

Reply form

**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**

Responding to this paper

ESMA invites comments on all matters in the Consultation Paper and in particular on the specific questions in this reply form. 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 **17 January 2025**.

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:

- Insert your responses to the questions in the Consultation Paper in this reply form.
- Please do not remove tags of the type <ESMA_QUESTION_RTS2224_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- 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.
- When you have drafted your responses, save the reply form according to the following convention: ESMA_RTS2224_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_RTS2224_ABCD.

- Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input - Consultations’.

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 headings 'Legal notice' and heading '[Data protection](#)'..

1. General information about respondent

Name of the company / organisation	International Swaps and Derivatives Association (ISDA)
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

2. Questions

Q1 Are any other adjustments needed to enable comprehensive and accurate reporting of transactions which will enter into scope of the revised Article 26(2)?

<ESMA_QUESTION_RTS2224_01>

The credit default swap (CDS) OTC derivatives referred to in Article 8a(2) includes where the underlying is a “a global systemically important bank”. ISDA would like to support successful delivery of this scope, while seeking to ensure implementation is practicable. ISDA has produced two papers that cover this topic (‘Compliance with requirements relating to post-trade transparency (PTT) reporting of single-name CDS (SN CDS) referring to GSIBs’ and ISDA supplementary commentary on scope of CDS contracts subject to MiFIR post-trade transparency’ (the latter shared with ESMA in January 2025). Together these list what we understand to be global systemically important banks (GSIBs), comprising 41 LEIs referencing 29 GSIBs.

ISDA does not propose maintaining a list of GSIB entities referred to CDS contracts for market participants’ compliance purposes on an ongoing basis. Ideally, ESMA will make a list of GSIB LEIs available to market participants (in guidance or RTS), but we believe that the list set out in the paper should suffice until then.

The supplementary paper referenced above, also considers only the 5-year iTraxx senior financials & sub-ordinates financials contracts to be in scope under the “index CDS referencing G-SIBs” limb of Article 8a(2). This is a more restrictive (but also we believe a more accurate) understanding of the scope which is to be considered in the overall reporting changes.

ISDA has also produced the paper 'ISDA view on the scope of OTC Derivatives Post Trade Transparency in revised MiFIR¹' which was submitted to ESMA in October 2024. This paper covers several further points on the scope of post trade transparency (PTT) under the new MiFIR changes. These changes should be carried over from PTT to the transaction reporting scope. This may lead to products currently being submitted for MiFIR transaction reporting no longer being within the scope of the updated transaction rules, but consistency should be maintained between the reporting requirements of MiFIR. |

<ESMA_QUESTION_RTS2224_01>

Q2 Does the existing divergence in the implementation of the MRMTL concept under Art. 4 and Art. 26 of MiFIR results in any practical challenges for the market participants? If so, please explain the nature of these challenges and provide examples.

<ESMA_QUESTION_RTS2224_02>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_02>

Q3 To what extent the rules applied for the determination of the RCA and RCA_MIC are relevant for your operations? Do you agree with the potential alignment of the RCA rules with the RCA_MIC rules for equities? Please provide details in your answer.

<ESMA_QUESTION_RTS2224_03>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_03>

¹ <https://www.isda.org/2024/10/09/isda-submits-paper-to-esma-on-mifir-post-trade-transparency/>

Q4 Do you agree with the proposed RCA determination rule for emission allowances and CIUs other than ETFs? Please provide details in your answer.

<ESMA_QUESTION_RTS2224_04>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_RTS2224_04>

Q5 Do you agree with the proposed RCA determination rule for equities for which no sufficient data is available to calculate the turnover? Please provide details in your answer.

<ESMA_QUESTION_RTS2224_05>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_RTS2224_05>

Q6 Do you agree with the proposed RCA determination rules for the derivative contracts falling under Article 8a(2) of MiFIR? Please provide details in your answer.

<ESMA_QUESTION_RTS2224_06>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_RTS2224_06>

Q7 Do you agree with the proposed amendments to RCA determination rules for index derivatives and depositary receipts?

<ESMA_QUESTION_RTS2224_07>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_07>

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?

<ESMA_QUESTION_RTS2224_08>

|We agree that effective date should be included within the transaction report, however the application of this field should be limited to OTC derivative transactions only.

The effective date is not relevant for other types of transactions that are in scope for MiFIR. If this field were required for non-OTC derivatives transactions, the value reported would not add any significant benefit and in fact, would arguably be misleading. |

<ESMA_QUESTION_RTS2224_08>

Q9 Do you agree that the concept of effective date applies also to transactions in shares? If yes, should the intended settlement date be considered as the effective date? Please provide details in your answer.

<ESMA_QUESTION_RTS2224_09>

|We do not agree with this assumption that effective date applies to transaction in shares.

As expressed in the answer to Q8, while effective date can be deemed relevant to OTC derivative transactions, this is not the case for other such products within the scope of MiFIR and therefore, it should not be a requirement to report an effective date value for transactions in shares. |

<ESMA_QUESTION_RTS2224_09>

Q10 Do you agree with the inclusion of this new field according to the analysed scenario? Please specify if you see additional cases to take into consideration in the definition of this new field.

