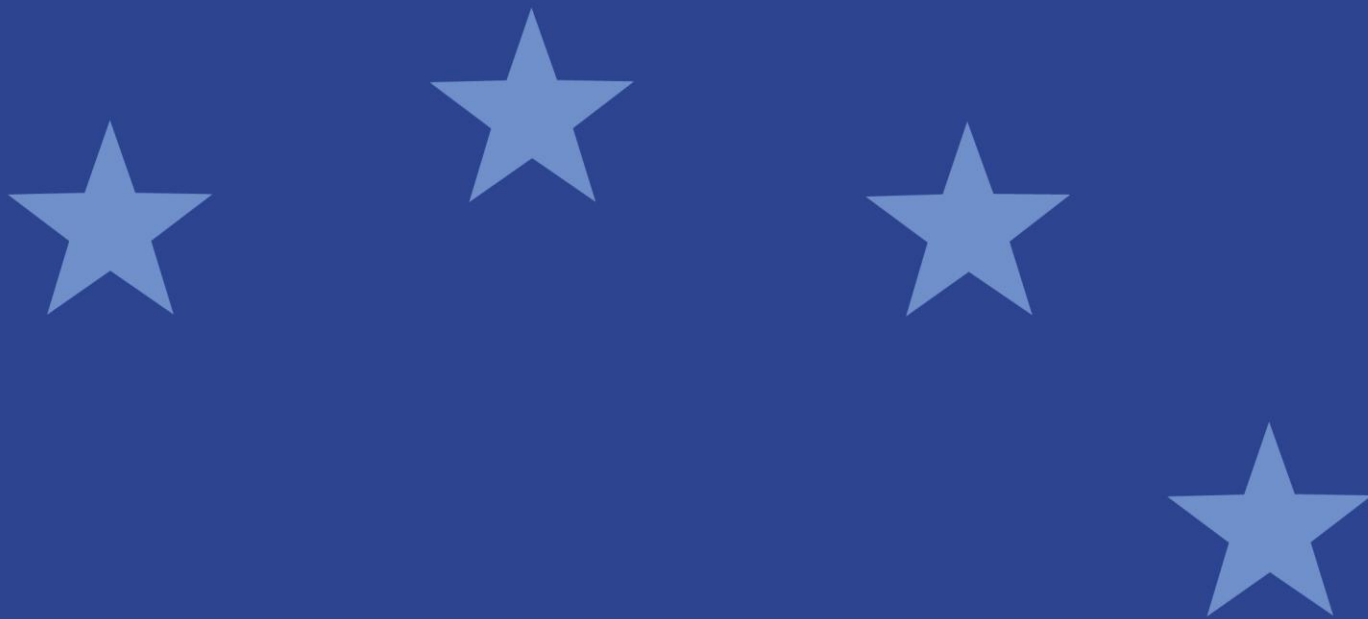




European Securities and
Markets Authority

Reply form for the Addendum Consultation Paper on MiFID II/MiFIR



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Addendum Consultation Paper on MiFID II/MiFIR, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_CP_TR_ORK_CS_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text "TYPE YOUR TEXT HERE" between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider

Naming protocol

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_CP_TR_ORK_CS_NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA_CP_TR_ORK_CS_XXXX_REPLYFORM or

ESMA_CP_TR_ORK_CS_XXXX_ANNEX1

To help you navigate this document more easily, bookmarks are available in "Navigation Pane" for Word 2010 and in "Document Map" for Word 2007.

Deadline

Responses must reach us by **23 March 2016**.

All contributions should be submitted online at <https://www.esma.europa.eu/> under the heading 'Your input/Consultations'.



Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that 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 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 under the headings 'Legal notice' and 'Data protection'.



Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_CP_TR_ORK_CS_1>

Deutsche Börse Group (DBG) welcomes the opportunity to contribute to the recent consultation on Guidelines on transaction reporting, reference data, order record keeping and clock synchronisation. We appreciate the possibility to comment on the technical specifications drafted by ESMA and to support the Authority in its efforts to promote the consistent and harmonised application of the implementing provisions. We consider a harmonised interpretation and application of provisions across jurisdictions as indispensable for the adequate implementation of the revised Markets in Financial Instruments Directive (MiFID) as well as the encompassing Regulation (MiFIR).

Before commenting on the questions in more detail, we would like to emphasize some key aspects in this Consultation Paper which we deem to be of particular relevance. Our introductory comments follow the sequence of the questions as displayed in the consultation document. Where references to the associated RTS are made we refer to these provisions according to the draft versions submitted by ESMA in September last year.

As a general ex-ante remark on the transaction reporting part of the Guidelines, it is in most cases **not clear when the Investment Firm is impacted directly and when the Approved Reporting Mechanism (ARM) is impacted directly**. We would appreciate further clarification by ESMA here.

Deutsche Börse Group/ Eurex would like to express severe concerns towards ideas on **using ISINs at a series level**. It appears that many of the issues and problems arising from such suggestions are not known. While costs are always a huge factor, we would like to provide examples of issues, complexities and unresolved aspects and alongside cost considerations to demonstrate that ISIN, hardly manageable on the financial instrument level are not sensible on a series level. **ESMA refers to financial instruments as a basis, to our comparable scope of exchange products, not on a series level**. This understanding is further substantiated by the fact that the reference data as finally proposed by ESMA do not include any 'version' of series, and rightly so. **Neither does RTS 23 reflect that series data can change during its lifetime. This reflects the typical behavior of cash market instruments, not derivatives contracts**. Therefore, no modification request is foreseen in the reference data of the regulation. **Which further emphasizes the fact that legislators and regulators have understood the difference between cash market related instruments and derivatives contracts**. Please refer to our responses on Q3 and Q4 for a more elaborate argumentation.

