

MIFIR DERIVATIVES TRANSPARENCY - RTS 2

ESMA'S CONSULTATION

AMAFI's answer

AMAFI is the trade association representing financial markets' participants of the sell-side industry located in France. It has a wide and diverse membership of more than 170 global and local institutions notably investment firms, credit institutions, broker-dealers, exchanges and private banks. They operate in all market segments, such as equities, bonds and derivatives including commodities derivatives. AMAFI represents and supports its members at national, European and international levels, from the drafting of the legislation to its implementation. Through our work, we seek to promote a regulatory framework that enables the development of sound, efficient and competitive capital markets for the benefit of investors, businesses and the economy in general.

AMAFI welcomes the opportunity to respond to ESMA's consultation on the amendment of RTS 2 regarding derivatives transparency. Transparency in non-equity markets is a key issue, as its calibration can have significant consequences for market liquidity. In this context, AMAFI sets out below its detailed comments on the proposals put forward by ESMA.

I. AMAFI'S ANSWERS TO ESMA'S QUESTIONS

3.2 – PRE-TRADE TRANSPARENCY FOR DERIVATIVES TRADED ON TRADING VENUES

Q.1: Do you agree with the proposals regarding pre-trade transparency?

AMAFI generally agrees with the proposed approach, including the use of fixed thresholds. We support an annual review by ESMA to ensure the calibration remains appropriate. However, we believe that any revision of the fixed thresholds should be subject to public consultation. We note that changes to RTSes usually take time, which raises concerns about the delay in updating thresholds if the calibration proves inadequate.

3.3 – POST-TRADE TRANSPARENCY FIELDS AND FLAGS

Q.2: Do you agree with the proposed amendments to Table 2 (fields) and Table 3 (flags) of Annex II of RTS 2? Please explain.

AMAFI generally supports efforts to improve the clarity and consistency of reporting under RTS 2. However, we have comments on important aspects of some proposed amendments.

Firstly, **regarding instrument identification**, the Unique Product Identifier (UPI) should be used in place of the ISIN for derivatives. The ISIN lacks the flexibility and suitability required for complex instruments, and current systems are not capable of generating ISINs within the necessary timeframe (e.g. within five minutes of execution). Since 2018, MiFIR has mandated the use of ISINs to identify all reportable financial instruments. While this requirement works well for instruments admitted to trading, such as shares, bonds, and listed derivatives that natively carry ISINs, it is not adapted to OTC derivatives, which do not have ISINs by default and therefore require a workaround. To meet this requirement, trading venues and investment firms rely on a central numbering agency, the ANNA Derivatives Service Bureau (ANNA DSB), to generate so-called “technical ISINs” on demand. As these codes must be obtained intraday, integrating their generation into trade workflows is a burdensome operational challenge.

The UPI is more appropriate for derivatives and has already been adopted in the UK where it is used to identify OTC derivatives under EMIR, avoiding the need for a new code for each trade instance. This supports competitiveness by reducing duplication, simplifying reporting processes and lowering operational costs. The UPI is based on an internationally recognised standard (ISO 4914) that is already widely implemented. In contrast, the technical ISINs required under MiFIR are burdensome to produce and largely redundant when a UPI is already available to serve the same purpose under EMIR.

Using the UPI would reduce complexity, avoid the introduction of unnecessary new fields (such as the proposed “INTC” flag), and support harmonisation of EU practices with international ones. We note, however, that in the context of the MiFIR review, this issue does not seem to be fully acknowledged. As such, it is not excluded that different identifiers could be mandated for transaction reporting and transparency reporting. This misalignment would compel trading venues and investment firms to maintain parallel reference data for the same OTC derivative (e.g. ISINs for transaction reporting and UPIs for transparency) requiring reconciliation tools. This approach is unnecessarily complex,

operationally burdensome, and prone to errors. In addition, the generation of ISINs for OTC derivatives is significantly more expensive than the issuance of UPIs.

This approach would align with the broader CE simplification strategy based on the reuse of global identifiers (LEI, UPI, CFI) and would help ensure better consistency between the currently fragmented EMIR and MiFIR regimes, as EMIR already uses UPIs.