<ESMA_QUESTION_RTS2224_10>

We agree with the inclusion of this new field 'Entity subject to the reporting obligation', although we believe the definitions for the fields 'Report Submitting entity' (6) and 'Entity subject to the reporting obligation' (6b) should be made clearer, and there is the risk the fields could be implemented inconsistently across reporting entities without full and clear guidance.

The proposed definitions for fields 6 and 6b may be interpreted so as to result in the LEI of a trading venue being populated in both. Paragraph 57 of the CP provides an example for how to implement these two fields, giving the scenario where "TVs report on behalf of a member or firm not subject to MiFIR and rely on third parties for the submission of the report". While the inclusion of examples assists with the implementation of the requirement, the full implications for these fields remains open to industry interpretation, and only covers one scenario when in practicality there are several other scenarios where the parties involved in a transaction can be in-scope for MiFIR (within the EEA) or out of scope (non-EEA). In the absence of clear and comprehensive level 3 guidance, there is a risk of the 'Report submitting entity' and 'Entity subject to the reporting obligation' fields being implemented inconsistently and incorrectly.

We encourage ESMA to:

- (i) review the definitions for the fields 6 and 6b to assist with the industries understanding of the requirement, and
- (ii) present the different scenarios that impact these two fields as a table within level 3 guidance. In addition to the inclusion of field 6 and 6b in the table, it would be useful to also reflect values for field 4 'Executing entity identification code', field 7 'Buyer identification code', field 12 'Buyer decision maker code' and field 26 'Transmitting firm identification code for the buyer'

<ESMA_QUESTION_RTS2224_10>

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)?

<ESMA_QUESTION_RTS2224_11>

While we support the idea of establishing a TVTIC code syntax, the consultation paper (CP) proposes this would apply to non-EEA trading venues only. We believe such a syntax should apply to EEA trading venues as well. There is currently no consistent approach for how TVTIC's are produced across trading venues, and we believe this review of MiFIR transaction reporting provides an opportunity to establish a standard syntax. This would address some of the existing issues with TVTICs.

For the syntax itself, we caution the inclusion of 'Time' as one of the inputs. 'Time' will presumably more likely ensure uniqueness of a TVTIC, (i.e. two transactions with ISIN, LEI, Date and Quantity could still be assigned different TVTIC values by also including Time). However, depending on how and when a trading venue captures a time value, a different TVTIC value will be produced. This potential for inconsistency in the time used to generate the TVTIC values should be avoided by omitting Time as an input, or if it is to be included, the specific 'time' to use as an input should be made clear.

We disagree that non-EEA trading venues are to provide a TVTIC. Such trading venues are outside of ESMA's supervision and therefore the provision of a TVTIC cannot be enforced. It is unclear what would be the course of action when a non-EEA trading venue does not provide a TVTIC, or if a TVTIC is provided, but is not in line with the specified syntax.

Therefore, we strongly recommend non-EEA trading venues are not expected to provide a TVTIC. Instead, we support bringing greater consistency to how TVTICs are generated and disseminated within the EEA. |

<ESMA_QUESTION_RTS2224_11>

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.

<ESMA_QUESTION_RTS2224_12>

|Introducing a syntax for the TVTIC should lead to greater consistency of how the code is constructed by trading venues. However, we disagree that the syntax should be developed only for non-EEA venues. Trading venues across the EEA have been generating TVTIC's for a number of years, but there is no single consistent methodology being applied. As a result, TVTIC's will be constructed differently depending on the trading venue.

Therefore, we propose that any syntax developed for standardising the TVTIC should be applicable to EEA venues. |

<ESMA_QUESTION_RTS2224_12>

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- EEA venue? Please provide your view on the proposed syntax methodology based on the already reported fields or suggest alternatives.

<ESMA_QUESTION_RTS2224_13>

Improving the consistency of TVTIC's is to be encouraged. However, the TVTIC should only be mandated for transactions executed on EEA venues.

Even with a clearly defined methodology for generating the TVTIC, there is no regulatory requirement for such trading venues to produce the code. This is likely to lead to the situation where market participants will be unclear how or what to report, or result in inconsistent reporting. It would add unavoidable complexity to the reporting process for transactions executed on non-EEA venues, with arguably no ultimate solution available due to non-EEA trading venues being outside of the scope of the regulation.

Therefore, we disagree with the proposal for non-EEA trading venues to produce the TVTIC. The TVTIC should only be expected for transactions executed on EEA trading venues. |

<ESMA_QUESTION_RTS2224_13>

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?

<ESMA_QUESTION_RTS2224_14>

As per the answer to Q13, we disagree that non-EEA trading venues should provide a TVTIC. |

<ESMA_QUESTION_RTS2224_14>

Q15 Do you have any further comment or suggestion in relation to the definition of a new transaction identification code (TIC) for off venue transactions? Please provide your view for the proposed syntax methodology for creating the TIC based on the already reported fields, or suggest alternatives.

<ESMA_QUESTION_RTS2224_15>

We have concerns with the introduction of a TIC for OTC derivative transactions and suggest that it is not a required identifier.