With regard to the interplay of the Securities Financing Transactions Regulation (SFTR) and MiFIR provisions on transaction reporting, we would appreciate further clarifications as regards different scenarios. RTS 22 makes clear that any double reporting shall be avoided by stating that transactions subject to the SFTR reporting obligation shall not be reported according to MiFIR. We are concerned that this clear delineation will be overruled in case a new MiFIR reporting obligation may be established for securities financing transactions which are considered non-reportable according to SFTR. Hence, **we ask to provide clarity that a trading venue is not obliged to report transactions involving a member of the ESCB according to Art. 26.5 MiFIR**. Please refer to our responses on Q3 and Q41 for a more elaborate argumentation.

Furthermore, we need to point out that **some validations generally proposed by ESMA may not be performed by an ARM** in case it is not the only Service Provider for Transaction Reporting for one Investment Firm, and thus might not have the complete picture across affiliated transaction reports by that Investment Firm. We have provided detailed comments to the Validation Rules at the end of Q4 and within Q42 to Q48.

As regards order record keeping provisions, it is DBG's understanding that according to Article 25 MiFIR the member firms of the trading venues and not the trading venues themselves are obliged by default to request the client IDs of their clients and provide it to the trading venue. As a consequence if member firms do not meet this obligation, the **trading venue should not be considered non-compliant by the competent authority**. As the proposed guideline does not adequately reflect this objective, we ask to



provide clarity in the further process. Please refer to our response on Q50 for a more elaborate argumentation.

Deutsche Börse Group **explicitly welcomes ESMA's proposed guideline on clock synchronisation** with regard to time stamp granularity, permissible maximum divergence as well as gateway-to-gateway latency. The proposal adequately supports the legislators' objective to establish a more meaningful consolidated tape from post-trade data; therefore, **we strongly recommend to include these provisions into the respective RTS on clock synchronisation**. This holds true in particular with regards to the proposal on gateway-to-gateway latency. Please refer to our response on Q57 for a more elaborate argumentation.

Beyond the actual scope of this Consultation Paper, there are two additional aspects which we would like to raise ESMA's attention to.

We consider the role of a submitter in the context of RTS 13 to be of particular relevance for the adequate implementation of the new provisions. **For the sake of proportionality and market efficiency, reporting chains including submitters who are allowed to complete and submit transaction reports on behalf of an IF – under the correct contractual agreement - should not be prohibited by regulators.**

Furthermore, we would like to emphasize the need of **further clarification regarding the technical dependencies between the Authorized Reporting Mechanism (ARM) in MIFIR and a Trade Repository (TR) authorized by ESMA and providing services for MIFIR reporting**. As stated in Art. 26.7 MiFIR, when a transaction is reported by an Authorized Reporting Mechanism (ARM), which is also authorized as a Trade Repository (TR), certain fields that have already been reported under EMIR reporting obligation and are transmitted to the competent authority by the TR, should not need to be reported again.

On the other hand, EMIR regulation states that an operational independency must prevail between EMIR reporting services and the provision of any additional ancillary services provided by TRs. In order to comply with the affirmation stated in Art. 26 MiFIR, the TR and the ARM services must share some components of the infrastructure so as it is able to handle the MIFIR-enriched reports and split the data related to EMIR to the one related to MIFIR and complete the message/reports to be made available to the relevant competent authority. Should the above understanding breach the operational separation between EMIR reporting services and those provided by the TR as an ARM under MIFIR, the possibility to avoid double reporting of those trades subject to both regulations may not be fulfilled if, at least, a minimum interaction to identify those trades or an enhancement of the data reported to the EMIR database is not permitted.

<ESMA_COMMENT_CP_TR_ORK_CS_1>



Q1: Are there any other scenarios which you think should be covered?

<ESMA_QUESTION_CP_TR_ORK_CS_1>

General comments

In general, Deutsche Börse Group (DBG) strongly appreciates the practical reporting examples provided by ESMA in the context of RTS 22 including the technical components of the XML code. We deem these Guidelines to be a good basis for a successful implementation of a new transaction reporting regime within Europe, increasing the reporting quality and the necessary data base for EU regulators. We would like to point out as well that the more practical examples are being provided by ESMA, even for unusual reporting cases, the better the preparation for correct reporting may be accomplished.

Early termination of cleared contracts

With regard to the examples provided by ESMA, we are missing one example in respect of the early termination of a cleared OTC contract. We are currently assuming that terminations do not have to be reported. When an original bilateral contract is cleared, it will be novated by two (or four) cleared contracts. The original bilateral contract does not exist anymore. We would appreciate ESMA's confirmation that contrary to EMIR no termination has to be reported due to clearing not being a reportable transaction itself and that any later termination of the cleared contracts does not have to be reported either.

If however, contrary to our assumption, the examples lined out above have to be reported, we ask ESMA to explain how to report, since the cleared contracts themselves will not be reported.

<ESMA_QUESTION_CP_TR_ORK_CS_1>

Q2: Are there any areas in Part I covered above that require further clarity? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_2>

General remark

In general DBG would like to point out that as regards the transaction reporting part of the ESMA Guidelines it is not always clear to the reader when the topics are directly being addressed to the Investment Firm or to the ARM. For more clarity and the avoidance of doubts we would like to propose to ESMA to make clear distinctions between the requirements directly facing the Investment Firm and the requirements directly facing the ARM.

ID of natural persons

Furthermore, DBG would appreciate further clarification as well regarding to the requirements of identification of natural persons as mentioned in section 1.1.5.1 for the case, that neither the ID card nor the passport from a natural person is available. How should the responsible IF fill the transaction report, and how should the ARM used by the IF validate and process the transaction report in case the IF is not in the position to deliver the required data?

Transliteration table

Regarding to the transliteration table for any names which are written in Cyrillic, Greek or any other non-Latin alphabet it is not clear, if there is a specific standard defined by ESMA, which would be recommendable, or if multiple conventions like ISO, UN, ALA-LC are possible. We therefore would strongly appreciate clarification on this issue by ESMA.

