European Securities and Markets Authority

Questions and Answers

On MiFIR data reporting

05 October 2017 | ESMA70-1861941480-56

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Acronyms and definitions used

LEI	ISO 17 442 Legal Entity Identifier
EMIR	European Market Infrastructures Regulation – Regulation (EU) 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories
ESMA	The European Markets and Securities Authority
GLEIF	Global Legal Entity Identifier Foundation
ITS	Implementing Technical Standards
MiFID I	Markets in Financial Instruments Directive – Directive 2004/39/EC of the European Parliament and of the Council
MiFID II	Markets in Financial Instruments Directive (recast) – Directive 2014/65/EU of the European Parliament and of the Council
MiFIR	Markets in Financial Instruments Regulation – Regulation 600/2014 of the European Parliament and of the Council
MAR	Market Abuse Regulation – Regulation 596/2014 of the European Parliament and of the Council
NCA	National Competent Authority
Q&A	Question and answer
RTS	Regulatory Technical Standards

Table of questions

		Topic of the Question	Level 1/Level 2 issue	Last Updated
LEI of the issuer	1	LEI of the issuer	MiFIR RTS 23[1]	20/12/2016
	2	LEI of an operator of a trading venue or a systematic analyser	MiFIR RTS 23	20/12/2016
	3	Issuer LEI vs Ultimate Parent LEI	MiFIR RTS 23	20/12/2016
	4	LEI annual maintenance	MiFIR RTS 23	20/12/2016
Date and time of the request of admission and admission	1	Date and time of the request and of the admission of instruments in the past	MiFIR RTS 23	20/12/2016
	2	Unknown time of the request and of the admission	MiFIR RTS 23	20/12/2016
	3	Coinciding date and time of the request and of the admission	MiFIR RTS 23	20/12/2016
	4	Date of request for admission to trading	MiFIR RTS 23	02/02/2017
	5	Date of admission to trading or date of first trade	MiFIR RTS 23	02/02/2017
Instrument identification code and Underlying instrument code	1	ISIN, CFI and FISN	MiFIR RTS 23	02/02/2017
	2	Timeline to obtain ISINs	MiFIR RTS 23	02/02/2017
	3	Underlying Instrument Code for future contracts on sovereign bonds	MiFIR RTS 23	02/02/2017
Maturity Date	1	Maturity Date for perpetual debt financial instruments	MiFIR RTS 23	02/02/2017

[1] Please note that, for ease of reference, RTS have been numbered in this document in accordance with the numbering used in the package sent by ESMA to the Commission in September 2015 (ESMA/2015/1464). Readers are nevertheless invited to consult the Commission and European Parliament websites for updated versions of those RTS.

Classification of Financial Instruments and Financial Instrument Short Name	1	CFI	MiFIR RTS 23	02/02/2017
Request for admission to trading by issuer	1	Population of Field 8	MiFIR RTS 23	02/02/2017
Base point Spread of the index/benchmark of a floating rate bond	1	Population of field 22	MiFIR RTS 23	02/02/2017
Field 23- Seniority of the Bond	1	Population of field 23	MiFIR RTS 23	03/04/2017
Business Case: Inflation Indexed bond	1	Reporting of Inflation Indexed bonds	MiFIR RTS 23	03/04/2017
Field 14 and Field 17 – Total issued nominal amount	1	Population of field 14 and field 17	MiFIR RTS 23	07/07/2017
Financial Instruments' volatile attributes	1	Fixed rate and strike price	MiFIR RTS 23 and 22	04/10/2017
Transaction reporting	1	Price not available at the time of execution	MiFIR RTS 22	03/04/2017
	2	National client identifiers for natural persons	MiFIR RTS 22	05/10/2017
	3	Circumstances where the buyer and seller in a transaction under Art. 26 of MiFIR are the same	MiFIR RTS 22	07/07/2017
	4	Population of Field 30 – Quantity	MiFIR RTS 22	07/07/2017
	5	OTC derivative contracts	MiFIR RTS 22	05/10/2017
	6	Portfolio management	MiFIR RTS 22	05/10/2017
Order Record Keeping	1	Actionable Indication of Interest	MiFIR RTS 24	07/07/2017

1 Introduction

Background

The final legislative texts of Directive 2014/65/EU[2] (MiFID II) and Regulation (EU) No 600/2014[3] (MiFIR) were approved by the European Parliament on 15 April 2014 and by the European Council on 13 May 2014. The two texts were published in the Official Journal on 12 June 2014 and entered into force on the twentieth day following this publication – i.e. 2 July 2014.