The TIC is to be applied at a per-transaction level (for off-venue transactions only). This essentially fulfils the same purpose of the Unique Transaction Identifier (UTI) which is a well-established global identifier applied across multiple jurisdictions and is already commonly used by market participants. The UTI would work equally well as a TIC for OTC derivatives contracts as well as bring greater harmonization between the EMIR and MiFIR reporting regimes. Conversely, if the MiFIR regime were to introduce a TIC, it would require cross-referencing TICs and UTIs which presents unnecessary and avoidable burdens to market participants and hinders efforts to align the two regimes.

It is acknowledged that lifecycle events reportable under EMIR are not necessarily in scope for MiFIR transaction reporting, (e.g. a Block trade would be reported under MiFIR, but not under EMIR assuming the allocation takes place on the same day as execution). However, that should not necessarily reduce the applicability of using the UTI in the first instance of reporting New transactions under MiFIR. Such scenarios should be considered, and potentially included within Level 3 guidance, to fully understand and compare the costs and benefits of introducing either a UTI or TIC for transaction reporting.

Furthermore, were a TIC to be introduced as a new identifier, the same issues experienced with the generation and timely dissemination of the UTI would be replicated. This includes the consistent and accurate identification of the UTI / TIC generating entity, the effective communication of the UTI / TIC to the other entity (or entities) in time for reporting requirements, and the steps to take when a UTI / TIC has not been received within the T+1 reporting timeframe. These are all items the industry have been trying to resolve since the introduction of the UTI, and while progress has been made, they still remain a common problem that all market participants need to manage on a daily basis. This can be costly and resource heavy. If a TIC were to become a required identifier in addition to a UTI (as all OTC derivative transactions in scope for MiFIR will be assigned a UTI for other reporting regimes, e.g. EMIR), the costs, resources and time for managing the same issues that would inevitably increase.

We note that the CP proposes to develop a syntax for the TIC (which would differ from the format of the UTI) incorporating a number of transaction data elements (listed in the CP as the ISIN, LEI of the generating entity, Date, Time, and Quantity). While this would differentiate the data inherent within a TIC from a UTI, those data elements are already available within the transaction reports, and therefore a TIC would not provide any additional information to regulators. In fact, requiring a TIC to be reported would essentially be a duplication of the information already being provided within the transaction message.

Given the attributes that go into the make-up of a TIC will already be available to NCAs via the transaction message, it is questionable whether a TIC needs to be provided by the submitting entity at all. Instead, the TIC can be generated centrally by an NCA based on the syntax as proposed in the CP.

Therefore, taking into consideration the additional complexity of TIC generation and dissemination, the costs that will come with introducing new processes, managing the issues that will arise, and the fact that the information is already provided within the transaction message fields (allowing NCAs to attribute TICs centrally), we strongly oppose the introduction of the TIC. |

<ESMA_QUESTION_RTS2224_15>

Q16 Do you agree with the proposal of identifying the “market facing” firm acting as the seller as the primary entity responsible for the creation of the TIC code of off-venue transactions and for disseminating it to the other “market facing” firm acting as the buyer?

<ESMA_QUESTION_RTS2224_16>

|See the answer to Q15. |

<ESMA_QUESTION_RTS2224_16>

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.

<ESMA_QUESTION_RTS2224_17>

|Adding an INTC identifier is one method for linking aggregated transactions, but it is not the only option. An alternative approach that would give the same results is to report a unique code in the buyer and seller fields. By populating a unique code in these fields, as opposed to populating a value of ‘INTC’, the transactions can be linked together without compromising the data submitted, and avoiding the need to create a new field.

This proposal is included in the Financial Conduct Authority (FCA) Discussion Paper DP24/2 on Improving the UK transaction reporting regime², (see ‘Aggregate client linking code’ from paragraph 5.38). Both options will require market participants to develop additional reporting logic and processes, and both will introduce an additional code. Therefore, if aggregated orders are to be

² [Discussion Paper DP24/2](#)

identified under both the EU and UK MiFIR transaction regimes, we encourage ESMA and the FCA to adopt the same approach so that market participants only need to build once.

More broadly, although the introduction of a linking code for buyer and seller fields, or the additional of a new INTC identifier field, will assist to link aggregated transactions, it will not necessarily address the issues currently observed with how 'INTC' is being reported, i.e. reporting with an imbalance between the quantities 'in' and the quantities 'out'. Therefore, to complement any changes to the reporting requirements, we propose additional guidance is provided of how aggregate client account transactions are to be reported. Such clarification can help to solve the issues of misreporting aggregate orders at source, and improve data quality. |

<ESMA_QUESTION_RTS2224_17>

Q18 Do you agree that the executing investment firm should be responsible for generating consistently the INTC identifier?

<ESMA_QUESTION_RTS2224_18>

|See the answer to Q17. |

<ESMA_QUESTION_RTS2224_18>

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.

<ESMA_QUESTION_RTS2224_19>

|This proposal would be complex to implement and manage, making it challenging for market participants to consistently and accurately provide the Chain Identifier.

Some of the more problematic elements identified with the proposals are:

- The T+1 reporting requirement means the Chain Identifier must be communicated to all entities involved within this timeframe. The more entities involved, the greater the risk that the identifier will not be provided in time for T+1 reporting. A reporting entity is solely reliant on the counterparty it is directly facing for the receipt of the Chain Identifier. Therefore, an entity may be unable to take any direct action to obtain the identifier and be unable to report within T+1. It is unclear what a reporting entity should do in such circumstances.

