

MIFIR RTS 23 ON REFERENCE DATA

ESMA'S CONSULTATION

AMAFI's answer

AMAFI is the trade association representing financial markets' participants of the sell-side industry located in France. It has a wide and diverse membership of more than 170 global and local institutions notably investment firms, credit institutions, broker-dealers, exchanges and private banks. They operate in all market segments, such as equities, bonds and derivatives including commodities derivatives. AMAFI represents and supports its members at national, European and international levels, from the drafting of the legislation to its implementation. Through our work, we seek to promote a regulatory framework that enables the development of sound, efficient and competitive capital markets for the benefit of investors, businesses and the economy in general.

Following the review of MiFIR, which was published in the OJEU on 8 March 2024, ESMA has been tasked to develop several new technical standards and amend some existing ones, including Commission Delegated Regulation 2017/585 on financial instruments reference data (RTS 23). Notably, RTS 23 should be extended to include, not only reference data for the purposes of transaction reporting (for which it was originally designed), but also transparency requirements.

ESMA is consulting on the changes it proposes to make to RTS 23 in this context. AMAFI would like to thank ESMA for this consultation, as this topic is very important to ensure firms are able to meet their reporting and transparency obligations. Rules that are clear, consistent across different related regulations, and technical choices that allow for efficiency in the reporting process are indeed paramount to meet these objectives. They are also critical to ensure the resources needed to carry out reporting are fit for purpose and do not weigh unduly on the cost of doing business.

14.1 - ADAPATIN REFERENCE DATA FOR THE USE OF TRANSPARENCY REQUIREMENTS

Q51: Do you agree with the proposal for a daily reporting of reference data for both transaction reporting and transparency purposes?

AMAFI agrees with the proposal for a daily reporting of reference data, primarily for consistency reasons with the frequency of the transparency reporting. This proposal does not raise any issue for our members that are DPE or former Systematic Internalisers (SI).

Q52: For the purposes of both equity and non-equity transparency, do you prefer to retain the MiFIR identifier as currently defined or to rely on other fields for classification purposes? If latter, please outline the proposed solution.

We prefer to retain the MiFIR identifier as currently defined for transparency purposes. There are classification issues of certain products between investment firms and APAs, as the CFI and MiFIR identifiers do not match. In reality, concepts beyond the CFI need to be used. Therefore, we wish to maintain the current system.

Q53: Is in your view, the granularity level of the MiFIR identifier adequate for the purposes of MiFIR transparency in the equity and non-equity space? If not, how should it be adjusted?

Please refer to our answer to Q52.

Q54: How do you expect the change in scope of instruments subject to transparency to impact transparency reference data? Would you agree to maintain the current whole set of reference data for non-equity instruments, currently in RTS 2, in RTS 23? If not, please specify which reference data should not be retained in the view of the revised scope.

The proposed changes add numerous fields, making it difficult to provide a clear opinion on this matter. Although some of these fields are already in use, it is currently complicated to determine the potential impact on RTS 23, as some do not yet exist in this form. The merging of two reports conducted by different entities (RTS 2 and RTS 23) into a single report (RTS 23) complicates the evaluation.

However, for the added fields, there do not appear to be any major critical points to highlight.

Q55: Do you agree with deleting Field 5 of RTS 2, Annex IV, and use the CFI code for the purposes of derivatives' contract type classification?

N/A

Q56: Do you agree with the proposed alignment between RTS 23 and RTS 2 as set out in this section? Please provide details on which alignment is (not) feasible and why, considering the impact in terms of comprehensiveness and consistency of the reported information.

N/A

Q57: As it concerns “underlying type” classification, do you agree with the proposed reliance on CFI and other reporting fields? With specific regards to Field 27, do you have proposals on how that field may be streamlined?

N/A

Q58: Do you see additional room for simplification and/or alignment of reference data for transaction reporting and transparency purposes? What would be the impact in terms of one-off and ongoing costs, benefits and change management of such simplifications, in particular with respect to reducing and consolidating data flows to ESMA that exist currently?