Examples

In general there seems to be some confusion regarding the transaction reporting events mentioned in Section 1.1.1:

It is stated "... that a collective view of the transaction reports reported with the investment firm as the executing entity accurately reflects all changes in its position ...". This is not possible according to our understanding since position-changing transactions like clearing, splits, allotments are excluded. We therefore ask ESMA to amend the example accordingly.



In general, it is still not completely clear when to fill 'trading capacity with 'matched principal' or 'any other capacity'. We therefore ask ESMA to provide further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_2>

Q3: Are there any other situations on reportable transactions or exclusions from transactions where you require further clarity?

<ESMA_QUESTION_CP_TR_ORK_CS_3>

Yes, DBG asks to provide clarity on the following situations:

Account Transfers

In section 1.1.6.1 it is mentioned, that "transfers from an account held by a client to a joint account where the client is one of the joint holders is reportable." Could ESMA kindly clarify if this also covers the scenario of transfer from a joint account where the client is one of the holders to an individual account and from one joint account to another where the client is a joint holder on both?

Link to SFTR

According to Article 2.5(a) of RTS 22, a transaction which has been reported under the Securities Financing Transaction Regulation (SFTR) is not considered a reportable transaction under MiFIR. According to the SFTR, transactions with central banks do not have to be reported. Therefore the SFTR reporting obligation for such transactions has been fulfilled even if it has not been reported. **Hence a reporting obligation under MiFIR should not be derived.**

With respect to Example 3 on page 25, a central bank (member of ESCB) enters into a repurchase agreement (repo) with an investment firm in relation to a sovereign bond. The example is incomplete. While Example 3 explains that the transaction constitutes a reportable transaction under MiFIR and that the investment firm is therefore subject to reporting under MiFIR, it does not comprehensively address the reporting obligation from the perspective of the central bank. Example 3 sets out that "The central bank shall not transaction report as it is not subject to reporting obligation under Article 26 of MiFIR.". The example does, however, not make any statement as to whether the transaction could then be reportable under Article 26.5 MiFIR – i.e. by the trading venue. Under Article 26.5 MiFIR trading venues have to report transactions executed through their systems by firms that are not investment firms. The Central Bank is exempt from MiFID II, cp. Art. 2.1(h) MiFID II. It is hence not an investment firm. Does this mean that the trading venue has to report the transaction for the Central Bank? In our opinion, this should not be the case. The purpose of Article 2.5(a) of RTS 22 is to prevent double reporting with respect to the reporting obligations under SFTR and MiFIR. **Its purpose is not to artificially "create" a new reporting obligation for situations which are not reportable under SFTR and neither under MiFIR. Example 3 should therefore conclude: "There is no obligation for the trading venue to report the transaction under Article 26.5 of MiFIR."**

In case however, reporting of SFTR remains an obligation under MiFIR, reporting scenarios should be provided.

Usage of ISINs at a series level

Deutsche Börse Group/ Eurex would like to express **severe concerns towards ideas of using ISINs at a series level**. During various phases, it seems that the ISIN discussion in general already has revealed complexities, but in certain instances a perception seems to be prevalent that further suggests the use of an ISIN would be on a series level, hence, on a more granular level than the financial instrument. This is viewed with more concern, as it appears that many of the issues and problems arising from such suggestions are not known. While costs are always a huge factor, we would like to provide examples of issues, complexities and unresolved aspects and alongside cost considerations to demonstrate that ISIN, hardly manageable on the financial instrument level are not sensible on a series level.

ESMA refers to financial instruments as a basis, to our comparable scope of exchange products, not on a series level. This understanding is further substantiated by the fact that the reference data as finally proposed by ESMA do not include any 'version' of series, and rightly so. **Neither does RTS 23 reflect that series data can change during its lifetime. This reflects the typical behavior of cash**

market instruments, no derivatives contracts. Therefore, no modification request is foreseen in the reference data of the regulation. **Which further emphasizes the fact that legislators and regulators have understood the difference between cash market related instruments and derivatives contracts.**

While for exchanges it is clear that ISINs on a series level have not been in the scope when drafting the technical standards, we hereby would like to provide some examples of issues that will arise when thinking of introducing ISINs on a series level.

Concrete concerns related to introducing a series ISIN:

- An ISIN is not product specific, it does not provide any identification of the underlying product as such, which is a pre-requisite to understand data related to derivatives.
- In the light of transparency calculation we find the definition of financial instrument being bound to the product scope, e.g. DAX futures or ESX futures. This at least seems to be supported by the majority of RTS and how instrument as a definition is used in the description of task assigned to investment firms or trading venues. It would be odd that the interpretation of instrument would change depending on which RTS is the baseline. Only RTS 23 would define instrument on a series level and not on the product level as in the rest of the RTS at hand.
- It is unclear how ISIN can be used for non-standard spreads in futures where various expiries can be combined.
- ESMA would like to receive historical data which means exchanges need to request ex post ISINs for already expired series. As a result of such a request for ISINs on the series level, a possible negative result would be that one series gets two different ISINs assigned, due to this ex post request. This is the case because of the interaction with the private third party service provider. In Germany, for example, WM might have assigned a series ISIN for their own merit, and for some this could be possible, but not for complex derivatives contracts. It is not possible to receive a reasonable picture without considerable effort for all parties involved.
- In regards to complex instruments specifically, these are not reflected adequately; the order books for complex instruments are generated on the fly and deleted, if there is no open interest at the end of the day. This leads to the fact that one complex instrument gets an ISIN today and a different one tomorrow, the day after and so on.
- In case of Germany, WM does not have any indication on strike version or expiries, only a rudimentary set is available, one on one relation of the exchange and WM's data is not guaranteed.
- Another crucial issue is that exchanges under public law would be dependent on private service providers to have availability on such ISINs. There are no fall back scenarios for ISIN generation in case the service provider cannot make available the private service.
- In regards to the cost discussion, it needs to be differentiated between the sheer generation of ISINs of such service providers and how these ISINs are made available, means used for dissemination.
- Transposing this interpretation of having series ISINs into the OTC segment, e.g. FX this would result in having an ISIN for each trade price in a given currency pair as one could take the price a substitute for the execution price of an option and the settlement like overnight or tomorrow as and expiry date. This would lead to a very large amount of useless ISIN codes which do not relate anyhow directly to an underlying product.
- Accordingly this should be changed and even the reference data could be collected using the ISIN as a descriptor, but on a product level not on a series level. Series information can be provided using either the full instrument name or the details fields that are also part of the reference data set for NCAs and ESMA.