- It may be relatively easy to transmit a Chain identifier along a simple, linear chain, e.g. Bank 1 → Bank 2 → Asset Manager. However, chains can be more complex involving multiple entities. In such cases, the process of passing down the identifier will take longer and be at greater risk of breaking down.
- As well as chains involving multiple entities, they may contain non-EEA entities that have no regulatory requirement to produce or transfer the Chain Identifier. In such cases, it is reasonable to assume that the transfer of the identifier would break down.
- A potential way to avoid timing issues with receiving the Chain Identifier would be for an established methodology for generating the identifier using data elements all the entities within a chain would have, e.g. ISIN, price, quantity. Any such syntax should not include LEI of the entity executing the transaction as it is unlikely to be known by all the entities within the chain. However, devising such a methodology that would consistently return the same identifier for all entities within the chain would be complex to develop, and ultimately may prove impossible.

While it is noted that Article 26 refers to the reporting of transmission chains, the creation and transmission of a Chain Identifier is susceptible to breakdown and could leave reporting entities unable to report on time, with a correct identifier, or to report the identifier at all. There may be alternative and easier methods to identify transmission chains for the purposes of monitoring market abuse, and ISDA along with its members would welcome the opportunity to assist ESMA identifying such a solution that would meet the regulatory expectations.

If the Chain Identifier is to be introduced, it would be essential to have supporting and comprehensive guidance covering all reasonable scenarios, including (though not necessarily limited to) non-linear chains, non-EEA firms within a chain, and what to report when there is non-receipt of a Chain Identifier. |

<ESMA_QUESTION_RTS2224_19>

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?

<ESMA_QUESTION_RTS2224_20>

|See the answer to Q20. |

<ESMA_QUESTION_RTS2224_20>

Q21 Do you agree with the proposed reference to Art. 3(3) of Benchmark Regulation to define the relevant categories of indices?

<ESMA_QUESTION_RTS2224_21>

ISDA notes that Article 3(3) of Benchmark Regulation refers specifically to benchmarks, not indices. This presupposes that all indices used in OTC derivatives are benchmarks, which is not necessarily the case. We suggest that instead, the technical standard refers to Article 3(1) of Benchmark Regulation, which defines indices. This would achieve the desired alignment. |

<ESMA_QUESTION_RTS2224_21>

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.

<ESMA_QUESTION_RTS2224_22>

Our understanding is that the implementation period will be 18 months, as referred to in Article 17 (Entry into force) and in line with the implementation periods for EMIR and SFTR. However, paragraph 86 says it “should be ideally 12 months from when the technical documentation is available”. Assuming that is an error, we are in favour of an 18 month implementation period. We do urge however, that the implementation date is not at year-end as many market participants and service providers impose IT freezes. This would make an end of year implementation extremely difficult to execute, and challenging to resolve any issues discovered post-implementation.

We stress the need for Level 3 guidance and validations to be provided as soon as possible after the technical standards are published in the OJ. Market participants need this information in order to meaningfully commence the required development to meet the new requirements.

Finally, market participants may be required to report trades executed prior to the implementation of the new technical standards, but not yet submitted, or to re-report a transaction that was initially submitted with an error. In such cases, the new data points may not always be available, i.e. new field may require firms to start collecting or creating new data points that are not currently used for reporting. In such cases, we propose that the validation rules are relaxed so that transactions executed before the implementation date can either leave new fields blank or pre-existing rules can be applied to those fields.

While best efforts should be made to populate all new and updated fields accurately, relaxing the validation rules for transactions executed before the implementation date will ensure they can still be successfully reported. |

<ESMA_QUESTION_RTS2224_22>

Q23 Are there any other international developments or standards agreed at Union or international level that should be considered for the purpose of the development of the RTS on transaction reporting?

<ESMA_QUESTION_RTS2224_23>

The adoption of international standards is encouraged. We also suggest the Unique Transaction Identifier (ISO 23897) should be considered, (see our answer to question 15), and MiFIR transaction reporting should use the Critical Data Element other than UTI and UPI (CDE) fields where possible.

<ESMA_QUESTION_RTS2224_23>

Q24 Do you agree with the proposed alignment of fields with EMIR/SFTR requirements as presented in the table above? Are there any other fields that should be aligned?

<ESMA_QUESTION_RTS2224_24>

Alignment of field definitions and requirements between MiFIR, EMIR and SFTR is a positive move when a field requirement results in the same data being provided to serve the same purpose. These are however, three separate regimes with distinct purposes, and so it will not always be appropriate to fully align field requirements between them.

In most cases, we agree with the proposed alignment of MiFIR fields with EMIR/SFTR, but raise the following exceptions:

- **Action Type:** Although the two action type values of NEWT and CANC are used within EMIR reporting, the application of these values under MiFIR transaction reporting differs, resulting in the same event being reported with different Action Type values between MiFIR and EMIR.

For example, if a transaction is reported and the notional amount is subsequently reduced, under EMIR the event would be reported with an action type of MODI, but under MiFIR it would have an action type of NEWT (due to the different ways lifecycle events are handled under the two regimes).

Therefore, although the proposal aligns the terminology of the field Action Type, the application and definition of the field would not be harmonised. This goes against the purpose of a single data dictionary.

