

23 June 2021

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Sent via email to [james.eldridge@fca.org.uk](mailto:james.eldridge@fca.org.uk) and via on-line form

Dear James,

**CP21/9: Changes to UK MiFID's conduct and organisational requirements**

The International Swaps and Derivatives Association, Inc. (**ISDA**)<sup>1</sup> welcomes the opportunity to respond to CP21/9: *Changes to UK MiFID's conduct and organisational requirements*. We have set out below ISDA's responses to questions 8 & 9.

**1. Summary**

ISDA agree with the FCA's proposals to remove both the RTS 27 and 28 requirements.

**2. Responses to individual questions**

**Question 8 (a): Do you agree with our proposal to remove the obligation for execution venues to produce execution quality reports consistent to the format prescribed under RTS 27?**

ISDA agrees with the proposal to remove this obligation.

**Question 8(b): If yes or no, please explain your views.**

We concur with the FCA's conclusions set out in paragraph 3.40 of this consultation: namely, that we support the MiFID II objectives of increasing transparency and improving information to clients but agree that RTS 27 has not delivered on these objectives in a meaningful or effective way and should be deleted. Our members agree that these reports are not used by market participants, with some members measuring the click data (the amount of times a user hits on their relevant webpages and the length of time that they stay on that webpage for) reporting that the click data is immaterial. We agree that the reports are costly to produce -

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<sup>1</sup> **About ISDA**

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 950 member institutions from 76 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: [www.isda.org](http://www.isda.org). Follow us on Twitter, LinkedIn, Facebook and YouTube.

costly either if a firm chooses to automate the process or in terms of the people resource required. Additionally, the inconsistencies in the way that the data fields are completed from one report to another do not allow for comparison of reports.

Members with operations both in the EU and the UK would like to highlight that it is likely that they would not see a significant cost saving overall if the EU decide to bring back this requirement from its current suspension even although the requirement has been deleted in the UK. Our members would welcome the deletion of this requirement in both UK and EU regulation.

We note that, as per paragraph 3.44 of CP21/9, for some firms these requirements are in secondary legislation in the UK and therefore deletion of the requirements will require changes to secondary legislation. We welcome the FCA's statement of 19 March 2021 saying that they will not take action against firms who do not produce RTS 27 reports during 2021 and note that the FCA expect to take a final policy decision on whether to abolish these reports within that timeframe. However, should it not be possible to take a final decision within that timeframe, we would ask that the suspension be extended until the legislative changes have been made.

**Question 9 (a): Do you agree with our proposals to remove the obligation for firms who execute orders to produce reports about their order routing and execution outcomes obtained consistent to the format prescribed under RTS 28? {Yes/No/No view}?**

ISDA agrees with the proposal to remove this obligation.

**Question 9 (b): If yes or no, please explain your views.**

We consider that the arguments given in both CP21/9 by the FCA, and those we have given above in our answer to Question 8 in agreement are equally valid to support deletion of the RTS 28 requirements.

The next RTS 28 report would have been due in April 2022. Members have advised us that, operationally, RTS 28 record capture is ongoing for every business day throughout the year, effectively commencing on the 1<sup>st</sup> of January and completing on 31 December. For example, some firms have a validation process, for some businesses, whereby interim reports are produced to enable results review ahead of the annual exercise. We would therefore ask the FCA to consider issuing a statement on RTS 28 reports as soon as possible after making its final policy decision so that firms could stop running these exercises during 2021 in anticipation of not having to produce the report in 2022.

We would welcome the opportunity to discuss these and any related issues further with you and are also very happy to answer any questions you may have in the meantime.

Yours sincerely,

Fiona Taylor, Director of UK Public Policy, ftaylor@isda.org