<ESMA_QUESTION_CP_TR_ORK_CS_3>

Q4: Are there any specific areas covered by the mechanics section where you require further clarity? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_4>

I General comments to Q 4

Definition of “transactions reaching the NCA”

DBG would prefer a clear definition of “reach” in the section 1.1.8.4 “Transactions shall reach the home competent authority...”. Could we assume that ESMA would send an acknowledgement message once the report has been technically received and format has been accepted, or would ESMA consider “reach” to cover the second step including the report has passed full business validations of the respective NCA as well. A clarification of this matter would be highly appreciated.

Submission of reports

ESMA lines out that it is left to each NCAs discretion to prescribe detailed technical procedures and schedules for the submission of reports. While we appreciate the different set-up of NCAs as regards their technical infrastructure, we would like to suggest, however, that where ever possible same procedures and standards should be applied as well across regulators. Please see as well our comments in the next point below.

Feed-Back files from NCAs

For market efficiency purposes it would be helpful if you could define a standardised and ideally harmonized format and structure across the EU for the feedback files from the NCAs.

Comments as regards RTS 13

While we appreciate that the ESMA L3 Guidelines might not be the right place for the following comments, we still would like to make use of this consultation to comment on RTS 13 nevertheless.

In RTS 13 ESMA foresees the possibility to use third parties as “submitters” between the Investment Firm (with the duty to transaction report) and the ARM. It is, however, not clarified in RTS 13 though either, what exactly the term “submitting” encompasses in detail. From a practical point of view and in the spirit of market efficiency, the submitter should ideally be able both to augment a report as well as to submit the report for further processing.

It is our understanding that the EU Commission is currently reconsidering ESMA's proposal of RTS 13 including the question of what exactly may be / should be understood as “submitting”. There is a significant risk, that even plain data submission – which in practice forms part of many technical outsourcing contracts today e.g. in the case of trading – will not be allowed anymore under MiFID II. This, however, would have negative effects to industry as a whole. Not allowing for “reporting chains” would be clearly detrimental to market efficiency with a harsh impact especially on small firms, e.g. a German Sparkasse or a Volksbank, who would then have to directly connect to an ARM themselves instead of using their current submitters. Furthermore, NCAs would have to connect directly to many more entities (ARMs) than currently accounted for.

For the sake of proportionality and market efficiency reporting chains including submitters who are allowed to complete and submit transaction reports on behalf of an IF – under the correct contractual agreement - should not be prohibited by regulators.

While MiFIR Art 26 clearly states that the reporting responsibilities remain with the IFs for the transactions reported, with the ARM covering certain responsibilities as well, any Investment Firms could and certainly would enter into a (partial) outsourcing contract with a submitter defining all necessary responsibilities between parties.

Therefore, the concept of a submitting firm should be retained (RTS 13 9 2.) while the role of a submitter should be further clarified, either within the L2 text, or within in the ESMA L3 Guidelines. It should be clarified that a submitter is allowed to complete a transaction report besides submitting it (without the necessity to become an ARM).

Such a set-up would allow for an efficient transposition of transaction reporting requirements, while leaving clarification of the respective responsibilities and liabilities to contractual arrangements between the parties.



II Validation rules

Validation of cancellations and new reports

Regarding validation rules we deem it impossible that an ARM should guarantee that a submitted report is a new one, or validate a cancellation as one referring to a previous trade if it is not made fully clear to the ARM if the client has submitted the initial report via another ARM or not (Field 2 of the validation rules). This could only be validated by the ARM in case the investment firm would indicate in an additional data field if they had used another reporting channel for the initial transaction report or not. And even in this case the validation can only be properly conducted in case the original report had been submitted to the respective ARM in question before.

Validation of Transactions executed on a Third Country Trading Venue

Field 37 of the validation rules protocol mentions this field should only be populated for the market side of a transaction executed on a trading venue or organized trading platform which is outside of the European Union. We deem this to be impossible as the ARM would not be in the position to check for this, unless the Investment Firm submits exactly this information.

Second nominal currency

Furthermore, we would like to point out that there may be varieties of entitlement rights, equities, collective investment vehicles, debt instruments, spot, financing and referential instruments which do require a second nominal currency, which is currently excluded by ESMA.

Usage of ISINs at a series level

Deutsche Börse Group/ Eurex would like to express **severe concerns towards ideas of using ISINs at a series level**. During various phases, it seems that the ISIN discussion in general already has revealed complexities, but in certain instances a perception seems to be prevalent that further suggests the use of an ISIN would be on a series level, hence, on a more granular level than the financial instrument. This is viewed with more concern, as it appears that many of the issues and problems arising from such suggestions are not known. While costs are always a huge factor, we would like to provide examples of issues, complexities and unresolved aspects and alongside cost considerations to demonstrate that ISIN, hardly manageable on the financial instrument level are not sensible on a series level.