We disagree with aligning Action Type with EMIR and instead propose distinct field name and values are retained for MiFIR.

- **Indicator of underlying index, Name of underlying index:** These two fields will align with the requirements of EMIR fields 'Indicator of the floating rate of leg 1', 'Name of the

floating rate of leg 1', 'Indicator of the floating rate of leg 2' and 'Name of the floating rate of leg 2' where the 4-letter ISO code is populated (where available) as well as the full name of the floating rate as published by the benchmark provider is reported.

While we do not object to this alignment of the fields between MiFIR and EMIR, we caution that the field 'Name of the underlying index' is free format and in the absence of a single source of index names for market participants to refer to, there is notable risk that the same underlying index will not be populated consistently across the industry. Ideally, a central database of underlying index names would be established for market participants to refer to in order to consistently report the same value. We encourage ESMA to consider establishing such a centralised database to enable great market consistency.

Additionally, we argue that if a value has been populated for the field 'Indicator of the underlying index', there is no additional value in also populating the 'Name of the underlying index' field as both fields provide the same information, simply in different formats. We request that the validation rules are such that if 'Indicator of the underlying index' is populated, 'Name of the underlying index' can be left blank.

- **Strike Price:** Limiting the format to only monetary amount or percentage will align with EMIR. However, there are contracts executed where the price quotation is specified as 'points'. Such contracts would not naturally align with either monetary amount or percentage for the Price value. Therefore, we propose that ESMA consider including the CDE format value of 'basis points' for MiFIR transaction reporting which would be more suitable as the price value for contracts specified in 'points'.
- **Unique product identifier (UPI):** The UPI is a globally recognised standard and is applied to multiple regulatory reporting regimes, including EMIR. The UPI is an effective means for identifying OTC derivative attributes, with paragraph 89 under section 4.1.5 of the consultation paper noting the UPI as a 'pertinent' standard. It would therefore be a positive step towards alignment with other regimes, including EMIR, if the UPI were a reportable value within the MiFIR transaction message.

There will be scenarios where OTC derivative contracts in scope for MiFIR transaction reporting will not have had an ISIN created for it. For example, uTOTV instruments will be reported without an ISIN needing to be obtained for asset classes equity, FX and commodity, or where two non-DPEs enter into a credit or rates transaction together. Therefore, allowing the UPI to be populated when there is no ISIN for an instrument will also simplify transaction reporting by enabling at least some of the fields 42-56 to remain blank. The UPI attributes provide regulators with details relevant to the transaction that are otherwise covered by several of the fields 42-56. So while there will remain some in-scope transactions that have neither an ISIN or UPI (therefore not completely removing the need for the 'instrument identification' fields 42-56), more transactions without an ISIN will be represented by a UPI enabling at least some of the fields 42-56 to be blank when a UPI is reported. This would more closely align MiFIR with EMIR as per the approach set out in

the ‘Guidelines for reporting under EMIR’³ where the view is taken that the “majority or all UPI reference data fields should not be required to be reported for the products identified with UPI, once the UPI system is fully in place and both authorities and markets participants gain more experience with the use of UPI” (paragraph 244).

The EMIR Guidelines go on to say “data elements could be collected from the UPI reference data library or FIRDS instead of being reported to the TRs”. ISDA is supportive of UPIs being used across MiFIR, but notes that unless or until UPIs are added to FIRDS, the ‘UPI reference data library’ would need to be used by NCAs to retrieve the relevant information. We believe that this is a worthwhile trade off, and encourage this approach of utilising UPI reference data to reduce the number of fields required to be populated to be applied consistently between EMIR and MiFIR transaction reporting, thereby increasing alignment between the two regimes and simplifying the reporting of OTC derivatives.

Therefore, for the purposes of (i) increasing consistency across reporting regimes and (ii) simplifying transaction reporting, we recommend that the UPI is included as a reportable value when an ISIN is not available. This could be achieved either by adding a specific UPI field (potentially as field number 41b), or preferably by updating the ‘Content to be reported’ for the field ‘ISIN’ (field 41) to allow for a UPI to be populated when there is no ISIN. For this second option, the field name would either need to be retained as ‘Instrument identification code’ or amended to allow for either an ISIN or UPI to be entered.

- **MiFIR identifier:** Though the field ‘MiFIR identifier’ is not shown within the table under section 4.1.5.1 Field-by-field assessment, we note that this field is shown within Table 2 further down in the consultation paper (starting from page 130) as field number 43a. The information contained in a MiFIR identifier can be obtained from the CFI code populated in field 43 ‘Product classification’. It therefore seems superfluous to report both a CFI code and a MiFIR identifier for the same transaction, and because the MiFIR identifier is not referenced elsewhere in the consultation paper, it is unclear whether there is a reason for this field’s inclusion.

Due to the fact this information is available within the CFI code, we propose it is not included as a field for transaction reporting. The wording in the ‘Content to be Reported’ for fields 47b and 47c would also need to be updated to remove reference to the MiFIR Identifier.