Many of the obligations under MiFID II and MiFIR were further specified in the Commission Delegated Directive[4] and two Commission Delegated Regulations[5] [6], as well as regulatory and implementing technical standards developed by the European Securities and Markets Authority (ESMA).

MiFID II and MiFIR, together with the Commission delegated acts as well as regulatory and implementing technical standards will be applicable from 3 January 2018.

Purpose

The purpose of this document is to promote common supervisory approaches and practices in the application of MiFID II and MiFIR in relation to regulatory data reporting topics. It provides responses to questions posed by the general public, market participants and competent authorities in relation to the practical application of MiFID II and MiFIR.

The content of this document is aimed at competent authorities and firms by providing clarity on the application of the MiFID II and MiFIR requirements.

The content of this document is not exhaustive and it does not constitute new policy.

Status

[2] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

[3] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) N0 648/2012.

[4] Commission Delegated Directive of 7.4.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits. The Commission Delegated Directive was published on 7 April 2016 and no objection has been expressed by the European Parliament or the Council on the MiFID II Delegate Directive and Delegated Regulation within the period set in Article 89 of MiFID II.

[5] Commission Delegated Regulation of 25.4.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive. The Commission Delegated Regulation was published on 25 April 2016 and no objection has been expressed by the European Parliament or the Council on the MiFID II Delegate Directive and Delegated Regulation within the period set in Article 89 of MiFID II.

[6] Commission Delegated Regulation of 18.5.2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions. The Commission Delegated Regulation was published on 18 May 2016 and no objection has been expressed by the European Parliament or the Council on the MiFID II Delegate Directive and Delegated Regulation within the period set in Article 50 of MiFIR.

The question and answer (Q&A) mechanism is a practical convergence tool used to promote common supervisory approaches and practices under Article 29(2) of the ESMA Regulation[7].

Due to the nature of Q&As, formal consultation on the draft answers is considered unnecessary. However, even if Q&As are not formally consulted on, ESMA may check them with representatives of ESMA's Securities and Markets Stakeholder Group, the relevant Standing Committees' Consultative Working Group or, where specific expertise is needed, with other external parties.

ESMA will periodically review these Q&As on a regular basis to update them where required and to identify if, in a certain area, there is a need to convert some of the material into ESMA Guidelines and recommendations. In such cases, the procedures foreseen under Article 16 of the ESMA Regulation will be followed.

Questions and answers

This document is intended to be continually edited and updated as and when new questions are received. The date on which each section was last amended is included for ease of reference.

[7] Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC Regulation, 15.12.2010, L331/84.

2 LEI of the issuer [Last update: 20/12/2016]

Question 1 [Last update: 20/12/2016]

What action should be taken by the operator of the trading venue or the systematic internaliser in the cases where the LEI of the issuer cannot be obtained?

Answer 1

Operators of trading venues and systematic internalisers are advised to inform the issuers pertaining to the financial instruments concerned of their obligation to obtain the LEI of the issuer of every financial instrument in order to comply with the requirements under Article 3(2) of the MiFIR RTS, Article 1 of the MAR RTS[8] and Article 2 of the MAR ITS[9]. Trading venues and systematic internalisers are advised that the GLEIF has introduced the concept of 'Registration Agent'. This facility will enable trading venues and systematic internalisers to assist the issuer applying for the LEI to access the network of LEI issuing organisations[10]. For more information on the 'Registration Agent' arrangements please refer to the following link https://www.gleif.org/en/lei-focus/how-to-get-an-lei-find-lei-issuing-organizations/registration-agents.

Question 2 [Last update: 20/12/2016]

When can an operator of trading venue(s) and systematic internaliser(s) populate field 5 of Table 3 of the Annex to RTS 23[11] and related MAR RTS and ITS[12] with its own LEI?

Answer 2

Operators of trading venues and systematic internalisers can populate field 5 of Table 3 of the Annex to RTS 23 with their own LEI only where they create or issue themselves the financial instrument to be reported under the MiFIR and MAR obligations to supply reference data.