ESMA refers to financial instruments as a basis, to our comparable scope of exchange products, not on a series level. This understanding is further substantiated by the fact that the reference data as finally proposed by ESMA do not include any 'version' of series, and rightly so. **Neither does RTS 23 reflect that series data can change during its lifetime. This reflects the typical behavior of cash market instruments, no derivatives contracts.** Therefore, no modification request is foreseen in the reference data of the regulation. **Which further emphasizes the fact that legislators and regulators have understood the difference between cash market related instruments and derivatives contracts.**

While for exchanges it is clear that ISINs on a series level have not been in the scope when drafting the technical standards, we hereby would like to provide some examples of issues that will arise when thinking of introducing ISINs on a series level.

Concrete concerns related to introducing a series ISIN:

- An ISIN is not product specific, it does not provide any identification of the underlying product as such, which is a pre-requisite to understand data related to derivatives.
- In the light of transparency calculation we find the definition of financial instrument being bound to the product scope, e.g. DAX futures or ESX futures. This at least seems to be supported by the majority of RTS and how instrument as a definition is used in the description of task assigned to investment firms or trading venues. It would be odd that the interpretation of instrument would change depending on which RTS is the baseline. Only RTS 23 would define instrument on a series level and not on the product level as in the rest of the RTS at hand.
- It is unclear how ISIN can be used for non-standard spreads in futures where various expiries can be combined.

- ESMA would like to receive historical data which means exchanges need to request ex post ISINs for already expired series. As a result of such a request for ISINs on the series level, a possible negative result would be that one series gets two different ISINs assigned, due to this ex post request. This is the case because of the interaction with the private third party service provider. In Germany, for example, WM might have assigned a series ISIN for their own merit, and for some this could be possible, but not for complex derivatives contracts. It is not possible to receive a reasonable picture without considerable effort for all parties involved.
- In regards to complex instruments specifically, these are not reflected adequately; the order books for complex instruments are generated on the fly and deleted, if there is no open interest at the end of the day. This leads to the fact that one complex instrument gets an ISIN today and a different one tomorrow, the day after and so on.
- In case of Germany, WM does not have any indication on strike version or expiries, only a rudimentary set is available, one on one relation of the exchange and WM's data is not guaranteed.
- Another crucial issue is that exchanges under public law would be dependent on private service providers to have availability on such ISINs. There are no fall back scenarios for ISIN generation in case the service provider cannot make available the private service.
- In regards to the cost discussion, it needs to be differentiated between the sheer generation of ISINs of such service providers and how these ISINs are made available, means used for dissemination.
- Transposing this interpretation of having series ISINs into the OTC segment, e.g. FX this would result in having an ISIN for each trade price in a given currency pair as one could take the price a substitute for the execution price of an option and the settlement like overnite or tomnext as and expiry date. This would lead to a very large amount of useless ISIN codes which do not relate anyhow directly to an underlying product.
- Accordingly this should be changed and even the reference data could be collected using the ISIN as a descriptor, but on a product level not on a series level. Series information can be provided using either the full instrument name or the details fields that are also part of the reference data set for NCAs and ESMA.

<ESMA_QUESTION_CP_TR_ORK_CS_4>

Q5: Do you require further clarity on the content of Article 1 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_5>

Application of ISO 20022

DBG would like to point out that it is of utmost importance that not only regulators but as well market participants do require sufficient lead time for technical implementations. In this context, it is important that any open questions, especially as regards technical implementation are being clarified as soon as possible for the industry. The following important questions are still open: a) by when will the ISO 20022 standard assumingly be finalised to include all MiFIR fields? And b) will any future changes to the report data fields or the format be applicable only once the ISO 20022 standard is updated accordingly? It should be strictly avoided that the industry should have to adapt.

Application of character codes

Furthermore, we would appreciate clarification if spaces and other characters like hyphen, apostrophe are being allowed, while per the RTS 22 at least commas need to be allowed.

Solely for clarification purposes we would like to point out that in the attachment *DRAFT10auth.016.001.01_ESMA_restrictions.xlsx* character set restrictions are being defined which are not adhered to in the examples. E.g. for *First Name* only characters are allowed: "[A-Z, \p{IsLatin-1Supplement}\p{IsLatinExtended-A}]+". but in the example on page 40 the First Name is written as "JOSE, LUIS".

<ESMA_QUESTION_CP_TR_ORK_CS_5>

Q6: Do you require further clarity on the content of Article 2 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_6>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_6>

Q7: Do you require further clarity on the content of Article 3 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_7>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_7>

Q8: Do you require further clarity on the content of Article 4 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_8>

List of obvious errors or omissions

DBG would appreciate to receive further clarification in the context of order transmission. Article 4 (1) lit. c in RTS 22 mentions the validation of "obvious errors and omissions" by the receiving firm before the submission of a transaction report.

Does ESMA expect that the receiving firm applies the same validations and plausibility checks as an ARM/NCA? We would strongly appreciate a clarification of this question and ideally an exhaustive list what is being considered as obvious errors and omissions?

<ESMA_QUESTION_CP_TR_ORK_CS_8>

Q9: Do you require further clarity on the content of Article 5 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_9>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_9>

Q10: Do you require further clarity on the content of Article 6 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_10>

ID of natural person / Contact

DBG would appreciate further clarification as well regarding to the requirements of identification of natural persons for the case, that neither the ID card nor the passport from a natural person is available at the Investment firm. How should the responsible IF fill the transaction report, and how should the ARM used by the IF validate and process the transaction report in case the Investment Firm is not in the position to deliver the required data? Please see the same comment in our answer to Q2.

<ESMA_QUESTION_CP_TR_ORK_CS_10>

Q11: Do you require further clarity on the content of Article 7 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_11>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_11>

Q12: Do you require further clarity on the content of Article 8 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_12>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_12>

Q13: Do you require further clarity on the content of Article 9 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_13>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_13>

Q14: Do you require further clarity on the content of Article 10 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_14>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_14>

Q15: Do you require further clarity on the content of Article 11 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_15>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_15>

Q16: Do you require further clarity on the content of Article 12 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_16>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_16>

Q17: Do you require further clarity on the content of Article 13 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_17>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_17>

Q18: Do you require further clarity on the content of Article 14 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_18>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_18>

Q19: Do you require further clarity on the content of Article 15 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_19>



No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_19>

Q20: Do you require further clarity on the content of Article 16 of RTS 22? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_20>

Exception rule for most relevant market

As regards the mechanics for reporting as lined out by ESMA under topic 1.1.8. we would appreciate further clarification as regards how an exception rule for the most relevant market should look like if the market of a member state in which the financial instrument was first admitted to trading or traded on a trading venue does not trade this instrument anymore.