- **Fields 42-56:** Within Table 2, the text immediately following field 41a reads:

³ <https://www.esma.europa.eu/document/guidelines-reporting-under-emir>

“Fields 42-56 are not applicable where:

transactions are executed on a trading venue or with an investment firm acting as a SI; or field 41 is populated with an ISIN that exists on the reference data list from ESMA”

With SIs being replaced with DPEs, we propose that this wording is updated to reflect ‘DPE’ or alternatively, reword this section into more direct terms such as ‘in the case where the transaction does not have an OTC ISIN, fields 42-56 are applicable’.

Please also refer to the UPI field proposal above, as the wording would need to reflect that fields 42-56 are not required if the transaction has either an OTC ISIN or a UPI. |

<ESMA_QUESTION_RTS2224_24>

Q25 Do you agree with the proposed approach for the alignment of reporting of the information related to direction of the transaction?

<ESMA_QUESTION_RTS2224_25>

|We agree with the alignment of reporting the direction of the transaction, however we disagree with the details presented in the table for the product’s financial contracts for difference and spreadbets. The ‘Proposed Approach’ set out in the CP is the opposite to how the requirement is set out in the ‘EMIR REFIT’ column.

The EMIR REFIT wording identifies the Counterparty which goes short on the contract shall be identified as the Seller, whereas the proposed MiFIR wording states the Buyer shall be the Counterparty which goes short on the contract.

Assuming this is a typo within the CP, we agree with the proposals. |

<ESMA_QUESTION_RTS2224_25>

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

<ESMA_QUESTION_RTS2224_26>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_26>

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

<ESMA_QUESTION_RTS2224_27>

It is accepted a complex trade component ID is a concept used by several reporting regimes, including current MiFIR and EMIR. We therefore do not object to its inclusion within MiFIR transaction reporting. However, we do caution against decomposing complex instruments that have been executed as a single trade into multiple, artificially created, instruments (linked with a complex trade ID) purely for the purpose of reporting.

While it can be understood that decomposing complex trades may allow for some data elements to be more clearly reflected, it should be understood that in doing so, there is a significant chance that inapplicable or incorrect values are reported in other fields. For example, a single price will have been negotiated for a complex trade but multiple prices will need to be reported if the trade is decomposed for reporting (one for each decomposed instrument). Also, the validation rules may require fields to be populated that are not relevant to the contract details that were negotiated and executed.

Therefore, we support the inclusion of a complex trade component ID, but only to be used when linking separate transactions that were executed together as part of the same package. There should be not expectation for market participants to decompose a single transaction into multiple artificially created components.

We note that table on page 40 of the CP defines the field as 'Complex trade component id' while 'Table 2' starting on page 130 has renamed the field to 'Package identifier'. The assumption is that the proposal is to name field 40 as 'Package identifier' as this would align with EMIR. We agree with this name change. |

<ESMA_QUESTION_RTS2224_27>

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

<ESMA_QUESTION_RTS2224_28>

We disagree with this proposal.

When a package of transactions is executed, there will not necessarily be a single package price. Instead, each transaction has its own negotiated price. As noted in the CP, 'Package transaction price' is an existing field for EMIR, but if a single price does not exist for the package, market participants need to artificially create a package price simply to meet the reporting requirements. We argue that this is not a meaningful data point of a transaction and could potentially give misleading information. |

<ESMA_QUESTION_RTS2224_28>

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?

<ESMA_QUESTION_RTS2224_29>

The proposal for the inclusion of the Digital Token Identifier (DTI) is understood as a means to differentiate tokenised financial instruments from the more traditional non-tokenised instruments. What is less clear however, is how the need to differentiate financial instruments that are issued on Distributed Ledger Technology (DLT) falls within the remit of MiFIR. We agree the transactions themselves are in scope for reporting, and by introducing a DTI, NCAs will be able to track the financial instrument across several blockchains. While different DLTs may have differing risks, this in itself arguably does not provide additional insight to the NCA on the core remit of MiFIR to identify potential market abuse.

DLT financial instruments are still a relatively immature and so the benefits of introducing the DTI at this stage should be carefully considered. As this market develops, it may well transpire that the DTI will not always be relevant for all financial instruments, which may result in suboptimal data being reported and / or additional costs. For example, we do not see it as likely that in the foreseeable future, OTC derivatives will be either tokenised or recorded on blockchains. A more pragmatic approach could be to allow time for the DLT market to mature and settle, thereby enabling a more informed decisions to be made on how DLT financial instruments are identified.

Assuming however the DTI is introduced as a field for transaction reporting, we believe conditionality should be added to the ISIN field. Our understanding is that depending on the 'type' of DTI, there may be a one-to-one or a many-to-one mapping between the ISIN and the DTI, (where in the many-to-one scenario, multiple DTIs can roll up to a single ISIN). As such, an ISIN value will always be an imbedded attribute of a DTI. Therefore, we propose that when a DTI value is provided within a transaction message, the ISIN field should be left blank. Consideration can also be given to whether the DTI needs to be reported at all for field 47a (DLT Underlying identification code) which would have a one-to-one mapping with the ISIN, but even beyond that, whether the DTI is needed even for a many-to-one mapping with the ISIN. Requiring only one of the ISIN or DTI will avoid duplication of data and simplify the reporting message.

(As a general principle, where attributes imbedded within an identifier are reportable within a separate transaction message field in its own right, it should not be necessary to populate both the identifier and the data field value. That is to say, it should be permitted to leave a field blank if the data it would otherwise reflect is captured within an identifier reported elsewhere within the transaction message).