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[8] Commission Delegated Regulation (EU) 2016/909 of 1 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the content of notifications to be submitted to competent authorities and the compilation, publication and maintenance of the list of notifications

[9] Commission Implementing Regulation (EU) 2016/378 of 11 March 2016 laying down implementing technical standards with regard to the timing, format and template of the submission of notifications to competent authorities according to Regulation (EU) No 596/2014 of the European Parliament and of the Council

[10] The list of LEI issuing organisations can be found at this link: https://www.gleif.org/en/lei-focus/how-to-get-an-lei-find-lei-issuing-organizations

[11] Please note that, for ease of reference, RTS have been numbered in this document in accordance with the numbering used in the package sent by ESMA to the Commission in September 2015 (ESMA/2015/1464). Readers are nevertheless invited to consult the Commission and European Parliament websites for updated versions of those RTS.

[12] See footnote 8 and 9 respectively.

Question 3 **[Last update: 20/12/2016]**

In case the Issuer LEI code is missing but the Ultimate Parent Code LEI is available, can the latter one be used at least for a to-be-specified grace period?

Answer 3

No, it cannot. The information about the LEI of the issuer of the financial instrument is essential to determine the relevant competent authority pursuant to Article 16 of RTS 22[13]. For this reason, it is essential that the LEI pertaining to the issuer of the financial instrument and not that of the ultimate parent of the issuer is provided.

In general, issuers should be aware of a number of existing EU obligations that already require the LEI of the issuers to be provided (e.g. MAR, EMIR and Transparency Directive[14]). Under MAR, the LEI of the issuer, in addition to being used in the context of providing reference data, is part of the mandatory information to be included in the notifications by persons discharging managerial responsibilities and by all persons closely associated with them[15]. Under EMIR, the LEI is mandatory for the identification of all legal entities involved in the derivative contract to be reported to the EU Trade Repositories, including financial and non-financial counterparties that enter into derivative contracts, the beneficiary of derivative contracts, the broking entity and the clearing member. Under the Transparency Directive Officially Appointed Mechanisms are obliged to obtain the LEI of the issuer of financial instruments admitted to trading on regulated markets.

Question 4 **[Last update: 20/12/2016]**

In the case where the issuer does not pay the annual fees for maintaining its LEI to the Local Operating Unit, what is the responsibility of operators of trading venues and systematic internalisers and what measures should be taken?

Answer 4

While issuers of financial instruments should ensure that their LEI is renewed according to the terms of any of the accredited Local Operating Units of the Global Entity Identifier System, under Article 3(2) of RTS 23 operators of trading venues and systematic internalisers are not expected to ensure that the LEI pertaining to the issuer of the financial instrument has been renewed.

[13] Please note that, for ease of reference, RTS have been numbered in this document in accordance with the numbering used in the package sent by ESMA to the Commission in September 2015 (ESMA/2015/1464). Readers are nevertheless invited to consult the Commission and European Parliament websites for updated versions of those RTS.
[14] Commission Delegated Regulation (EU) 2016/1437 of 19 May 2016 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on access to regulatory information at Union level
[15] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0523&from=EN

3 Date and time of the request of admission and admission [Last update: 02/02/2017]

Question 1 **[Last update: 20/12/2016]**

What should be populated in field 10 (Date of request for admission to trading) and field 11 (Date of admission to trading or date of first trade) in the cases where the instrument was listed far in the past, e.g. when the MIFID I rules were not yet applicable and the concept of Regulated Market had not yet been introduced?

Answer 1

If the dates and times to be provided in fields 10 and 11 are known, those dates and times should be provided even if the request for admission and the admission occurred at a time where MiFID I did not yet apply. Otherwise, either the date of establishment of the given trading venue or systematic internaliser or the application date of MiFID I (i.e. 01 November 2007) should be used, whichever date is more recent.

Question 2 **[Last update: 20/12/2016]**

In some cases, the time of the request and of the admission is not known, e.g. when the instrument was listed far in the past or when the request was submitted by postal service. In such cases, would it be possible to populate fields 10 and 11 with a default time?

Answer 2

When the time is not available, the default time of midnight (00:00:00) should be provided.

