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| 30 September 2021 |

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| Response form for the Consultation Paper on Review of the MiFID II framework on best execution reports |
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| Date: 30 September 2021 |

**Responding to this paper**

ESMA invites responses to the questions set out throughout this Consultation Paper and summarised in Annex II. Responses are most helpful if they:

* respond to the question stated and indicate the specific question to which they relate;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **Thursday 23th December 2021.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the steps below when preparing and submitting their response:

* Insert your responses to the consultation questions in this form.
* Please do not remove tags of the type <ESMA\_QUESTION\_BEEX\_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\_BEEX\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_BEEX\_ABCD\_RESPONSEFORM.
* Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input – Open consultations’ → ‘Consultation on Review of the MiFID II framework on best execution reports’).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. If you do not wish for your response to be publicly disclosed, please clearly indicate this by ticking the appropriate box on the website submission page. 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](http://www.esma.europa.eu) under the heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

This document is of interest to execution venues, investment firms and their associations, investors, consumer associations, as well as any market participant engaged in the execution of orders under the MiFID II framework.

# General information about respondent

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| --- | --- |
| Name of the company / organisation | FIA European Principal Traders Association |
| Activity | Other |
| Are you representing an association? |  |
| Country/Region | Europe |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_BEEX\_1>

The FIA European Principal Traders Association (FIA EPTA) welcomes the opportunity to respond to ESMA Consultation Paper on Review of the MiFID II framework on best execution reports.

FIA EPTA represents 30 independent European Principal Trading Firms (PTFs) which deal on own account, using their own money for their own risk, to provide liquidity and immediate risk transfer in exchange-traded and centrally-cleared markets for a wide range of financial instruments, including shares, options, futures, bonds and ETFs. FIA EPTA’s members are based in the Czech Republic, Germany, Ireland, The Netherlands, and the UK.

Our members are independent market makers and providers of liquidity and risk transfer on trading venues and end-investors across Europe. Market making and liquidity provision (also referred to as principal trading or dealing on own account) is a distinct activity that is undertaken by non-systemic investment firms rather than banks, in a highly dispersed and varied ecosystem of independent Principal Trading Firms. These firms operate in an innovative and competitive fashion leading to a vibrant, dynamic and diverse ecosystem which massively reduces interconnectedness and increases substitutability. This fundamentally reduces systemic risk whilst improving market quality and lowering costs for retail and institutional investors alike.

FIA EPTA would welcome the opportunity to provide further background to ESMA on the issues raised in our response.

<ESMA\_COMMENT\_ BEEX\_1>

1. **: Do you agree with the proposed scope in terms of execution venues for the reporting under a possible new RTS 27?**

<ESMA\_QUESTION\_BEEX\_1>

FIA EPTA agrees with the proposed change in scope of execution venues i.e. that execution venues for the purpose of the best execution reporting regime for execution venues (RTS 27) should not include ‘market makers’**.**

In our opinion the scope of the reporting regime should be limited to trading venues and SIs. However, FIA EPTA would question the requirement for ‘other liquidity providers’ to remain in the proposed scope. We believe that the scope of execution venues should mirror that of the STO definition of execution venues.

Should ‘other liquidity providers’ remain in the scope of this reporting requirement, we would request clarity as to what types of trading activity/firms are included under ‘other liquidty providers’. As this is not a defined term under MiFID II, the exclusion of ‘market makers’ but inclusion of ‘other liquidity providers’ in the reporting scope is expected to cause confusion unless there is a clear differentiation between the two.

<ESMA\_QUESTION\_BEEX\_1>

1. **: Do you agree with the proposed level of granularity by types of financial instruments instead of individual financial instruments under a new potential reporting regime? In particular, do you agree with the two proposed categories concerning shares (i.e., shares considered to have a liquid market and shares not considered to have a liquid market)? If not, please state the reasons for your answer and clarify what alternative categorisations you would propose in order to have a meaningful level of granularity for a new reporting regime.**

<ESMA\_QUESTION\_BEEX\_2>

FIA EPTA agrees with the proposal to aggregate level of granularity by types of financial instrumentent instead of reporting on a per individual financial instrument basis. As set out by ESMA, this should enhance the user friendliness of the data, make it more comparable and provide a complementary source of information to post-trade transparency reporting to assist market participants in choosing the most suitable venues for their executions.