As mentioned above, we question what benefits identifying DLT financial instruments will bring for monitoring market abuse, and so potentially the DTI field is not required at all. If this field were

added to the transaction message though, with the DLT market still being relatively immature, there will likely be differing interpretations for reporting a DTI. Therefore, if this does become a required field, we request clear and comprehensive level 3 guidance be provided alongside the additional fields to ensure the requirements are fully understood. |

<ESMA_QUESTION_RTS2224_29>

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.

<ESMA_QUESTION_RTS2224_30>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_30>

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

<ESMA_QUESTION_RTS2224_31>

|We agree with this proposal. |

<ESMA_QUESTION_RTS2224_31>

Q32 Do you have any comments on the proposed approach to updating the 'Instrument details' section in the Annex to the RTS 22? Please flag any additional aspects that may need to be considered.

<ESMA_QUESTION_RTS2224_32>

|It is logical to align the RTS 22 Instrument details with the revised RTS 23 fields (once they are finalised) and with the Delegated Act (DA) on OTC derivatives identifier (once it is published). We note however, that the DA focuses on transparency reporting and not transaction reporting. Therefore, different approaches could potentially be taken for reference data against the OTC ISIN between the transparency scope and transaction scope, even for similar instruments. We assume this would not be the intention and that the same underlying reference data would be used consistently for both transparency and transaction reporting.

Therefore, we agree with this proposal, but the same ISIN should be used consistently across the MiFIR regime.

We refer back to Q24 and the proposal to allow for a UPI to be reported when an OTC ISIN does not exist for a transaction. This will simplify transaction reporting by removing the need to populate fields 42-56 for the scenarios where there is no ISIN for a transaction, but there is a UPI. |

<ESMA_QUESTION_RTS2224_32>

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

<ESMA_QUESTION_RTS2224_33>

Client Category – We note that under Article 26 of Regulation (EU) 2024/791⁴, reference is made to providing a “designation to identify the parties” and a “designation to identify the entity subject to the reporting obligation”, but without specifying the exact client and entity information that is to be included in the transaction report. Several fields within the transaction message do provide the data needed to meet the level 1 requirement, but we believe Client Category falls outside of the scope for MiFIR.

Furthermore, we do not believe ‘Client Category’ information supplies NCAs with additional information relevant for detecting potential market abuse.

Therefore, taking these two points into consideration, we believe this field should not be included in the MiFIR transaction reporting requirements.

If, despite these objections, Client Category were to be added as a new field, the reportable value “clients treated as professionals on request” should not be included. The CP references the Final Report on MiFIR review report on the obligations to report transactions and reference data⁵, but the ‘clients treated as professionals on request’ category is not currently identified within the MiFIR rules themselves. We do not believe “clients treated as professionals on request” should be a MiFIR category of client as a client would either be a ‘professional’ or it will not. There should not be an option to opt in or out of being professional.

⁴ https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400791

⁵ https://www.esma.europa.eu/sites/default/files/library/esma74-362-1013_final_report_mifir_review_-_data_reporting.pdf#page53

In some circumstances, third country branches of EU investment firms may have categorisation for their clients that will conform to local regulation but not to MiFID categorisation, and therefore in these cases the field should be left blank.

Validity Timestamp – We agree with the purpose of this field, which CP states as knowing “when the new/ cancellation report was issued”. Paragraph 118 refers to when a New and Cancel event are included within the same batch, which we recognise could prove challenging to order correctly without such a timestamp. However, ‘Validity timestamp’ is a new field that is not used in other regimes, and we believe the same purpose can be achieved using the CDE field ‘Event timestamp’.

‘Event timestamp’ was introduced in version 3 of the CDE with the definition commencing “Date and time of occurrence of the event”. The draft version 4 of the CDE proposes adding “for which a report is made” to the end of that definition. This would achieve the same purpose the Validity Timestamp field sets out to achieve, but with the benefit of it being a CDE field that has already been adopted within several OTC derivative reporting regimes. Therefore, the definition and requirements of the field will be well understood by market participants and simpler to implement. |

<ESMA_QUESTION_RTS2224_33>

Q34 Do you agree with the amendments listed above for the existing fields? Please provide details in your answer.

<ESMA_QUESTION_RTS2224_34>

|Article 10 ‘Designation to identify an applicable waiver’ has been completely deleted (page 113 of the CP). Therefore, with the removal of this article within the regulation, we propose that it is no longer necessary to include the field ‘Reference price waiver indicator’ for transaction reporting and to delete this field entirely.

Otherwise, we agree with the proposal made for the other fields in this section. |

<ESMA_QUESTION_RTS2224_34>

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

<ESMA_QUESTION_RTS2224_35>

|We are supportive of suppressing the ‘Short selling indicator’ field. |

<ESMA_QUESTION_RTS2224_35>

Q36 Do you agree with the proposal of including in the list of exempted transactions under Art.2(5) the disposal or selling of financial instruments ordered by a court procedure or decided by insolvency administrator in the context of a liquidation / bankruptcy / insolvency procedure?

<ESMA_QUESTION_RTS2224_36>

[We agree with the changes proposed.]