Question 3 **[Last update: 20/12/2016]**

Can both fields 10 and 11 be populated with the same value where the request for admission to trading and the admission to trading takes place on the same day?

Answer 3

Yes.

Question 4 **[Last update: 02/02/2017]**

Which date and time should be populated by a trading venue in Field 10 (Date of request for admission to trading) in case it receives more than one request for admission to trading of a specific financial instrument on a given day?

Answer 4

In case more than one request for admission to trading of a specific financial instrument is received by a trading venue on a given day, Field 10 (Date of request for admission to trading) should be populated with the date and time of the first request for admission to trading.

Question 5 **[Last update: 02/02/2017]**

Which date should be populated in Field 11 (Date of admission to trading or date of first trade) – the date and time of the admission to trading or the date and time of the first trade, order or quote?

Answer 5

Field 11 (Date of admission to trading or date of first trade) should be populated with the date and time of the event which takes place first.

4 Instrument identification code and Underlying instrument code [Last update: 02/02/2017]

Question 1 **[Last update: 02/02/2017]**

What ISINs, CFI codes and FISNs can be used to identify financial instruments?

Answer 1

For the purpose of reporting reference data under the requirements of MiFIR Article 27, ISO 6166 ISINs, ISO 10962 CFI codes and ISO 18774 FISNs issued by the relevant National Numbering Agency (NNA) should be used. For further information please refer to the following link: http://www.anna-web.org/standards/about-identification-standards/.

Question 2 **[Last update: 02/02/2017]**

By when do ISINs have to be obtained for financial instruments submission of reference data for which is triggered by an order, quote or trade taking place?

Answer 2

For financial instruments for which submission of reference data is triggered by an order, quote or trade taking place, the ISINs have to be allocated in time to be included in the submission of reference data required under Article 2 of RTS 23[16].

Question 3 **[Last update: 02/02/2017]**

How should Field 26 (Underlying instrument code) be populated in the case of a futures contract on sovereign bonds?

Answer 3

In case of a futures contract on sovereign bonds, field 26 (Underlying instrument code) should be populated with the ISIN of the cheapest-to-deliver bond. If this is unknown, this field should be populated with the ISIN of any of the bonds issued by the issuer. This concept also applies to transaction reports under Article 26 MIFIR for OTC derivatives where the underlying deliverable bond can be chosen from several bonds issued by the same issuer.

5 Maturity Date [Last update: 02/02/2017]

Question **[Last update: 02/02/2017]**

What date should be populated in Field 15 (Maturity date) for perpetual debt financial instruments?

Answer

For perpetual debt financial instruments field 15 (Maturity date) should be populated with the value 9999-12-31 (in accordance with the ISO format).

[16] Please note that, for ease of reference, RTS have been numbered in this document in accordance with the numbering used in the package sent by ESMA to the Commission in September 2015 (ESMA/2015/1464). Readers are nevertheless invited to consult the Commission and European Parliament websites for updated versions of those RTS.

6 Classification of Financial Instruments (CFI) and Financial Instrument Short Name (FISN) [Last update: 02/02/2017]

Question [Last update: 02/02/2017]

Which version of the CFI is applicable for the purposes of the Commission Delegated Regulation [RTS 23]?

Answer

For the purposes of reporting reference data under the requirements of the RTS 23[17], the ISO 10962:2015 CFI code is applicable.

7 Request for admission to trading by issuer [Last update: 02/02/2017]

Question [Last update: 02/02/2017]

How should Field 8 (Request for admission to trading by issuer) be populated?

Answer

Field 8 (Request for admission to trading by issuer) should be populated with 'true' if the request for admission to trading was received from the issuer or the trading venue is aware of the issuer's approval for admission of its financial instrument to trading. Otherwise it should be populated with 'false'.

8 Base Point Spread of the index/benchmark of a floating rate bond [Last update: 02/02/2017]

Question [Last update: 02/02/2017]

[17] Please note that, for ease of reference, RTS have been numbered in this document in accordance with the numbering used in the package sent by ESMA to the Commission in September 2015 (ESMA/2015/1464). Readers are nevertheless invited to consult the Commission and European Parliament websites for updated versions of those RTS.

In case of a decimal field with insufficient granularity to accommodate the complete actual value how should the field be populated, for example in the case of a base point spread with a 0.5 base point, how should the value be reported in Field 22 (Base Point Spread of the index/benchmark of a floating rate bond)?

