



ESMA Public Consultation Paper on the review of RTS 1 (equity transparency) and RTS 2 (non-equity transparency)

Link to the paper: [Consultation Paper on the review of RTS 1 \(equity transparency\) and RTS 2 \(non-equity transparency\)](#)

1.- Target participants

The consultation paper is of particular interest for trading venues and investment firms, including Systematic Internalisers (SIs), which are subject to the requirements set out in RTS 1 and 2. The consultation paper is also of interest for other stakeholder groups such as the asset management industry, data reporting service providers, as well as industry and consumer associations.

2.- Information Note

Commission Delegated Regulation (EU) 2017/587 (RTS 1) and Commission Delegated Regulation (EU) 2017/583 (RTS 2) further specify the MiFIR pre- and post-trade transparency requirements for equity instruments and non-equity instruments. Following the application of MiFID II and MiFIR for more than three years and ESMA's work on reviewing the MiFID II/MiFIR provisions, in particular on equity and non-equity transparency as well as on the functioning of the consolidated tape provider (CTP) for equity instruments, the consultation paper presents ESMA's proposals for amending RTS 1 and 2.

Given the parallel work of the European Commission on reviewing MiFIR, the review is limited in scope and focus on: i) amendments of the Level 2 texts identified in the 2020 ESMA review report on the transparency regime that do not require a Level 1 amendment; ii) amendments to improve the quality of transparency data and to prepare the ground for the establishment of a consolidated tape; and (iii) technical issues raised by stakeholders and/or identified by ESMA over the last years.

The consultation paper is split in two main sections:

- **Section 3** presents the proposals for amending RTS 1, in particular to increase the pre- and post-trade large in scale thresholds for Exchange traded funds, to develop a more consistent and clearer approach on non-price forming transactions and to strengthen the pre-trade transparency requirements by introducing tailored requirements for frequent batch auction and hybrid systems as well as specifying fields to be populated when disclosing pre-trade transparency information.

- **Section 4** presents the proposals for amending RTS 2, a number of changes mirror the approach proposed for RTS 1. In addition, ESMA is seeking feedback from stakeholders on the potential review of the calibration of non-equity instruments other than commodity derivatives. For commodity derivatives, the proposed changes cover three dimensions: (1) the way in which the contracts are aggregated into sub-classes, ensuring that contracts with different liquidity profiles are not bundled together; (2) improvements to the identification of liquid instruments; and (3) the calculation of the liquidity thresholds ensuring that the most liquid contracts have larger thresholds than less liquid ones.

The proposals for the review of RTS 1 and 2 also cover an extensive review of the fields and flags to be populated when publishing post-trade information as well as for providing reference and quantitative to ESMA for the purpose of the transparency calculations. The document also discusses the need for giving stakeholders sufficient adaptation time after the entry into force of the amendments. In this respect, a minimum implementation period of 6 months is suggested.

Finally, the various Annexes to the consultation paper present, among others, the feedback received to the technical call for evidence on RTS 1 and 2, a high-level cost-benefit analysis, the legal drafting of the proposed amendments to RTS 1 and 2 as well as more details on the proposed recalibration for commodity derivatives.

3.- Submission of comments

The deadline for submitting comments is 1 October 2021.

Respondents may send their comments through ESMA's website: www.esma.europa.eu. The paper of this consultation (ESMA70-156-4236) and the Response Form are available in the section [Consultation](#).

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

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