

An assessment of the technical changes to implement ESMA's post-trade transparency draft Regulatory Technical Standards (RTS 1 & RTS 2) and its impact on achieving improved data quality

Published 1st August 2022

Contents

| | |
|---|---|
| Background and executive summary..... | 3 |
| Legislative timeframe | 4 |
| Feedback on proposed changes to RTS 1 & 2 | 4 |
| Abbreviations..... | 8 |
| About APARMA..... | 9 |

Background and executive summary

ESMA has published Final Reports on the review of changes to post-trade transparency following an industry consultation of a combined review of RTS 1 (equity transparency) and RTS 2 (non-equity transparency)¹. ESMA published the output of the consultation in two separate reports, each with discrete draft Regulatory Technical Standards (RTSs):-

- Final Report on the Review of RTS 1 (equity transparency)²
- Final Report on the Review of RTS 2 (non-equity transparency)³

The legislation in each report is integral to defining how APAs in the EU operate. The technical changes to meet the requirements in the Final Reports will have a significant impact on APAs and the clients who use their services. It affects nearly every component of an APA and its interfaces with clients and, given the impact, it is crucial that proposed changes to any level 2 text accurately represent how the different markets operate.

APARMA members are concerned that some of the proposed field-level changes may result in further ambiguity and may not provide the clarity the industry needs to achieve increased data quality for post-trade transparency. In addition, APARMA members are concerned that certain proposals could further hinder the emergence of, and dilute the effectiveness of, an eventual consolidated tape provider (CTP) if the proposed RTSs fall short of prescribing efficient, practicable and accurate data fields. Any RTS changes require significant resources for APARMA members, their clients and subscribers to incorporate and, therefore, it is critical that such changes are meaningful and effective to increase transparency in the markets and improve data quality.

This assessment describes the high-level technical changes proposed in ESMA's legislative review of RTS 1 and RTS 2 that APARMA believes may neither result in greater transparency nor improved data quality. The paper also provides recommendations for the European Commission to consider in order to achieve improved transparency and data quality.

Please note that this is a summary of issues raised by APARMA members based on their views of the draft legislation and focuses on transparency, improving data quality and specific data field issues. In addition, APARMA has concerns around some of the practicalities of implementation rather than the content of the proposals. APARMA has outlined those concerns in a separate paper.

¹ https://www.esma.europa.eu/sites/default/files/library/esma70-156-4236_consultation_paper_on_the_review_of_rts_1_and_2.pdf

² https://www.esma.europa.eu/sites/default/files/library/esma70-156-4944_final_report_-_rts_1_review.pdf

³ https://www.esma.europa.eu/sites/default/files/library/esma70-156-4825_final_report_-_rts_2_review.pdf

Legislative timeframe

ESMA's Final Reports include draft legislation for changes to RTS 1 and RTS 2, which has started to make its way through the European legislative process with its submission to the European Commission and European Parliament.

There are several steps for the legislation to come into force; however, if it passes as planned, the implementation timetable could be as soon as Q4-2022 as outlined below.

| Legislative steps | RTS 1 | RTS 2 |
|--|--|-------|
| ESMA published draft revisions of RTS 1 and RTS 2. | 28-MAR-22 | |
| Deadline for Commission to accept or amend draft RTS | 28-JUN-22 | |
| Deadline for EP and Council to accept or reject RTS (if adopted by Commission) | SEP-22 | |
| Legal and language checks of final RTS and translation | Q4-22 | |
| Publication in the OJ | Q4-22 -> Q1-23 | |
| Entry into force | 20 days after publication in the OJ Q4-22 -> Q1-23 | |

(*) APARMA understands dates may be extended whilst there is an ongoing dialogue between stakeholders.

Feedback on proposed changes to RTS 1 & 2

Listed below are five areas of significant importance and concern to APARMA with respect to the proposed text contained in the Final Report by ESMA. APARMA's focus has primarily been on RTS 2 and bonds given the emergence and timing of a bond CTP. The below five points are, in our opinion, inaccurate and would have a significant impact on data quality and consequently have a detrimental impact on a CT unless resolved within the RTSs.