Answer

In case of a decimal field with insufficient granularity to accommodate the complete actual value, the value has to be rounded up/down to the next integer. For the given example of base point spread with a 0.5 base point, the base point spread would be populated with a value of 1.

9 Field 23 – Seniority of the Bond [Last update: 03/04/2017]

Question [Last update: 03/04/2017]

Do the same standards apply to the character denoting seniority of a bond in field 3 and the attributes listed in field 23 (seniority of the bond) of RTS 23 of MiFIR?

Answer

No, different standards apply to field 3 and field 23 of RTS 23. Field 3 is populated for all instruments with the ISO 10962:2015 CFI code while field 23 is populated according to ISO 20022 standard and only applies to debt instruments. There is no validation rule in place that compares the value in field 3 with that populated in field 23.

10 Business Case: Inflation Indexed bond [Last update: 03/04/2017]

Question [Last update: 03/04/2017]

How should transactions on "inflation indexed bonds" be reported under RTS 22?

Answer

Example of transaction report on "inflation indexed bonds":

An investment firm acquires a DBRI 0.1% 04/15/2026 (ISIN Code DE0001030567) by trading over the counter at 110.00%. The nominal value of the transaction is 1000000 EUR.

The net amount for this transaction is 1111274.01 EUR.

Considering that for the purpose of this example:

The static characteristics (as defined upon the issue of the financial instrument) are:

- Maturity Date: April 15th 2026
- Coupon frequency: Annual
- Day Count Convention: ACT/ACT
- Day to Settle Convention: 2 business days after the trade date

The variables (dynamic characteristics depending on the market conditions) are:

- Trade Date: July 25th 2016
- Settlement Date: July 27th 2016 (as per the Day to Settle Convention)
- Last Coupon Date: April 15th 2016
- Next Coupon Date: April 15th 2017
- Accrued number of days: 103 (i.e., the number of days between the Last Coupon Date and the Settlement Date)
- Period basis: 365 (i.e., the total number of days between the Last Coupon Date and the Next Coupon Date)
- Quantity: 1000000 (i.e., the nominal or monetary value of the transaction)
- Clean price: 110.00
- Index ratio: 1.009990
- Accrued interest: 0.02821918 (i.e., $\frac{Nominal\ Coupon}{Annual\ Coupon\ Frequency} \times \frac{Accrued\ Number\ of\ Days}{Period\ basis} = \frac{0.1}{1} \times \frac{103}{365}$)

The net amount will be calculated as follows (pursuant to the formula provided in field 35 of RTS 22):

Net amount[18] = [(Clean price x Nominal value) + (Accrued coupons x Nominal value)] x Index ratio i.e. [(($\frac{110}{100}$x 1000000 EUR) + ($\frac{0.02821918}{100}$ x 1000000 EUR))] x 1.009990 =1111274.01 EUR.

N	Field name	Values	XML representation
30	Quantity	‘1000000’	<Tx> <New> … <Tx> … <Qty> <NmnlVal Ccy="EUR">1000000</NmnlVal> </Qty> <Pric> <Pctg>110.00</Pctg> </Pric> <NetAmt>1111274.01</NetAmt> <TradVn>XOFF</TradVn> ... </Tx> <FinInstrm> <Id>DE0001030567</Id> </FinInstrm>

[18] Please note that this example differs from example 92 within the Guidelines by the index ratio that needs to be taken into account in the calculation of the Net Amount.

			… </New> </Tx>

11 Field 14 and Field 17 – Total issued nominal amount [Last update: 07/07/2017]

Question 1

In the case of Bonds or other forms of securitised debt, what should be reported in Commission Delegated Regulation (EU) 2017/585 Annex Table 3 Field 14 (Total issued nominal amount) if the total nominal amount changes? Similarly, what should be reported in Commission Delegated Regulation (EU) 2017/585 Annex Table 3 Field 17 (Nominal value per unit/minimum traded value) if nominal value per unit/minimum traded value changes?

Answer 1

In the case of Bonds or other forms of securitised debt, a trading venue should update Field 14 (Total issued nominal amount) accordingly if the total nominal amount changes (increasing or decreasing). The same approach should be applied to Field 17 (Nominal value per unit/minimum traded value).

