Response form for the Consultation Paper on the Amendment to RTS 11 (ESMA70-156-357)

13 July 2018 | ESMA70-156-471

Responding to this paper

ESMA invites responses to the questions set out throughout its Consultation Paper (ESMA70-156-357) proposing amendments to Commission Delegated Regulation (EU) 2017/588 (RTS 11). Responses are most helpful if they:

- respond to the question stated;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all responses received by **7 September 2018**.

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 the present response form.
- Please do not remove tags of the type <ESMA_QUESTION_ACDR_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 response, name your response form according to the following convention: ESMA_PE_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_ACDR_ABCD_RESPONSEFORM.
- Upload the form containing your responses, **in Word format**, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open consultations” → “Consultation on Securitisation Repositories Application Requirements”).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. **Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish your contribution 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 heading "Data protection".

Who should read the Consultation Paper

All interested stakeholders are invited to respond to this consultation paper. This consultation paper is primarily of interest to trading venues offering trading in equity instruments but responses are also sought from any other market participant which might be impacted by the proposals contained in this document including investment firms, trade associations and industry bodies, as well as institutional and retail investors.

General information about respondent

Name of the company / organisation	FIA European Principal Traders Association
Activity	Other Financial service providers
Are you representing an association?	☒
Country/Region	Europe

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_ACDR_1>

FIA EPTA members welcome the opportunity to provide comments on the ESMA Consultation Paper (ESMA70-156-357) proposing amendments to Commission Delegated Regulation (EU) 2017/588 (RTS 11).

FIA EPTA is comprised of 28 principal trading firms (PTFs) that deal on own account in a wide range of financial instruments traded on trading venues across the Union. PTFs play a key role in the modern financial ecosystem, bridging gaps in supply and demand between market participants and facilitating price discovery, especially at times when markets are volatile.

Collectively, FIA EPTA members are an important source of liquidity for trading venues and end-investors, allowing those who use the capital markets (whether to invest or to manage their business risks), to buy or sell financial instruments efficiently and at low cost. FIA EPTA's mission is to support transparent, robust and safe markets with a level playing field for all market participants. (For more information on FIA EPTA, please visit www.epta.fia.org).

We agree with ESMA's suggestion to recalibrate the tick-size regime for instruments where the main pool of liquidity is located outside the EU (third country instruments). We believe that in order to ensure and preserve high quality liquidity across financial markets, it is essential that all trading venues offering trading in a particular third financial instrument all apply to the same tick size for that instrument.

However, we do not agree that the most appropriate approach would be option (d). From the various options listed in the paper, we believe that only option (a), i.e., authorising EU trading venues to use the tick size applicable to the most liquid third country venue, would achieve the targeted policy objective.

Allowing EU trading venues to replicate the tick-size of the third country venues where the main pool of liquidity of an instrument is located, would not only ensure high-quality liquidity across venues but would also avoid arbitrage on tick sizes by market participants.

We have provided more detailed comments as to why this would be the preferred approach in question 1 & 2 below.

<ESMA_COMMENT_ACDR_1>

Q1 : Do you agree with the proposed amendments to RTS 11 described above? If you do not, please explain why and what alternative you would suggest.

<ESMA_QUESTION_ACDR_1>
We do not believe that option (d) as proposed by ESMA will be the solution to the identified problem. Consistency of the tick size across the EU and third country venues is essential for orderly trading. Any difference between the minimum tick sizes of the EU trading venues and those applicable on non-EU venues would be detrimental for investors and would unintentionally create a competitive disadvantage for one or more trading venues over another (others). As highlighted in the consultation paper, the impact on competitiveness for venues having a less preferential tick size was evident in the first days of the application of the new MiFID-II tick size regime and we believe a level playing field is key.

We believe that in order to ensure and preserve high quality liquidity across financial markets, it is essential that all trading venues offering trading in a particular financial instrument all apply to the same tick size.

From the various options listed in the paper, we believe that only option (a) would achieve that result. Allowing EU trading venues to replicate the tick-size of the third country venues where the main pool of liquidity of an instrument is located, would not only ensure high-quality liquidity across venues but would also avoid arbitrage on tick sizes by market participants. While we note ESMA's reservation concerning the presence of mandatory tick-size regimes in third country jurisdictions, we also know from experience that non-EU trading venues have their own consistent tick-size practices on a per-venue basis that market participants have to adhere to.

Since the application of MiFID II, we have seen several examples of non-alignment of tick sizes between trading venues which have led to unwarranted displacement of liquidity. Initially, the Italian stock exchange adopted a relatively larger tick-size regime than the other EU venues trading the same instruments. This led to a transfer of liquidity from the Italian stock exchange to the other EU venues. The Italian stock exchange was able to halt this effect by promptly realigning itself again with the other EU venues.

A similar experience occurred between the EU venues and the Swiss stock exchange. As the tick size regime of the EU venues was larger than the Swiss exchange as a result of the strict application of the MiFID II rules, they ended up losing significant market share and had to request the permission to realign themselves with the Swiss exchange.

We believe that such incidents could be eliminated completely if the EU trading venues were allowed to replicate the tick-size practice of the non-EU venue where the main pool of liquidity is located, as suggested in option (a).