This approach is also fully consistent with Article 27(1) of the revised MiFIR and with Commission Delegated Regulation (EU) 2025/1003, which mandates the use of the UPI for interest rate swaps and credit default swaps (CDS) from 1 September 2026 for both pre- and post-trade transparency purposes.

Finally, a consistent identifier is essential to the development of a future consolidated tape. We also recommend exploring the possibility of linking the UPI to readable tickers, to facilitate interpretation and mapping for both front-office users and consolidated tape providers.

Secondly, for the field **“transaction to be cleared”**, we see challenges in reporting transactions that are not yet cleared within the five-minute window but are intended to be cleared shortly after. This is often the case during the affirmation/confirmation process. We recommend that the field be construed as the *intention* to clear, but we note that integrating this into IT systems may be difficult. There is also a risk of misinterpretation when the counterparty at execution is not yet the CCP but still the non-investment firm intermediary. Further clarification by ESMA is needed to avoid incorrect rejections and to accommodate operational realities, especially to avoid the non-reporting of a lot of bilateral trades that are in the problematic cases mentioned.

Thirdly, regarding **CDS price reporting**, we believe the spread is the most relevant price indicator and should be reported even if we note that most market participants currently report only the upfront amount and the standard coupon, in line with EMIR Refit validation rules. AMAFI recommends reporting either the spread alone or the spread together with the coupon. The upfront amount should not have to be reported, as it depends on the notional and, together with the standard coupon and the spread, allows its reconstruction, which would conflict with the volume deferral regime (see Table 62, page 88).

Finally, **on spread reporting for interest rate swaps**, the fixed rate should remain the primary price indicator. Making the spread field mandatory even when the spread is zero would have limited value and create confusion, particularly regarding the unit of measure (percentage vs basis points). The field should therefore be conditional, reported only when a spread applies.

3.3.3.3 – CONCEPT OF WHAT CONSTITUTES REAL-TIME

Q.3 Do you agree not to change the concept of “as close to real-time as technically possible”? If not, what would be in your view the maximum permissible delay?

AMAFI believes that the current 5-minute maximum delay is too short in many cases, particularly for derivatives.

In practice, a significant number of transactions, especially in credit and interest rate derivatives, are still executed manually or semi-manually. Voice trading remains common, and the affirmation and clearing processes can take several hours. This makes it very difficult to meet a 5-minute publication window.

We recommend allowing a longer delay for post-trade transparency in derivatives. This is especially relevant given the extension of MiFIR's scope to more complex and less standardised products, such as non-TOTV IRDs and CDSs.

3.4 – LIQUIDITY DETERMINATION AND DEFERRAL REGIME FOR DERIVATIVES

Q.4 Do you agree with the general approach described above?

AMAFI generally supports the overall approach proposed for the liquidity determination for transparency regime for derivatives.

We call for coordinated implementation of RTS 22 (transaction reporting), RTS 23 (reference data) and RTS 2 (post-trade transparency) under MiFIR, as the current lack of clarity is creating regulatory uncertainty and confusion among market participants. We therefore ask ESMA to defer the application of RTS 23 and adopt a “stop and think” approach to allow for coherent, sequenced implementation. Clear guidance on timelines and interdependencies of the different RTSes is essential to ensure consistent application across the regime.

Therefore, we welcome ESMA's recent decision¹ to not propose changes to the existing reporting frameworks for transaction reporting², reference data³ and order data⁴ (RTS 22, 23, and 24 respectively) under the ongoing MiFIR review. This pause is necessary to allow for a proper reassessment of the transaction reporting scope, including a review of certain proposed changes and a better evaluation of their impacts, consistent with the objectives of the MiFIR review and the broader goals of simplification and competitiveness.

This is also an opportunity to take into account the forthcoming specifications from the European Commission regarding the identifying reference data to be used for OTC derivatives in the context of transaction reporting⁵.

