

Consultation on MiFIR Review Package

MiFIR Review Consultation Package

1. – Target participants

This document will be of interest to all stakeholders involved in the securities markets. It is primarily of interest to firms that are subject to MiFIR and MiFID –in particular, trading venues, designated publishing entities and investment firms. This paper is also important for trade associations and industry bodies, institutional and retail investors and their advisers, and consumer groups, as well as any market participant for which the MiFIR and MiFID requirements are of relevance.

2. - Information Note

This consultation paper (CP) includes draft technical standards related to pre- and post-trade transparency requirements for non-equity instruments under Articles 9, 11 and 20 of the MiFIR review. In addition, the CP covers the mandate under Article 13 in relation to the obligation to make pre-and post-trade data available on a reasonable commercial basis (RCB). Finally, it also covers the mandate under Article 27 of the MiFIR review on the obligation to supply instrument reference data. To this end, ESMA seeks stakeholders input on a number of questions, inter alia, to gather insights on the manner and the extent to which UCITS have gained direct and indirect exposures to certain asset classes that may give rise to divergent interpretations and/or risk for retail investors (e.g. structured/leveraged loans, catastrophe bonds, emission allowances, commodities, crypto assets, unlisted equities).

This CP contains three different sections each covering one draft technical standard:

- (1) the amendment of RTS 2 in relation to non-equity transparency;
- (2) the draft RTS on RCB; and,
- (3) the amendment to RTS 23 in relation to reference data.

The RTS 2 amendment section includes an introduction covering the mandate and scope of the proposed amendments to RTS 2. It also includes ESMA's proposals on pre-trade transparency, in particular in relation to the definition and characteristics of central limit order books (CLOB) and periodic auctions, and limited amendments to the pre-trade waiver regime. In addition, it covers the mandate under Article 11 of MiFIR in relation to the deferral regime for bonds, structured finance products and emission allowances. Finally, the RTS 2 amendment also suggests some changes to specific transparency fields.

The RTS on RCB section introduces the ESMA mandate and background for the provision of market data. The proposed new RTS converts the ESMA guidelines on cost of market data into legal obligations. It furthermore strengthens the provisions with the aim of ensuring that market data users are not charged for market data according to the value that the market data represents to them. It includes proposals on the RCB

and unbiased and fair contractual terms based on which the relevant market data needs to be made available. In addition, the RTS contains provisions to ensure non-discriminatory access to the relevant information and specifies that the relevant data policies should be made public free of charge and in a manner which will make it easy to access and to understand these. The RTS concludes with proposing the relevant reporting to the competent authorities.

The consultation on the amendment to RTS 23 includes Section 13 which presents the legal mandate and explains how ESMA is planning to address the provisions set therein. Section 14 outlines the background to the proposals and includes questions for respondents' consideration. Finally, Section 15 includes the annexes with the list of all questions formulated in this consultation, legal mandate, note on cost-benefit analysis and draft regulatory technical standards.

Based on the feedback received to this consultation paper ESMA will publish a final report and submit the draft technical standards to the European Commission by the end of Q4 2024.

3. - Submission of comments

The deadline for submitting comments is **28 August 2024**.

Respondents may send their comments through this link to [ESMA's website](#) where the consultation paper and the response form are available.

Likewise, please send a copy of your answers to the CNMV to the following email address: documentosinternacional@cnmv.es

Dirección de Asuntos Internacionales
CNMV
c/ Edison 4
28006 Madrid