We also do not believe that option (d) would be practically workable. Option (d) is based on the assumption that National Competent Authorities (NCAs) will always be able to access reliable data from the third country where the main pool of liquidity of a given instrument is located when calibrating their own tick-size regime. In the absence of a very clear mechanism for NCAs to obtain reliable data, there will be a constant risk of divergence between the actual tick-size practice of the third country venue and the EU trading venues, maintaining potential discrepancies between EU and non-EU trading venues and therefore undermining liquidity in EU venues.
<ESMA_QUESTION_ACDR_1>

Q1 : Do you agree not to include depositary receipts in the scope of instruments for which the ADNT could be adjusted? If not, please provide evidence supporting their inclusion.

<ESMA_QUESTION_ACDR_2>
Since a Depository Receipt (DR) aims at replicating the economic value of an underlying equity instrument, we believe that the tick-size of a DR should be as closely aligned as possible with the tick size of the underlying equity instrument. This is the case even if the liquidity profiles of the two instruments (equity

and DR) are different, with the DR typically being less liquid than the equity instrument. If the tick-size regime applied to an equity instruments, whose main pool of liquidity is located outside the EU, is modified, the same modification should apply to the DR.
<ESMA_QUESTION_ACDR_2>

Q2 : Do you agree with ESMA's assessment that the first months of application of the new tick size regime have not fundamentally called into question the calibration of this regime? If not, please provide evidence of any detrimental effects that you consider the current regime is causing.

<ESMA_QUESTION_ACDR_3>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_ACDR_3>

Q3 : Do you consider that ESMA should introduce some clarifications regarding ETFs within the scope of the mandatory tick size regime? If yes, please explain which ones.

<ESMA_QUESTION_ACDR_4>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_ACDR_4>

Q4 CBA: This first question aims at identifying the category of firm/entity you belong to:

<ESMA_QUESTION_ACDR_5>

Category	Number of employees	Total turnover in 2017 (in millions euros
Trading venue	[1-50]	TYPE YOUR TEXT HERE
	[51-250]	TYPE YOUR TEXT HERE
	[251-1000]	TYPE YOUR TEXT HERE
	>1000	TYPE YOUR TEXT HERE
Sell-side firm	[1-50]	TYPE YOUR TEXT HERE
	[51-250]	TYPE YOUR TEXT HERE
	[251-1000]	TYPE YOUR TEXT HERE
	>1000	TYPE YOUR TEXT HERE
		Assets under management on 31/12/2017 (in millions euros)
Buy-side firm	[1-50]	TYPE YOUR TEXT HERE
	[51-250]	TYPE YOUR TEXT HERE
	[251-1000]	TYPE YOUR TEXT HERE
	>1000	TYPE YOUR TEXT HERE
Other (please specify)	[1-50]	TYPE YOUR TEXT HERE
	[51-250]	TYPE YOUR TEXT HERE
	[251-1000]	TYPE YOUR TEXT HERE
	>1000	TYPE YOUR TEXT HERE

<ESMA_QUESTION_ACDR_5>

Q5 CBA: (Not for trading venues) Based on the definition of third country shares provided in the draft RTS, how often do you trade any of those instruments on an EU trading venues (on average):

<ESMA_QUESTION_ACDR_6>
Choose an item.
<ESMA_QUESTION_ACDR_6>

Q6 CBA: (For trading venues only) Based on the definition of third country shares provided in the draft RTS, how many shares traded on your trading venue would be eligible for a revised tick size regime? Which percentage of the total number of shares traded on your trading venue does this account for? Which percentage of total turnover does this account for?

<ESMA_QUESTION_ACDR_7>

Third country shares (shares for which the most liquid venue is located outside the EU and traded at least once a week on the most liquid EU venue)	**As of 30/06/2018**
Number of third country shares traded on your trading venue	TYPE YOUR TEXT HERE
% of total number of shares traded on your trading venue meeting the third country share definition	TYPE YOUR TEXT HERE
% of total share trading attributable to shares meeting the third country share definition during 1H2018	TYPE YOUR TEXT HERE
Market share in those third country shares (average) If average is not meaningful, please provide a range of %	TYPE YOUR TEXT HERE

<ESMA_QUESTION_ACDR_7>

Q7 CBA: Based on the draft RTS, which impacts do you expect from the revised tick size regime for third country shares?

<ESMA_QUESTION_ACDR_8>

Revised tick size regime	Positive Impact	Negative impact
Impact on your business model/ organisation/ client relationship	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE
Impact on your revenues	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE
Impact on market structure (e.g. principal vs agency trading, etc.)	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE
Impact on market liquidity and execution costs	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE
Other impacts. Please elaborate	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE

<ESMA_QUESTION_ACDR_8>

Q8 CBA: Is there any specific provision in the draft RTS that you would expect to be a source of significant concerns or cost? If so, please elaborate

<ESMA_QUESTION_ACDR_9>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_ACDR_9>

Q9 CBA: Please provide an indication, even a rough one, of compliance costs (in thousands of euros)

<ESMA_QUESTION_ACDR_10>

Draft amendment to RTS11	a. IT costs	b. Training costs	c. Staff costs	d. Other costs (please identify)	Total cots (if a, b, c or d are not available separately)
One-off costs	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE
Recurring costs (on an annual basis}	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE	TYPE YOUR TEXT HERE

<ESMA_QUESTION_ACDR_10>

Q10 CBA: Taking into account the size of your firm, would you qualify overall compliance costs as “low”, “medium” or “high”?

<ESMA_QUESTION_ACDR_11>
Choose an item.
<ESMA_QUESTION_ACDR_11>