¹ <https://www.esma.europa.eu/press-news/esma-news/streamlining-financial-transaction-reporting-esma-calls-input>

² Mandate under Article 26 (9) of revised MiFIR.

³ Mandate under Article 27 (3) of revised MiFIR.

⁴ Mandate under Article 25 (3) of revised MiFIR.

⁵ Article 27(5) 2nd paragraph, MiFIR.

3.4.3 – EXCHANGE-TRADED DERIVATIVES

LIQUIDITY ASSESSMENT

Q.5 Which option do you prefer for the liquidity assessment for equity exchange-traded derivatives, option A, option B, option C or another alternative

No specific issues have been raised by AMAFI members regarding this proposal.

Q.6 Which option do you prefer for the liquidity assessment for interest rate exchange-traded derivatives, Option A, Option B or another alternative?

No specific issues have been raised by AMAFI members regarding this proposal.

Q.7 Do you agree with the liquidity assessment for commodity and emission allowances exchange traded derivatives

No specific issues have been raised by AMAFI members regarding this proposal.

Q.8 Do you agree with the liquidity assessment for the following ETD asset classes: FX, Credit, securitised derivatives and other derivatives?

No specific issues have been raised by AMAFI members regarding this proposal.

DEFERRAL REGIME

Q.9 Regarding the size thresholds for the deferral regime of Equity exchange traded derivatives, which option do you prefer?

No specific issues have been raised by AMAFI members regarding this proposal.

Q.10 What is your view on the size thresholds for the deferral regime of Interest rate exchange traded derivatives?

No specific issues have been raised by AMAFI members regarding this proposal.

Q.11 What is your view on the size thresholds for the deferral regime of commodity and emission allowances exchange traded derivatives?

No specific issues have been raised by AMAFI members regarding this proposal.

Q.12 Do you agree with the size thresholds for the deferral regime of the following ETD asset classes: FX, Credit, securitised derivatives and other derivatives?

No specific issues have been raised by AMAFI members regarding this proposal.

3.4.4 – OVER-THE-COUNTER DERIVATIVES

LIQUIDITY ASSESSMENT

Q.13 Do you agree with the proposed liquidity assessment for OTC interest rate derivatives? Should you support a different assessment for spot-starting and forward-starting interest rate derivatives, please support your response with a data analysis.

No specific issues have been raised by AMAFI members regarding this proposal.

Q.14 Do you agree with the proposed liquidity assessment for OTC single-name credit derivatives?

No, AMAFI does not support the proposed liquidity classification. In our view, none of the products concerned – including 5-year CDS on GSIBs – should be considered liquid, given the very low number of daily trades.

Accordingly, we do not believe that either real-time or end-of-day publication is appropriate. We also disagree with the proposed decoupling of price and volume deferrals.

The proposed threshold of €3 million is also a concern, as trades below this level would, as we understand it, be published in real time despite their small size.

Regarding APAs, while firms currently follow the deferral logic applied and reported by APAs, requiring them to verify the correctness of the deferral would pose significant operational challenges. Most investment firms do not have the capacity to carry out such checks, even if they remain legally responsible for the accuracy of the reporting. This burden should not fall on investment firms.

Q.15 Do you agree with the proposed liquidity assessment for OTC index credit derivatives?

No, AMAFI does not agree with the proposed liquidity assessment for OTC index credit derivatives. In particular, we do not support the classification of iTraxx Senior and Subordinated Financial indices as liquid, as the average numbers of daily trades, around 100 and 38 respectively, do not justify such a designation.

The use of the term “less liquid” is also too vague. These indices should be classified as illiquid and benefit from extended deferral periods.

We do not support the proposed link between price and volume transparency. While early publication of the price may be acceptable, the volume should be deferred for several weeks or even months, depending on the circumstances.

More broadly, we stress the risks of applying transparency to illiquid instruments, which may lead to negative market outcomes and encourage speculative behaviour.

Finally, we note inconsistencies in the consultation document itself: on page 72, certain indices are classified as illiquid, while on page 75 the same indices are described as “moderately liquid”, despite similar levels of trading activity. This should be clarified.