<ESMA_QUESTION_RTS2224_36>

Q37 Do you consider that the exemption in Art.2 (5) should take into consideration also other similar instances as described? Please elaborate your answer.

<ESMA_QUESTION_RTS2224_37>

[We believe Art.2 (5) should be updated to include *all* corporate actions. Under the current RTS, exemption under Art.2(5) is applicable to debt instruments but not to equities. We see this as an opportunity to close this gap so that all corporate action events are out of scope for MiFIR transaction reporting.]

<ESMA_QUESTION_RTS2224_37>

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

<ESMA_QUESTION_RTS2224_38>

[We agree with the proposal.]

<ESMA_QUESTION_RTS2224_38>

Q39 Do you agree with the proposal of narrowing the perimeter of the exempted novations to transactions having clearing purposes?

<ESMA_QUESTION_RTS2224_39>

[We are supportive of the proposal.]

<ESMA_QUESTION_RTS2224_39>

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.

<ESMA_QUESTION_RTS2224_40>

JSON can be considered a simpler format compared to XML, and so arguably easier to manage for smaller and less agile firms, or for market participants that are new to MiFIR transaction reporting and have 'legacy' systems and processes in place to implement. However, market participants have already invested significant resources into the XML message format, with a move towards this harmonised transaction reporting message format across global regimes. As such, a transition to a new JSON format will bring further costs in the near term as well as ongoing costs to manage different message formats across regimes.

There are also structural differences between XML and JSON to be taken into consideration, with JSON being the less structured of the two formats. This would increase potential for inconsistencies between market participants on how the new RTS 22 rules are implemented.

XML has so far proved to be a reliable and suitable messaging format across multiple jurisdictions, handling high volumes of data on a daily basis. That does not mean XML is the only or best message format for transaction reporting and it is correct to examine other options, but while JSON is a potential alternative format, any perceived benefits must be carefully considered against the value of maintaining a messaging format the market are consistently using globally and is successfully supporting reporting requirements.

Of more importance than the format in which a message is reported, is the consistent understanding and implementation of the reported data itself. If the underlying structure of the message will ultimately be the same for both JSON or XML, there is no fundamental change with a move to JSON. It may also be the case that an alternative format preferable to both XML and JSON will become available in the future, so it could be counterproductive to lock-in a single message format within the RTS, and instead it would be preferable for the RTS to allow flexibility as to the required format. Provided the underlying message structure is consistent, and therefore the quality of the data is not compromised, enabling market participants to report using different message formats will have immediate cost and implementation benefits, enable more global consistency, and also provide flexibility to introduce better formats in the future should they become available. |

<ESMA_QUESTION_RTS2224_40>

Q41 Should the use of transaction data to perform the calculations be feasible, what would be the costs and the benefits of using this data and discontinuing the specific reporting flows (FITRS and / or DVCAP), including in relation to the change

and run costs of reporting systems, data quality assurance and other relevant aspects?

<ESMA_QUESTION_RTS2224_41>

Using data submitted via MiFIR transaction reporting for other regulatory requirements is, in principle, a positive move as it should remove duplicative reporting of data by market participants. This is assuming though, that the information supervisors receive from the transaction reporting messages are suitable and sufficient for replacing the reporting flows currently in place for FITRS and / or DVCAP.

If there is a delta between the data provided under MiFIR transaction reporting and what is required for FITRS and / or DVCAP, then the transaction data should not be used to perform the required calculations. Neither should additional fields be added to the MiFIR transaction message purely to fill the gaps identified in any such delta.

More details would be required to fully understand the proposal, but provided the fields required for transaction reporting can also be used for the FITRS and / or DVCAP reporting flows, we are in favour of the proposal. However, if solving the duplication of data reporting means introducing new fields for transaction reporting, we disagree with the proposal as this can result in an increase in reporting complexity burden to market participants. |

<ESMA_QUESTION_RTS2224_41>

Q42 Do you have any comments on the methodological approach outlined above?

<ESMA_QUESTION_RTS2224_42>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_42>

Q43 Do you have other comments on this potential change, e.g. on specific issues, challenges or alternatives that could be considered by ESMA in its assessment?

<ESMA_QUESTION_RTS2224_43>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_43>

Q44 Do you agree with the proposal of adopting JSON as standard and format of order book data keeping and transmission? Please justify your answer.

<ESMA_QUESTION_RTS2224_44>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_RTS2224_44>

Q45 Please provide your views on the format of reporting and any challenges you foresee with the use of JSON format compared to XML. Please provide estimates of the costs, timelines and benefits (short and long term) related to the potential implementation of JSON syntax.

<ESMA_QUESTION_RTS2224_45>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_RTS2224_45>

Q46 Do you have any comments on the proposed approach to updating the field list in the Annex to align with the proposed RTS 22 fields? Please flag any additional aspects that may need to be considered.

<ESMA_QUESTION_RTS2224_46>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_RTS2224_46>

Q47 Do you support inclusion of the new fields listed above?

<ESMA_QUESTION_RTS2224_47>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_RTS2224_47>

Q48 Do you agree with the amendments listed above for the existing fields?

<ESMA_QUESTION_RTS2224_48>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_48>

Q49 Do you have further suggestions to improve or streamline the other fields in RTS 24?

<ESMA_QUESTION_RTS2224_49>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_RTS2224_49>