With regards to the two proposed categories concerning shares, i.e. those considered to have a liqud market and those considered not to have a liquid market, FIA EPTA members believe this differentiation would be appropriate.

In addition, our members agree with aggregating non-equity instruments on the basis of the MiFIR identifier as set out in RTS 2. However, our members believe that further consideration and consultation would be needed to determine the appropriate level for ‘further dividing them on the basis of another level of granularity, which needs to be adapted to each type of instruments’ and would caution against requiring significant development work on the part of execution venues without fully validating the aptness and impacts of this level of granularity.

<ESMA\_QUESTION\_BEEX\_2>

1. **: Do you agree with the proposed metrics to report the execution quality obtained by execution venues?**

<ESMA\_QUESTION\_BEEX\_3>

FIA EPTA welcomes the intent of the proposed metrics. We believe that best execution data should be meaningful, accessible and understandable for retail consumers which would encourage competition and retail participation in the capital markets as per the CMU's objectives.

In terms of assessing meaningful best execution, at both the granular and aggregated level, FIA EPTA would like to stress the importance and value that a Consolidated Tape would provide to the process. A Consolidated Tape would provide users with a harmonised data source, that all Investment Firms and Trading Venues could use, so as to assess the quality of execution on a trade by trade basis. The key aspect of the enhancement this would provide is the uniformity of the data source which would then provide consumers with truly direct and comparable data on the quality of their execution. While we will continue to provide feedback on the seven metrics proposed, we would contend that before any decisions are made on metrics to be published in the RTS 27 reports, ESMA should wait to see the structure of the proposed Consolidated Tape so that it could be incorporated into these metrics in the future.

While FIA EPTA welcomes the intent of the proposed metrics, we also would like to stress that unless the individual metric is of material value and accessible to its target audience, we would not be in favour of including that metric in the proposed new RTS 27 report. This would create unnecessary overhead for Trading Venues and Investment Firms involved while providing little value to the market. In this regard, we would like to offer the below comments:

* *Metric 1 - The total nominal or monetary value of all transactions per type of financial instruments that were executed by the venue, in the previous quarter of the year.*

FIA EPTA agrees that this metric represents, at a high level, a broad indication of liquidity at a trading venue level. As reporting will be carried out at the per type of financial instrument level, this metric will show that the primary exchanges will be the most liquid venues in the Union. This information may be useful when deciding on what trading venue might provide best execution for liquid instruments. However, the shortcoming of this method becomes apparent when considering illiquid instruments where best execution is often found away from Primary Exchanges. A pertinent example of such a scenario would be in Scandinavian stocks, where best execution can typically be found with specialised local brokers. Whilst this metric is useful at a very high level, it is inherently skewed in favour of primary exchanges.

* *Metric 2 -The median monetary transaction value per type of financial instrument in the previous quarter of the year.*

FIA EPTA agrees with the proposed metric. While grouping by instrument type may again favour the larger exchanges, we see this as crucial information for a consumer to consider when deciding on execution venue, particularly taking into account the size of their order.

* *Metric 3 - The costs for a median transaction showing the fees the execution venue applied to any of its users for a median transaction during the previous reporting period.*

FIA EPTA agrees with the intent of the proposed metric. However, we propose a minor amendment that would provide a much more useful metric for the purposes of a best execution assessment. This would be to look at the median transaction costs applied to the median user, rather than median transaction. This proposed change would ensure the metric is not skewed by larger scale users such as sponsored access users, who receive very low transaction fees and execute a large amount of trades which would then skew the average transaction costs downwards on that Venue. That situation would not be reflective of the experience of the average user and thus the costs applied to the median user would provide more beneficial insight to the costs of executing on a certain trading venue for a retail consumer.

* *Metric 4 - The bid-offer spread related to the median transaction of the previous quarter of the year.*

FIA EPTA agrees with the proposed metric.

* *Metric 5 - The access to further information on costs requiring venues to make more details on relevant fees and charges for the execution of orders easily available for the public and market participants.*

FIA EPTA agree with the proposed metric.