12 Field 30 – Quantity [Last update: 07/07/2017]

Question 1

How shall Field 30 (Quantity) in Commission Delegated Regulation (EU) 2017/590 Annex I Table 2 be reported for a transaction where there have previously been acquisitions or disposals that are excluded from the meaning of a transaction? For example, a decrease in notional amount in a financial instrument which has previously had pre-determined contractual down payments exempted from transaction reporting under Commission Delegated Regulation (EU) 2017/590 Article 2(5)(j)?

Answer 1

Competent authorities require an accurate and holistic view of transactions that are within the scope of reporting requirements under Article 26 of MiFIR. Therefore, Article 15(5) of Commission Delegated Regulation (EU) 2017/590 obliges an Investment Firm to ensure that a collective view of the transaction reports reported by the Investment Firm as the executing entity accurately reflects all changes in its position and in the position of its clients that arise from reportable transactions.

It should be noted that the reporting requirements are not intended to capture the Investment Firm's or the Investment Firm's client's actual position. What is of interest to competent authorities is the change of position resulting from reportable transactions. Therefore only acquisitions or disposals that are reportable transactions under Article 2 of Commission Delegated Regulation (EU) 2017/590 are reported and only the amount of the acquisition or disposal that takes place at the date time of the execution of the reportable transaction should be reported in field 30.

Scenario: Decrease in notional amount of a financial instrument originally reported with a notional amount of EUR 10 mill. The instrument has an ongoing amortisation cash flow and after 2 years, the contract has a remaining notional of EUR 8.5 million due to amortisations, i.e. contractually pre-determined payments that have not been reported due to the exemptions under Article 2(5)(j) of Commission Delegated Regulation (EU) 2017/590. The contract is then terminated, i.e. the notional amount is decreased to zero, in a transaction that was not contractually pre-determined to take place.

Field 30 (Quantity) shall be populated with 8.5 mill. This corresponds to the actual decrease of notional and it reflects the change in position of the investment firm resulting from a reportable transaction at the point of execution.

13 Reference Data for financial instruments [Last update: 07/07/2017]

Question 1

What information trading venues need to provide with respect to reference data reported under Commission Delegated Regulation (EU) 2017/585 for bonds where the coupon is calculated based on a complex formula involving several indices?

Answer 1

In case of bonds for which the coupon is calculated based on a complex formula that involves several indices, trading venues should provide the reference data using the following default values:

- Field 18 ("Fixed Rate") and Field 19 ("Identifier of the index / benchmark of a floating rate bond") should be left ***blank***;
- Field 20 ("Name of the index / benchmark of a floating rate bond") should be populated with the expression "FORMULA";
- Field 21 ("Term of index / benchmark of a floating rate bond") should be populated with "0 'DAYS'";

14 Financial instruments' volatile attributes [Last update: 05/10/2017]

Question 1 [Last update: 05/10/2017]

(a) How to complete reference data and transaction reports for financial instruments with a fixed rate that is a volatile attribute.

(b) How to complete reference data and transaction reports for financial instruments with a strike price that is a volatile attribute.

Answer 1

(a) Where a swap rate or forward rate financial contract is quoted as the fixed rate and it is considered to be an attribute of the transaction rather than an attribute of the financial instrument, the respective reports should be completed as follows:

Transaction report[19] - the price (field 33) of the transaction should be populated with the fixed rate value. The upfront payment (field 38) should be populated with a value of zero.

Reference data report[20] - the relevant fixed rate leg (field 43 or 44) of the financial contract should not be populated

The above is applicable to the financial instruments with specific CFI codes for which the fixed rate is considered as a volatile attribute. The CFI validation document will be kept up to date to reflect that the fixed rate related fields should be non-applicable for the relevant CFI codes.

(b) Where the strike price of a financial contract is considered to be an attribute of the transaction rather than an attribute of the instrument then the respective reports shall be completed as follows:

Transaction report - the price (field 33) of the transaction shall be populated with the strike price value. The upfront payment (field 38) shall be populated with the value of the option premium.

Reference data – the strike price field shall not be populated.