N/A

Q59: Do you have suggestions on how the fields mentioned above may be improved and streamlined?

N/A

14.2 - NEW OTC DERIVATIVES IDENTIFIER

Q60: Do you agree with the above assessment of the necessary adjustments to be made in the RTS 23 to accommodate for the identifying reference data?

AMAFI acknowledges that the Commission has published a consultation on its draft delegated act, which leans towards using the modified ISO 6166 ISIN for identifying OTC derivatives, rather than the ISO 4914 UPI we advocated for. While we believe that UPI+ would have provided a more effective and flexible solution by addressing the inefficiencies and high costs associated with ISINs, we understand the Commission’s decision and will work to adapt to the chosen approach.

Additionally, AMAFI agrees with the proposal to remove the 'Expiry date' field for Interest Rate Swaps (IRS). As highlighted by ESMA, IRS with similar tenors are considered to have the same risk profile regardless of the expiry date, making this attribute redundant for these instruments. We support this adjustment to streamline the reference data and enhance reporting efficiency.

14.3 - DATE BY WHICH REFERENCE DATA ARE TO BE REPORTED

Q61: Do you see a need to specify the 'date by which the reference data are to be reported' different from the date of application or have other comments with regards to the proposed timeline? If so, please specify.

AMAFI supports aligning the 'date by which the reference data are to be reported' with the date of application. While sending data to FIRDS is manageable, the real issue is ensuring that clients receive ISINs on time for transaction reporting. A coordinated timeline is essential to ensure that systems are fully operational, and data are accessible when needed.

14.4 - ALIGNMENT WITH THE REPORTING REQUIREMENTS UNDER EMIR AND SFTR AND WITH THE INTERNATIONAL STANDARDS

Q62: 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 reference data?

Please refer to our answer to Q63.

Q63: Do you agree with the changes proposed in the tables above? Should any other changes be considered to align the MiFIR reporting specifications with the international standards, EMIR and / or SFTR?

AMAFI supports alignment of the MiFIR reporting with the reporting requirements under EMIR and SFTR and with the international standards.

However, ESMA has not indicated any changes to the transmission format itself whereas concerns regarding the transmission format should be addressed, as XML remains the standard format for EMIR and SFTR reporting requirements.

14.5 - ADAPTING REFERENCE DATA FOR THE USE FOR PUBLICATIONS UNDER CSDR

Q64: Do you foresee any challenges with the proposed approach under which the CSDR publications would be integrated in FIRDS?

AMAFI prefers not to comment on the integration of CSDR publications into FIRDS at this stage. This issue primarily concerns trading platforms, and we believe that a more in-depth analysis by these entities is necessary to fully assess any potential challenges.

Q65: Do you have any comments with regards to the inclusion of additional fields in the instrument reference data published by ESMA to indicate whether the instrument is in the scope of CSDR and to specify which MIC corresponds to a venue with the highest turnover or the most relevant market in terms of liquidity?

This question is more relevant to trading venues. However, we believe a thorough analysis is needed to understand the implications and ensure it does not unduly complicate the reporting process or impact internalised settlement reporting under CSDR.

14.6.1 - NEW FIELDS TO BE INCLUDED

Q66: Do you support inclusion of the new fields listed above?

AMAFI supports the inclusion of these new fields.

14.6.2 - FIELDS TO BE AMENDED

Q67: Do you agree with the amendment listed above for the existing fields?

N/A

Q68: With regards to monitoring of de-listing and re-admission, which option is preferable in your view: (i) reporting by the trading venue of all previous trading periods in the repeatable fields 10, 11 and 12 or (ii) implementing adequate reporting logic of events impacting the instrument (new, modification, termination etc) in order to enable ESMA to reconstruct all trading periods?

N/A

14.6.3 - FIELDS TO BE REMOVED

Q69: Do you support suppressing the reporting of the fields listed above?

AMAFI supports the suppression of the listed fields as it significantly simplifies the reporting process. By streamlining the required information, complexity and administrative burdens are reduced, leading to a more efficient management of the reporting.

