA members suggest that ESMA provide a worked example within Level 3 guidance to ensure consistent implementation of this field.

Q35: Do you support suppressing the reporting of the field listed above? Please provide details in your answer

FIA response:

Agreed

Q38: Do you agree with the assessment and the proposal of expanding the perimeter of the exempted transactions to auctions in emission allowances?

FIA response:

Agreed

Q40: Please provide your views on the format for reporting and any challenges you foresee 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.

FIA response:

As noted within our response to this consultation paper, FIA members support ESMA's efforts to adopt standards and streamline reporting requirements in an effort to reduce the cost and compliance burden impacting market participants.

While there may be short- and long-term benefits offered by a transition to JSON, FIA members caution against an overly prescriptive approach being hardcoded into ESMA's rules. Given that new and evolving formats can be expected, the technical standards should allow for a certain amount of flexibility in order to "future-proof" evolving non-equity market structure changes, its related technical developments and/or evolving digital reporting solutions.

ESMA's priority should be to agree on the content of the data, with clear definitions to ensure the highest levels of data quality. Rather than specifying a particular reporting format within the technical standards, ESMA may wish to specify that reporting format must comply with ISO 20022 standard methodology and set out expectations within Level 3 guidance.



It should be noted that the UK Financial Conduct Authority is expected to publish a Discussion Paper on UK MiFIR. Given that many reporting firms are required to comply with EU and UK MiFIR reporting obligations, it is important to understand if format changes will occur under UK MiFIR, given the inherent risk and challenges in maintaining multiple reporting formats for the same reporting dataset.