[19] COMMISSION DELEGATED REGULATION (EU) 2017/590 with regard to regulatory technical standards for the reporting of transactions to CAs. Available at the following link

[20] COMMISSION DELEGATED REGULATION (EU) 2017/585 with regard to regulatory technical standards for the data standards and formats for financial instrument reference data. Available at the following link

The above is applicable to the financial instruments with specific CFI codes for which the strike price is considered as a volatile attribute. The CFI validation document will be kept up to date to reflect that this field should be non-applicable for these codes.

If the trading model deviates from (a) and (b) above then the transaction report shall be completed in line with ESMA's published guidelines for transaction reporting, order record keeping and clock synchronisation under MiFID II[21]. In all cases transaction reports must be reported consistently with reference data.

15 Transaction reporting [Last update: 05/10/2017]

Question 1 [Last update: 03/04/2017]

Where the price of a transaction is not available at the time of execution (e.g. the NAV for certain ETFs), how can investment firms fulfil their post-trade transparency obligations under Articles 20 and 21 of MiFIR and their transaction reporting obligations under Article 26 of MiFIR for those transactions?

Answer 1

If the price of a transaction is not available at the time of execution, investment firms should fulfil the applicable reporting obligations using 'PNDG' as price, specified in the field 'Price' of table 3 of Annex I of RTS 1, table 2 of Annex II of RTS 2 and/or field 33 of table 2 of Annex I of RTS 22. As soon as the price of the transactions (including the NAV in the particular case of ETFs) becomes available, investment firms should cancel the original reports with the 'PNDG' price (using the cancellation flag for post-trade transparency publication purposes) and publish new reports/ send new transaction reports pertaining to the given transactions using the actual price that became available (using the amendment flag for post-trade transparency publication purposes). The date and time specified in the field "Publication date and time" of table 3 of Annex I of RTS 1, table 2 of Annex II of RTS 2 and/or field 28 of table 2 of Annex I of RTS 22 should always refer to the original date and time of the execution.

Question 2 [Last update: 05/10/2017]

How are different national identifiers specified in Annex II of RTS 22 represented?

Answer 2

The table below shows the list of national client identifiers for natural persons to be used in transaction reports pursuant to the priority specified in Annex II of the Commission Delegated Regulation (EU) 2017/590. Information related to the format of the identifier is not provided in

[21] https://www.esma.europa.eu/sites/default/files/library/2016-1452_guidelines_mifid_ii_transaction_reporting.pdf

the case of CONCAT, since the procedure for generating such identifier is defined in Articles 6(1) and 6(4) of the Commission Delegated Regulation (EU) 2017/590.

Country code	Country name	National client identifier	Format of the identifier	Potential source of the information
AT	Austria	*CONCAT*		
BE	Belgium	Belgian National Number (Numéro de registre national - Rijksregisternummer)	11 numerical digits where the first 6 are the date of birth (YYMMDD), the next 3 are an ordering number (uneven for men, even for women) and the last 2 a check digit.	National ID
		CONCAT		
BG	Bulgaria	Bulgarian Personal Number	It consists of 10 digits. The first 6 are the date of birth (YYMMDD). The next 3 digits have information about the area in Bulgaria and the order of birth, and the ninth digit is even for a boy and odd for a girl. Seventh and eighth are randomly generated according to the city. The tenth digit is a check digit.	Passport, National ID, Driving Licence
		CONCAT		
CT	Cyprus	National Passport Number	The number for passports issued before 13/12/2010 consists of the character 'E' followed by 6 digits i.e E123456. Biometric passports issued after 13/12/2010 have a number that starts with the character 'K', followed by 8 digits. i.e K12345678	The passport is issued by the Civil Registry Department of the Ministry of Interior.
		CONCAT		
CZ	Czech Republic	National identification number (Rodné číslo)	It is a nine or ten-digit number in the format of YYXXDD/SSSC, where XX=MM (month of birth) for male, i.e. numbers 01-12, and XX=MM+50 (or exceptionally XX=MM+70) for female, i.e. numbers 51-62 (or 71-82). For example, a number 785723 representing the first six digits is assigned to a woman born on 23rd of July 1978. SSS is a serial number distinguishing persons born on the same date and C is a check digit. For people born before January 1st 1954 the number is without this check digit - YYXXDD/SSS (i.e. the nine-digit case). If the national identification number has ten digits, then the tenth (check) digit is the first nine digits modulo 11, unless this modulo is 10. In that case the tenth digit is 0. Therefore, the ten-digit number is usually divisible by 11.	It is assigned to a person shortly after birth by the birth registry and does not change throughout the life of a person. It is printed on a birth certificate (paper), national ID card (laminated or plastic card), drivers licence (laminated or plastic card), and possibly other documents.
		Passport Number	It is usually an eight digit number, but it can be longer.	The passport is issued by the Ministry of the Interior of the Czech Republic.
		CONCAT		
DE	Germany	*CONCAT*		