Primary and Significant Issues raised by APARMA

1) **RTS 1 & 2: Reference point RTS 1 - 2.1.3.4 Annex 1 Table 3/ RTS 2 - 5.1.1.3.4 Annex 2 Table 2 Field 14**

Third Country Trading Venues (TCTV) – of significant concern are the changes proposed by ESMA to the existing TCTV process. They are overly complex for APAs and reporting parties to process and validate, leading to reporting errors which would require significant efforts to resolve, adding to the direct and indirect compliance costs of APA and APA users. APARMA understands the aim to distinguish OTC activity within the EU from that of trading venue activity outside of the EU with the introduction of TCTV. However, it is unclear what specifically is the purpose of capturing the MIC or Country Code of the TCTV and the impact on transparency of such detail.

Our main concerns are:

- The addition of a new TCTV MIC field, which may be populated with the Country Code where a venue MIC is not available, requires further clarity as the Country Code is generic and covers multiple TCTVs listed in the ESMA annex of opinion and it is therefore unclear how this should determine a TCTV equivalence.
- APAs and reporting parties will require further guidance therefore as to the intended outcome of using the Country Code against the annex of opinion, i.e. is the post-trade report deemed reportable as non-equivalence if the Country Code is not listed in the ESMA annex of opinion and, further, is the post-trade report deemed non-reportable and therefore not published as equivalence if the Country Code is listed in the annex of opinion?
- Further, it is unclear where TCTV activity is deemed non-equivalent and therefore results in a post-trade transparency report publication if this report should be included in the quantitative transparency (EQU/NQU) reporting to ESMA. As per point 112, the "Venue of Execution" field will continue to be populated as XOFF and, therefore, with no additional requirements forthcoming, the report would be submitted under XOFF in the EQU/NQU reporting process. Is this the required intention by ESMA?
- The Venue of execution field requires publication of the use of "ISO 10383 segment MIC for transactions executed on an EU trading venue. Where the segment MIC does not exist, use the operating MIC." However, it is not clear whether the segment MIC or Operating MIC where available should be used to identify the third-country trading venue.

2) **RTS 2: Reference point 119 pg 33 / Field 3 Annex II Table 2 pg 97**

"Price" – The "preference" outlined by ESMA to use "MONE" (monetary value) does not meet the standard market convention for bonds.

The majority rule of "PERC" of the nominal value should be applied. We believe this will capture ~80% upwards of bonds. Where "PERC" is not available, conversion to "PERC" is preferable. Where conversion to "PERC" is not possible, the Price Type applicable to the relevant trade should be applied (YIELD, BAPO, MONE).

| | | | | | |
|---|-------|-------------------------------|---|------------------------|--|
| 3 | Price | For all financial instruments | <p>Traded price of the transaction excluding, where applicable, commission and accrued interest.</p> <p>In the case of option contracts, it shall be the premium of the derivative contract per underlying or index point, composed of the intrinsic and extrinsic value of an option.</p> <p>For credit default swaps (CDS) it shall be the coupon expressed in basis points.</p> <p>In the case of spread bets it shall be the reference price of the underlying instrument.</p> <p>In all cases except CDS, the expression of the price in monetary value "MONE" shall be preferred. When a price in monetary value is not available then, express the price in:</p> | RM, MTF, APA, CTP, OTF | <p>{DECIMAL-18/13} in case the price is expressed as monetary value</p> <p>{DECIMAL-11/10} in case the price is expressed as percentage or yield</p> <p>{DECIMAL-18/17} in case the price is expressed as basis points</p> |
|---|-------|-------------------------------|---|------------------------|--|

3) RTS 2: Reference point 5.1.1.3.8 pg 36 / Field 10 Annex II Table 2 pg 100

Notional Amount – The “preference” outlined by ESMA of “(i) for bonds (excluding ETCs and ETNs), with the nominal value per unit multiplied by the number of instruments at the time of the transaction;” does not follow the standard market convention for bonds.