* *Metric 6 - The speed of execution.*

FIA EPTA would argue that this metric in and of itself, while informative to sophisticated market participants, is of very little value to retail investors and could in fact be misleading in many cases. Firstly, speed of execution must be clearly defined as there are multiple elements to a trading venue's infrastructure and each venue must apply this calculation in a uniform manner for the metric to be valuable to a user. Secondly, speed of execution for a retail user not only includes the relative speed of the venue's matching engine but also the latency of sending that order to that matching engine including the various gateways and pre-trade control layers inherent in the chain of transmission. A stand-alone metric ignores these latency concerns and has the potential to mislead the unsophisticated investor.

* *Metric 7 - The total number of market makers designated by the venue per type of financial instrument.*

FIA EPTA agree with the proposed metic.

FIA EPTA members would also like to highlight that under the existing rules, Article 7 of RTS 27 sets out information that execution venues that operate under a continuous auction order book, continuous quote driven trading system or other type of trading system are required to provide (in Tables 8 & 9) and Article 8 of RTS 27 sets out information that request for quote execution venues are required to provide (in Table 9). This differentiation was provided as it was recognised that execution venues that do not operate these type of trading models, such as SIs that do not offer electronic trading capabilities, would be unable or not have this level of information. Given that metrics 3 – 7 relate specifically to execution venues that operate trading systems such as the above, FIA EPTA members would call for a recognition of this distinction.

<ESMA\_QUESTION\_BEEX\_3>

1. **: Have you observed good or bad practices of reporting by execution venues under the current RTS 27 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.**

<ESMA\_QUESTION\_BEEX\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_4>

1. **: Have you observed good or bad practices of reporting by investment firms under the current RTS 28 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.**

<ESMA\_QUESTION\_BEEX\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_5>

1. **: Do you agree with the classification for reporting proposed in Annex I of the possible new RTS 28, especially with regard to the suggested methodology for the reporting on equity instruments? If not, what alternative categorisations would you propose?**

<ESMA\_QUESTION\_BEEX\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_6>

1. **: Do you agree with the proposals for a possible review of RTS 28?**

<ESMA\_QUESTION\_BEEX\_7>

FIA EPTA welcomes the proposed streamlining of the reports and requiring that they are published in a machine-readable format.

Requiring visibility on best execution information where orders were not executed by firms for clients directly, but routed to third parties. This would address a significant information gap in the current RTS 28 reports, which only show the next step in the chain (e.g. which broker flow is passed to, not where that broker ends up executing). Information on the competitiveness of the venue where flow ends up being traded would provide a much clearer picture on execution quality.

We also strongly support the addition of disclosure obligations with regard to payment for order flow information or any other monetary or non-monetary benefits for each venue.

Finally we would encourage increasing the frequency of the RTS 28 reports and align this with the reporting interval for RTS 27 reports. We would also encourage collecting RTS 27 reports in a central and publicly available register.

<ESMA\_QUESTION\_BEEX\_7>

1. **: Do you agree with the cost benefit analysis as it has been described in Annex II?**

<ESMA\_QUESTION\_BEEX\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_BEEX\_8>

1. **: Are there any additional comments that you would like to raise and/or information that you would like to provide?**

<ESMA\_QUESTION\_BEEX\_9>

Feedback on Annex III - A) BEST EXECUTION – POTENTIAL REPORTING REGIME FOR EXECUTION VENUES

1. **Table 2 Field 12, 13, 14 and 15**

FIA EPTA would like to point out that it is stated that these fields are to be expressed in EUR. However no FX rate is detailed. We would ask for ESMA to clarify what FX rate should be used to convert any non-Euro values to EUR (e.g. closing price prior to date file is generated / re-generated).

1. **Table 2 Field 16 Description of costs: Provision of a link to a website or other source, where descriptive information on nature and level of costs applied by the execution venue is available**

FIA EPTA notes that the size of this field is only 50 alpha numeric characters which is likely too small for a website link for most execution venues.

1. **Table 2 Field 17 Speed of execution: Median time elapsed between an aggressive order or quote acceptance being received by the execution venue and the subsequent total or partial execution, expressed in milliseconds for continuous auction order books, while for other trading systems it is appropriate to use larger units of time.**

FIA EPTA notes that units of time can be provided in Field 17. However, the format of the field only allows for integer (positive numeric value), while it is unclear where is the unit of time is to be specified.

<ESMA\_QUESTION\_BEEX\_9>