DEFERRAL REGIME

Q.16 Do you agree with the proposed deferral framework for OTC interest rate derivatives?

No specific issues have been raised by AMAFI members regarding this proposal.

Q.17 Do you agree with the proposed deferral framework for OTC single-name CDSs?

No specific issues have been raised by AMAFI members regarding this proposal.

Q.18 Do you agree with the proposed deferral framework for OTC index CDSs?

No specific issues have been raised by AMAFI members regarding this proposal.

Q.19 Do you have suggestions on the way to implement the volume masking in the post-trade reports, including the application of flags?

No specific issues have been raised by AMAFI members regarding this proposal.

4. – THE EUROPEAN SYSTEM OF CENTRAL BANKS (ESCB) EXEMPTION

Q.20 Do you agree with the proposed amendments to Articles 14 and 15 of RTS 2? Please explain.

Yes, AMAFI considers that the proposed amendments to Articles 14 and 15 of RTS 2 are consistent with the changes introduced at Level 1 and represent a welcome simplification. The distinction between Eurosystem and non-Eurosystem central banks is clear and appropriate.

5. – PACKAGE ORDERS

Q.21 Do you agree with the proposed amendments to CDR 2017/2194, the RTS on package orders? Please explain.

Yes, AMAFI agrees with the proposed approach to package orders. The logic is consistent with existing market practice, notably for multi-leg strategies such as butterflies.

6. – RTS ON INPUT/OUTPUT DATA FOR OTC DERIVATIVES CTP (MANDATE)

Q.22 Do you agree with the proposals on regulatory data for OTC derivatives? Please distinguish in your reply between regulatory data per instrument vs. regulatory data per system matching order.

AMAFI agrees with the proposals on regulatory data for OTC derivatives, both per instrument and per trading system.

However, regarding regulatory data per trading system, AMAFI understands that these fields, such as “Type of Trading System”, are only applicable to transactions executed on a trading venue. For off-venue transactions (e.g. reported with XOFF), these fields (such as field 7) are not expected to be populated.

Q.23 Do you agree with the proposals on core market data for OTC derivatives?

AMAFI agrees in principle with the proposed core market data fields for OTC derivatives, as they promote consistency with the structure already defined for bonds and RTS 2.

However, we note that the reference to “*Article 24 of this Regulation*” for field 16 is unclear, as no such article could be identified in the draft RTS, related delegated acts, or Level 1 text. The same issue arises for fields 20 (“*Date and Time of reception by the CTP*”) and 21 (“*Date and Time of publication by the CTP*”). We invite ESMA to clarify the legal basis for these references.

AMAFI strongly opposes the introduction of new identifiers such as the **Transaction Identification Code (TIC)**. These fields introduce significant operational complexity and cost, requiring market participants to implement mechanisms for generation, validation and tracking across the reporting chain. Based on the experience with UTI implementation under EMIR, such identifiers tend to generate ambiguity and inconsistency, reducing data quality and increasing compliance risks. Moreover, their introduction undermines the stated objective of simplification and burden reduction of regulatory reporting.

Rather than creating EU-specific codes such as the TIC (or INTC), which would further fragment the system and discourage international interoperability, existing global identifiers like the UTI should be leveraged.

The UTI is already required under EMIR and SFTR and is based on a harmonised international standard also used in the US (CFTC). Where a unique transaction identifier is needed — including for off-venue trades — the same UTI could be reused across MiFIR transaction reporting and transparency reporting, provided appropriate guidance is issued on how to share it between counterparties.

This would achieve the intended reconciliation objectives of the TIC without introducing new burdens or duplicating existing fields. AMAFI urges regulators to step back from creating parallel EU-only identifier schemes and instead focus on ensuring consistent and effective implementation of global standards.

In addition, AMAFI has concerns regarding the introduction of the “**Suspicious Data Flag**” by the CTP. While we recognise the intention to highlight potentially erroneous data, the concept of “suspicious” remains vague and risks being inconsistently applied. We stress the need for a clearly defined and objective framework for its use, to avoid confusion and preserve the credibility of the published data.