APARMA’s view is a methodology or calculation should not be required to identify the notional amount of a bond trade. Instead, the notional amount should be described as the “face value” where “face value” is the amount repaid to the investor at redemption. Typically, redemption of a bond is at “par” or 100%; however, there are exceptions to this rule so “par value” should not be prescriptive.

| | | | | | |
|----|-----------------|-------------------------------|---|------------------------|----------------|
| 10 | Notional amount | For all financial instruments | <p>This field shall be populated:</p> <p>(i) for bonds (excluding ETCs and ETNs), with the nominal value per unit multiplied by the number of instruments at the time of the transaction;</p> | RM, MTF, APA, CTP, OTF | {DECIMAL-18/5} |
|----|-----------------|-------------------------------|---|------------------------|----------------|

4) RTS 2: Reference point 5.1.1.3.9 pg 40 / Field 7 Annex II Table II pg 98

Quantity – The continued application of “Quantity” to the bond asset class does not follow the standard market convention for bonds.

This should not be required for bonds, except where the bond type is explicitly traded in units i.e. ETCs, ETNs. Where “Quantity” is provided as the bond is traded in units (ETCs/ ETNs), “Notional amount” should not be populated.

| | | | | | |
|---|----------|---|--|----------------------------|-----------------|
| 7 | Quantity | For all financial instruments except in the cases described under Article 11(1) letters (a) and (b) of this Regulation. | The number of units of the financial instrument, or the number of derivative contracts in the transaction. | RM, MTF, OTF APA CTP | {DECIMAL-18/17} |
|---|----------|---|--|----------------------------|-----------------|

5) RTS 1 & 2:

Backward Compatibility – It is unclear how the regulators expect backward compatibility to handle trades previously reported under RTS 1 and RTS 2 considering proposed changes to the RTSs. Depending on the approach, this could have a material impact on development time and effort. Two scenarios will need to be addressed, namely: -

1. How cancelled or amended trades should be treated for trades submitted pre-implementation; and
2. Not all trades are fully published on the submission date; for instance, deferrals are published partially or fully after submission. How the deferrals should be published after the implementation date where the trade was submitted before the implementation date

This is a significantly complex area which needs careful thought and preparation to achieve an effective outcome to avoid creating a detrimental impact on data quality post-implementation. APARMA is undertaking a further study focused on backward compatibility and will present findings shortly in a separate paper.

Secondary Issues raised by APARMA:

APARMA is happy to provide further feedback on other topics which, although of a less significant importance to the primary points raised above, nonetheless in the current form could present unintended consequences to post-trade transparency in Europe. High-level areas are listed below:

- 1) Separate RTS for CTPs – the concern is that ESMA should not specify/ prescribe different data sets for APAs/ TVs and CTPs
- 2) Clock synchronisation – the approach to Trading Date and Time is unclear as per the RTS for CTPs (Art.1(10) Art 22c) – the concern is an over complication of off-venue trading date and time stamp with no clear purpose.
- 3) Price detail required in EUR – requires a conversion to EUR and APARMA recommends ESMA keeps the FX rate consistent with existing components which require a conversion to EUR i.e. quantitative transparency reporting requirements
- 4) Deferral flag hierarchy – unclear if there is a documented hierarchy

Abbreviations

APA - Approved Publication Arrangement

APARMA - The APA and ARM Association

BENC - Benchmark transaction flag

CDS - Credit Default Swaps

CTP - Consolidated tape provider

ESCB - Europe System of Central Banks

ESMA - European Securities and Markets Authority

FITRS - Financial Instruments Transparency System

MIF – MiFID investment firm

MIC - Market Identifying Code

NQU - Non-equities Quantitative data

NTR - Non-Equity Transparency Reference Data

RFMD --Requests For Market Data

RTS - Regulatory Technical Standard

TCTV - Third Country Trading Venue

TNCP - Trade not Contributing to Price

XOFF - Off Exchange

About APARMA

The APA and ARM Association, [APARMA](http://www.aparma.org), represents common APA and ARM interests on regulations and laws impacting APA and ARM businesses in the EU and UK and the associated supervisory framework to ensure efficient dialogue with regulatory policymakers. APARMA focuses on developing and supporting the adoption of best practices with the common aim of improving industry data quality. APARMA aims to assist authorities and regulators with advice on practicalities related to implementing laws and rules, bearing in mind the practicalities of the data sets involved. Its six founding members are affiliates of Bloomberg, Cboe Europe, Euronext, London Stock Exchange, MarketAxess and Tradeweb Markets. More information can be found at www.aparma.org

Bloomberg

Cboe

EURONEXT

**London
Stock Exchange**

MarketAxess

Tradeweb