<ESMA_QUESTION_CP_TR_ORK_CS_20>

Q21: Do you require further clarity or examples for population of the fields covered in Block 1? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_21>

Yes, Deutsche Börse Group would appreciate more clarity on the examples referring to a new "SCHEME NAME", which is not covered in the actual RTS 22. Is this an additional field to be provided and is it also valid for RTS 24 in the relevant section ? It would be assumed that an alignment will be established between the two RTS.

It is also assumed that Art 6 and Art 7 always require the first- and surname, date of birth and additionally the investment decision ID.

<ESMA_QUESTION_CP_TR_ORK_CS_21>

Q22: Do you require further clarity or examples for population of the fields covered in Block 2? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_22>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_22>

Q23: Do you require further clarity or examples for population of the fields covered in Block 3? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_23>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_23>

Q24: Do you require further clarity or examples for population of the fields covered in Block 4? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_24>

DBG would appreciate to receive an additional example as regards a firm performing delegated reporting. Unless there is a final decision agreed on a political level, we would like to see an example including a scenario where a firm is performing delegated reporting which would include the reporting of the client side as well, not only the market side.

<ESMA_QUESTION_CP_TR_ORK_CS_24>

Q25: Do you require further clarity or examples for population of the fields covered in Block 5? Please elaborate.



<ESMA_QUESTION_CP_TR_ORK_CS_25>

DBG would appreciate to receive further clarity as regards the "person primarily responsible for the execution" for transactions executed outside of a trading venue. It will probably not concern us, but our clients. We ask ESMA to clarify that 'within the firm' we talk about a firm that is a direct trading member of a venue.

<ESMA_QUESTION_CP_TR_ORK_CS_25>

Q26: Do you require further clarity or examples for population of the fields covered in Block 7? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_26>

Application and availabilities of MIC codes

For the avoidance of any doubts DBG asks ESMA to clarify certain assumptions in the context with the example displayed under 1.2.7.2.

ESMA states that the trading venue identification code in this example does not apply as the trade has not been executed on a trading venue. We would appreciate a confirmation that the OTF mentioned in 1.2.7.2 is not considered a trading venue because it is outside the EEA and that OTFs inside the EEA will have to provide a trading venue transaction identification code. In this context please confirm as well that ESMA will provide actual lists as regards the applicable MIC codes for all Trading Venues in the EEA via their web-site or any other means.

<ESMA_QUESTION_CP_TR_ORK_CS_26>

Q27: Do you require further clarity or examples for population of the fields covered in Block 8? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_27>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_27>

Q28: Do you require further clarity or examples for population of the fields covered in Block 10? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_28>

Branch Fields

Yes, DBG would appreciate to receive further clarity. According to Article 14. 4 of RTS 22, for investment firms the branch fields should always be populated. In this context it is unclear, why in 1.2.10.1 field 58 is left empty instead of being populated with the country code of the head office. May we ask to provide clear guidance, which types of firms have to populate fields 8, 17, 37, 58 and 60 and in which cases.

Large in Scale in section 1.2.9.1

Furthermore in section 1.2.9.1 example 2 on page 60 it is unclear, why large in scale is reported. We would appreciate clarity on this.

<ESMA_QUESTION_CP_TR_ORK_CS_28>

Q29: Do you require further clarity or examples for population of the fields covered in Block 11? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_29>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_29>

Q30: Do you require further clarity or examples for population of the fields covered in Block 12? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_30>

Changes to notional

DBG would appreciate further clarification as regards the increase / decrease in notional. We would expect and would like to see this confirmed that increase/decrease in notional only applies for swaps where there is a change after the original contract conclusion. In contrast to that, i.e. for a Swap where there is an agreed notional schedule (e.g. amortising or step-up swap) this does not apply.

<ESMA_QUESTION_CP_TR_ORK_CS_30>

Q31: Do you require further clarity or examples for the scenarios in section 1.3.1? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_31>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_31>

Q32: Do you require further clarity or examples for the scenarios in section 1.3.2? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_32>

Further examples for OTC transaction

ESMA has provided for one example as regards OTC transactions. DBG would appreciate additional examples of OTC trades to be displayed within ESMA Guidelines. In this context we would appreciate as well additional guidance when and how to populate the field OTC post trade indicator.

<ESMA_QUESTION_CP_TR_ORK_CS_32>

Q33: Do you require further clarity or examples for the scenarios in section 1.3.3? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_33>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_33>

Q34: Do you require further clarity or examples for the scenarios in section 1.3.4? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_34>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_34>

Q35: Do you require further clarity or examples for the scenarios in section 1.3.5? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_35>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_35>

Q36: Do you require further clarity or examples for the scenarios in sections 1.3.6 and 1.3.7? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_36>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_36>

Q37: Do you require further clarity or examples for the scenarios in section 1.3.8? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_37>

Transmission flag

Yes, DBG asks for further clarification. The examples provided by ESMA in section 1.3.8. are not fully clear regarding the treatment of the transmission flag. In this respect it should be clarified that field 25 "transmission of order indicator" is not determining if the conditions for transmission are met, but only if the reporting party itself has transmitted an order.

It would be most helpful, if ESMA could provide more examples in this area and fully clarify the use of the transmission indicator.

<ESMA_QUESTION_CP_TR_ORK_CS_37>

Q38: Do you require further clarity or examples for the scenario in section 1.3.9? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_38>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_38>

Q39: Do you require further clarity or examples for the scenario in section 1.3.10? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_39>

Yes, DBG considers an example to be of benefit.

