

EFAMA's RESPONSE TO ESMA's CONSULTATION PAPER ON REVIEW OF THE MiFID II FRAMEWORK ON BEST EXECUTION REPORTS

22 December 2021

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INTRODUCTION

We welcome this opportunity to comment on the proposed reforms to RTS 27 and RTS28. This is a timely and necessary review to which we hope to contribute in a constructive manner. As already recognised in the consultation paper and in the MiFID Quick Fix proposal, both reports currently fall short of the objective of providing valuable and comparable datasets for investment managers and the investing public. We appreciate the present effort to revise reporting requirements to produce more meaningful reports.

After wide consultation with our membership, there is firm scepticism that RTS 27 and RTS 28 would add any value under their revised forms. Especially as concerns the RTS 28 report, the man-hours to produce the reports are significant, and in no way justified with the extremely low 'clicks' observed on the download of these reports. In the consultation response we point to what we believe are fundamental flaws in the report design: the obligation to report by legal entity therefore gaining (irrelevant) insights on the legal set-ups of companies or their execution infrastructure, but not on the counterparties that are chosen for execution or how concentrated these flows are.

This is why we would strongly advocate for the removal of both reports in the knowledge that there are existing tools that already support best execution. Institutional investors today receive detailed reporting on executed trades in the form of frequent and timely reports, making the RTS28 reports redundant and explaining the extremely low interest in them. Equally, a multi-asset class consolidated tape will provide valuable data for retail and institutional investors to help assess best execution. Finally, there is also a competitiveness angle here which merits mention. In the UK, the FCA recently announced the removal of both RTS 27 and RTS 28 reports. It would seem unfair to continue requiring the production of seldom used reports in this regard for EU firms (not only vis-a-vis UK firms but vis-a-vis global non-EU firms).

Q1 : Do you agree with the proposed scope in terms of execution venues for the reporting under a possible new RTS 27?

We do not believe that narrowing the scope of reporting execution venues will make a material difference to the usability of the reports. The intractable problems are that i) venues apply different reporting standards and ii) some use machine readable formats while others do not. This makes cross comparison of reports for the assessment of best execution difficult if not impossible.

Q2 : 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.

We do not believe that the new granularity of reporting, and proposed aggregation will enhance the reports in a meaningful way. The resulting reports would still be too broad and complex to make any

meaningful comparisons.

Q3 : Do you agree with the proposed metrics to report the execution quality obtained by execution venues?

Here again we think the larger problem to tackle is around fragmented data sets. We think mandating use of the FIX Trading Community Typology would be effective. We also believe that a consolidated tape once in place would provide an accessible, comprehensive and comparable overview of markets, and the ability to conduct post-trade analysis and assessment of execution quality. In terms of the proposed metrics, the speed of execution metric, in particular, seems to us an unnecessary metric with no relevance to the investing public.

Q5 : 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.

We would not refer to bad practices per se, but rather point to a sub-optimal report design in the RTS28. For instance, it does not make sense to report by legal entity. We do not think a bank will have different execution standards by legal entity. Also, we recommend changes to the definition of a reportable venue to the actual trading counterpart we executed a trade through. Reporting trading venues and affiliates where we may pass on order to for execution is meaningless and unhelpful.

As an example: if you execute with broker A directly, or via a platform or via a placement to your non-EU entity you will show this as three different counterparties – even if the trade ends up with the same broker. RTS28 reports then end up giving information on the legal set-ups of companies or their execution infrastructure – but not around which counterparties they choose and how concentrated flows are. This is why it is very difficult to compare different RTS 28 reports.

Finally as further evidence that the RTS 28 reports are not being used for their intended purpose, we identified a minor number of firms that used these reports as part of their operational due diligence (pre-appointment due diligence), but important to highlight not for assessing the quality of execution received.

Q6 : 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?

No, we do not agree with this proposal. For this reporting to be relevant it needs to be comprehensive and the only way to ensure investment firms report exhaustively is to set securities classification for each specific ISIN and coded specifically for each transaction. Liquidity for a security varies over time and the simplification of saying ISIN X is classified as a) or z) at the beginning of the year is an oversimplification that cancels all relevance to this classification. The only way to have relevant data is to attach the specific current classification coded along with the price at execution. This requires market data efforts that are substantial and create a competitive disadvantage as compared to non-EU firms. and potentially not feasible until we have a proper Consolidated Tape that would include this classification.

Q7 : Do you agree with the proposals for a possible review of RTS 28?

We do not believe that publishing the top five execution venues where we execute client orders (including trading venues and names of affiliates we place orders with) is at all useful to existing or potential investors. Even with the proposed changes, the RTS 28 remains in our view an overly prescriptive and meaningless report. Today most asset managers run their own broker summaries already which are far more suited for allowing assessment of best execution

On the specific proposed changes, we do not see any real simplification of reporting duties under the proposal, apart that is from the deletion of passive/aggressive order percentage requirement, the reporting becomes more complex and costly as

- i. presentation and quality analysis of data for execution and RTO services become distinct and subject to different requirements
- ii. PFOF requirement has been added whilst those practices are likely to be banned
- iii. Machine readable data requirement will require additional IT development

From a professional client perspective we would not expect availability of revised reports to be an improvement to our analysis. Here again the need/real interest is not to gather information based on a broad unspecific picture but to receive data elements and quality analysis that is specific to our business and the way we work with execution and RTO service providers.

We doubt that under the reform we would obtain a meaningful reporting on which we would base our best execution analysis and decision making process to select service providers.



About EFAMA

EFAMA, the voice of the European investment management industry, represents 28 Member Associations, 58 Corporate Members and 24 Associate Members. At end Q4 2020, total net assets of European investment funds reached EUR 18.8 trillion. These assets were managed by more than 34,350 UCITS (Undertakings for Collective Investments in Transferable Securities) and almost 29,650 AIFs (Alternative Investment Funds). At the end of Q2 2020, assets managed by European asset managers as investment funds and discretionary mandates amounted to an estimated EUR 24.9 trillion.

More information is available at www.efama.org.

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