14.7 - FORMAT FOR REPORTING

Q70: Do you foresee any challenges with the use of JSON format comparing to XML? Please provide estimates of the costs, timelines of implementation and benefits (short- and long term) related to potential transition to JSON.

The majority of our members view the JSON format favorably, despite the associated implementation costs. JSON's reduced verbosity, its simplicity and efficiency in database storage make it advantageous for accessing historical data and exploiting data.

Nevertheless, some members point out that substantial investments have already been made in transitioning to XML, particularly to comply with EMIR Refit reporting. Even though the technical challenges of switching formats are significant, the timeline for this change is currently only of two years from now. While JSON is a viable option, the timing of such a transition presents difficulties.

Furthermore, while the JSON format is recommended for the CTP and its benefits are recognised, imposing this change immediately may not be ideal given the current regulatory landscape, which already involves numerous costly implementation projects.

14.8 - REPORTING BY DPEs

Q71: In addition to including a field to identify the DPE, are there any other adjustments needed to enable comprehensive and accurate reporting of reference data by the DPEs?

To ensure comprehensive and accurate reporting of reference data by DPEs, it is crucial to clearly delineate the scope of reporting obligations. While including a field to identify the DPE is essential, other adjustments might include defining the precise categories of instruments subject to RTS 23 reporting. Moreover, it is important to specify whether the reporting requirements apply to all instruments, including those that are not traded on trading venues but fall under post-trade transparency obligations. This clarification would help avoid ambiguities and ensure that DPEs can meet their reporting responsibilities effectively.

Q72: With regards to the categorisation of classes of financial instruments for the purpose of the DPE register, how such classes should be designated in the register? Is there any further information that should be included in the register to ensure its usability and interoperability with other relevant systems? Do you foresee any practical implementation challenges, and if so, how they could be mitigated?

The categorisation of financial instruments for the DPE register should be based on precise criteria that clearly distinguish between different types of instruments, such as OTC derivatives, equity derivatives, and other asset classes. It is essential to allow for flexibility in this categorisation to ensure that entities can accurately report only those instruments that fall under the RTS 2 transparency requirements. This

will help avoid the need for unnecessary reporting of products that are not subject to post-trade transparency.

However, there may be practical challenges related to the granularity of the categorisation. If ESMA's criteria are not sufficiently detailed, entities may be required to report on instruments beyond the scope of RTS 2, potentially causing compliance issues. To mitigate these challenges, it will be important to ensure that the categorisation process is well defined and that additional guidance is provided to align with the requirements of RTS 23. Enhanced integration and interoperability with other regulatory systems is also crucial to facilitate accurate and efficient reporting.

14.9 - SCOPE OF REFERENCE DATA TO BE REPORTED

Q73: Are any other adjustments needed to enable comprehensive and accurate reporting of Article 8a(2) derivatives under RTS 23?

To ensure comprehensive and accurate reporting under RTS 23, it is crucial to address issues related to the scope of instruments covered by Article 8a(2). This currently includes exchange-traded derivatives (ETD), cleared OTC derivatives in major currencies, and CDS on banking indices. For instance, a 3-month interest rate swap traded on an EU trading venue is not subject to RTS 23 reporting. However, distinguishing between listed and non-listed instruments can be complex and may require a labor-intensive sorting process. A robust system is needed to accurately identify the listing status of instruments to avoid reporting errors.

Additionally, the current reporting process via FIRDS, used for validating transaction reports, presents its own challenges. The lack of real-time updates in FIRDS can lead to inaccuracies, especially when instruments become listed (TOTV) after initial reporting but are not immediately reflected in FIRDS. This can cause discrepancies, creating regulatory risk. To address these challenges, it is important to develop a more dynamic and synchronised reporting system that enables consistency of the transaction reports with the most recent listing statuses. Furthermore, ensuring that the reporting scope is clearly defined and does not unintentionally include products not covered by RTS 2 is necessary to streamline compliance and reduce unnecessary reporting burdens.