<ESMA_QUESTION_CP_TR_ORK_CS_39>

Q40: Do you require further clarity or examples for the scenario in section 1.3.11? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_40>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_40>

Q41: Do you require further clarity or examples for the scenarios in sections 1.3.12 and 1.3.13? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_41>

Yes, DBG would appreciate to receive further clarity on the following scenarios.

In example 1.3.13 "A securities financing transaction which is covered by the scope of the Securities Financing Transactions Regulation (SFTR), but nonetheless is exempted from reporting under that Regulation, has to be marked in the transaction reports as a "securities financing transaction" it is suggested that the investment firm executing the transaction shall therefore report it under Article 26 of MiFIR. It is our understanding that analogue to example 3 (page 25) the investment firm is obliged to report the transaction to a trade repository according to Art. 4.1 SFTR and not under Article 26 of MiFIR. This is the case since the exemption according to Article 2 Para. 5 (a) (i) of RTS 22 postulates that a transaction is excluded from transaction reporting under MiFIR if its is already reported under SFTR in order to avoid duplicity of reports.

Having said that, it is our understanding that any transaction which falls under the SFTR is only subject to the reporting obligations stipulated therein. It is our position that an exemption in the SFTR would therefore have suspensory effect ("Sperrwirkung") on the MiFIR provisions on transaction reporting. **Hence, if the transaction is concluded between entities that are both exempted under the SFTR, e.g. two EU**



central banks are party to a transaction under SFTR, neither the SFTR reporting obligations nor the obligations under MiFIR would apply.

In case reporting of SFT remains an obligation under MiFIR, then scenarios for reporting securities financing transactions should also be included. Scenarios for reporting securities financing transactions should also be included.

Aggregation of Orders by the IF

ESMA has provided an example under 1.3.12.3 where a Firm is aggregating orders from several clients: The trading venue should not have to report transactions 6868690, 6868691 and 6868692. Those transactions do not take place at the trading venue and it does not have information about them.

<ESMA_QUESTION_CP_TR_ORK_CS_41>

Q42: Are there any other equity or equity like instruments scenarios which require further clarification?

<ESMA_QUESTION_CP_TR_ORK_CS_42>

Validation Rules

DBG would like to clarify how the validation of a pure OTC traded instrument should be conducted.

In this respect ESMA has one example: "The difference between 1.4.2.1 and 1.4.2.2 is that the instrument identification code (field 41) is not populated in the scenario 1.4.2.2. If it was populated, then the transaction report would be rejected." While we agree that it might be highly unlikely that a purely OTC traded instrument might make use of an ISIN we cannot fully rule it out at the same time.

Could this result in a transaction report to be reported in a combination with ISIN in field 41 while the while field 36 displays the acronym of XOFF?

<ESMA_QUESTION_CP_TR_ORK_CS_42>

Q43: Are there any other bonds or other form of securitised debt scenarios which require further clarification?

<ESMA_QUESTION_CP_TR_ORK_CS_43>

Validation Rules

Please see as well our comments to Q4

DBG states that in general, that clear validation rules in the attachment "validation_rules.xlsx" would be appreciated in order to ensure the establishment of reliable validation procedures.

<ESMA_QUESTION_CP_TR_ORK_CS_43>

Q44: Are there any other options scenarios which require further clarification?

<ESMA_QUESTION_CP_TR_ORK_CS_44>

Underlying Index

DBG would appreciate further clarification with regard to the following aspect. We are missing an example which shows how a transaction report has to fill in field 49. Could ESMA please provide guidance on how field 49 "Term of the underlying index" needs to be filled?

Validation Rules

Please see as well our comments to Q4

DBG states that in general, that clear validation rules in the attachment "validation_rules.xlsx" would be appreciated in order to ensure the establishment of reliable validation procedures.

<ESMA_QUESTION_CP_TR_ORK_CS_44>

Q45: Are there any other contract for difference or spreadbet scenarios which require further clarification?



<ESMA_QUESTION_CP_TR_ORK_CS_45>

Validation Rules

Please see as well our comments to Q4

DBG states that in general, that clear validation rules in the attachment "validation_rules.xlsx" would be appreciated in order to ensure the establishment of reliable validation procedures.

<ESMA_QUESTION_CP_TR_ORK_CS_45>

Q46: Are there any other credit default swaps scenarios which require further clarification?

<ESMA_QUESTION_CP_TR_ORK_CS_46>

Validation Rules

Please see as well our comments to Q4

DBG states that in general, that clear validation rules in the attachment "validation_rules.xlsx" would be appreciated in order to ensure the establishment of reliable validation procedures.

<ESMA_QUESTION_CP_TR_ORK_CS_46>

Q47: Are there any other swap scenarios which require further clarification?

<ESMA_QUESTION_CP_TR_ORK_CS_47>

Yes, DBG would appreciate to receive further clarification with regard to the question whether plain vanilla IRS (e.g. EURIBOR as underlying) represent reportable products when concluded OTC. Neither the IRS itself nor the underlying (or parts of it) are admitted to trading or traded on a trading venue. If considered reportable, will two otherwise identical IRSs with the same initial duration but different maturity dates be considered as two different instruments?

In the example given in section 1.4.3.7 a) why are the two legs of the reported swap transaction not linked with a common complex trade component id?

In example 1.4.3.7 b) please confirm that both transaction legs of the reported equity swap must report the same trading venue transaction identification code.

Transaction Report for a SWAP

It would be preferable to report a swap with one transaction record as in ETD there would be one ISIN to a swap and would be treated as one transaction on exchange. Artificially breaking it up into two transaction records would not make sense

In example 1.4.3.7 d) what shall be reported as price if the EURIBOR rate is not yet fixed? Why is the basis points spread not included in the price?

In example 1.4.3.7 e) firm Y cannot be a fixed rate payer if it pays LIBOR since LIBOR is a floating rate.

In example 1.4.3.7 g) why is the price currency not filled as percentage?

Validation Rules

Please see as well our comments to Q4

DBG states that in general, that clear validation rules in the attachment "validation_rules.xlsx" would be appreciated in order to ensure the establishment of reliable validation procedures.

<ESMA_QUESTION_CP_TR_ORK_CS_47>

Q48: Are there any other commodities based derivatives scenarios which require further clarification?

<ESMA_QUESTION_CP_TR_ORK_CS_48>

For clarification

DBG would appreciate to receive further clarification on the following aspect. May we ask if in example 1.4.3.8 field 46 "price multiplier" should rather refer to the number of futures per barrier option instead of the number of tonnes per future?

Furthermore, could ESMA clarify as well if certificates and warrants on commodities are being considered to fall into the asset class of commodity derivatives (e.g. DE000DZ2ZCH9, Aluminium)?

Validation Rules

Please see as well our comments to Q4

DBG states that in general, that clear validation rules in the attachment "validation_rules.xlsx" would be appreciated in order to ensure the establishment of reliable validation procedures.

<ESMA_QUESTION_CP_TR_ORK_CS_48>

Q49: Are there any other strategy trades scenarios which require further clarification?

<ESMA_QUESTION_CP_TR_ORK_CS_49>

DBG considers that there are no other scenarios which require further clarity.

<ESMA_QUESTION_CP_TR_ORK_CS_49>

Q50: Is the difference between aggregated orders and pending allocations sufficiently clear?

<ESMA_QUESTION_CP_TR_ORK_CS_50>

The sections 2.7.1 "Population of field number 3 (client identification code) in case of aggregated orders" and 2.7.2. "Population of field number 3 (client identification code) in case of pending allocations" start with the introductory sentence: "In general, operators of trading venues are obliged by default to request the client ID of the immediate client from its member or participant and populate field 3 with the client ID. It is DBG's understanding that according to Article 25 MiFIR the member firms of the trading venues and not the trading venues themselves are obliged by default to request the client IDs of their clients and provide it to the trading venue. As a consequence **if member firms do not meet this obligation, the trading venue should not be considered non-compliant by the competent authority.** As the proposed guideline does not adequately reflect this objective, we ask to provide clarity in the further process.

<ESMA_QUESTION_CP_TR_ORK_CS_50>

Q51: Do you require further clarity on the proposals made in sections 2.1 to 2.11? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_51>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_51>

Q52: Do you agree require further clarity on the proposals made in section 2.12? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_52>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_52>

Q53: Do you require further clarity on the proposals made in section 2.13? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_53>

No, DBG does not require further clarification.

<ESMA_QUESTION_CP_TR_ORK_CS_53>

Q54: Are there any further clarifications required on the concept of ‘reportable event’? If yes, please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_54>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_54>

Q55: Is it sufficiently clear at what point OTC transactions shall be time-stamped? If not, please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_55>
No, DBG does not require further clarification.
<ESMA_QUESTION_CP_TR_ORK_CS_55>

Q56: Do you require further clarity on the content of Article 4 of RTS 25? Please elaborate.

<ESMA_QUESTION_CP_TR_ORK_CS_56>
DBG considers that a more detailed description on how to evidence the compliance of the clock synchronisation system would be helpful in order to allow ESMA to assess descriptions delivered in a standardized manner. Especially for the fact that the functioning of the clock sync system needs to be documented, a description on how this can be done to fully satisfy ESMA’s expectation would be seen as beneficial. We assume that a simplified overview of the components in place, with attached technical specifications of the manufactures of the components that are relevant in this respect, will be sufficient.
<ESMA_QUESTION_CP_TR_ORK_CS_56>

Q57: Do you agree with the proposals made in sections 3.2 to 3.4? Please elaborate. Are there any further clarifications required?

<ESMA_QUESTION_CP_TR_ORK_CS_57>
Deutsche Börse Group **explicitly welcomes ESMA’s proposed guideline on clock synchronisation** with regard to time stamp granularity, permissible maximum divergence as well as gateway-to-gateway latency. The proposal adequately supports the legislators’ objective to establish a more meaningful consolidated tape from post-trade data; therefore, **we strongly recommend to include these provisions into the respective RTS on clock synchronisation in order to clarify that the gateway-to-gateway latency is indeed measured based on the 99th percentile.**

ESMA proposes in Section 3.4 that trading venues shall use the gateway-to-gateway latency time at the 99th percentile for the classification into the different classes for the maximum tolerated divergence and timestamp granularity. Deutsche Börse Group welcomes ESMA’s decision to introduce such a clustering of transaction round trip times in a statistical manner ensuring that the level of granularity does not change only because of short term latency changes.

In order to establish accordance between the respective guideline with the regulatory technical standard, this clustering of round trip times should also be included in the RTS which had not been reflected in the draft version published by ESMA in September 2015. The current wording in the final RTS as well as in the consultation paper does not allow for any margin of error in the reported timestamps. Each and every timestamp has to fulfil the stipulated requirements concerning accuracy and granularity, which should be seen as the aim but can be unrealistic in some situations, especially in terms of accuracy. It would be beneficial for exchange operators to allow for a range of tolerance of the reported timestamps to ensure compliance of trading venues even in exceptional circumstances (e.g. serious network failures in the clock synchronization network or a temporal loss of signal). Deutsche Börse Group already proposed to introduce an acceptance level that allows for a temporal divergence. In relation to the draft RTS in mid 2015, Deutsche Börse Group would argue in favour of a text passage like: “When assessing the maximum



divergence measurements, a 95% acceptance level shall be used, meaning that 95% of all reportable event timestamps shall satisfy the maximum divergence requirements under this regulation.”
<ESMA_QUESTION_CP_TR_ORK_CS_57>