DK	Denmark	Personal identity code 10 digits alphanumerical: DDMMYYXXXX	The Danish personal ID is called the CPR number. It is 10 digits and does only consist of numbers [0-9]. The first 6 numbers represent the date of birth in “DDMMYY" format.	The CPR number is used for unique personal identification can be found in documents such as passports, health care cards and driver's licenses.
		CONCAT		
EE	Estonia	Estonian Personal Identification Code (Isikukood)	It consists of 11 digits, generally given without any whitespace or other delimiters. The form is GYYMMDDSSSC, where G shows sex and century of birth (odd number male, even number female, 1-2 19th century, 3-4 20th century, 5-6 21st century), SSS is a serial number separating persons born on the same date and C a checksum.	Passport, National ID, Driving license
ES	Spain	Tax identification number (Número 0 Código de identificación fiscal)	Code composed by 9 characters: 8 numbers and a control letter. Letters I, Ñ, O, and U are not used. It looks like 99111222M. Particular cases - L + 7 numbers + control letter for non-resident Spaniards unless they have DNI, where then it would look like as above. - K + 7 numbers + control letter for Spaniards under 14 unless they have DNI, where then it would look like as above.	This code is in the National Identification Card (document nacional de identidad – DNI – or carnet de identidad), but it can also be found in the driving license or the social security card.
FI	Finland	Personal identity code	It consists of eleven characters of the form DDMMYYCZZZQ, where DDMMYY is the date of birth, C the century sign, ZZZ the individual number and Q the control character (checksum). The sign for the century is either + (1800–1899), - (1900–1999), or A (2000–2099). The individual number ZZZ is odd for males and even for females and for people born in Finland its range is 002-899 (larger numbers may be used in special cases). An example of a valid code is 311280-888Y.	Passport, National ID
		CONCAT		
FR	France	*CONCAT*		
GB	United Kingdom	UK National Insurance number	Two prefix letters, followed by six digits with one suffix letter, which is always A, B, C, or D. It looks something like this: AB123456A. The characters D, F, I, Q, U and V are not used as either the first or second letter of the prefix. The letter O is not used as the second letter of the prefix. For administrative reasons HMRC and DWP have sometimes used reference numbers which look like NINOs but which do not use valid prefixes. The administrative prefixes used are: OO, CR, FY, MW, NC, PP, PZ, TN. These should not be used.	The NINO is an administrative number primarily for the use of HM Revenue and Customs (HMRC) or the Department for Work and Pensions (DWP). It can be on a plastic National Insurance card, paper card or letter from HRMC and may also be obtained from payslips, form P60, tax returns or letters from the DWP/HRMC.
		CONCAT		

GR	Greece	10 Dematerialised Securities System (DSS) digit investor share	It consists of 10 digits and it is linked with the personal details of the investor (name, identity number, passport number, tax registration number).	Investor share is the account of the investor in the DSS which is operated by the Central Securities Depository S.A.
		CONCAT		
HR	Croatia	Personal Identification Number (OIB – Osobni identifikacijski broj)	OIB consists of 11 digits. 10 digits are chosen randomly and do not contain information related to the holder of OIB. One digit is a control number. OIB is unique, unchangeable and unrepeatable. It is a permanent identification code of every Croatian citizen and legal person with head office in the Republic of Croatia.	Source is National Identity Card or Internet engines but it can also be found on other personal documents.
		CONCAT		
HU	Hungary	*CONCAT*		
IR	Ireland	*CONCAT*		
IS	Iceland	Personal Identity Code (Kennitala)	Ten-digit number, where the first six are the date of birth (DDMMYY).	Passport, National ID, Driving Licence
IT	Italy	Fiscal code (Codice fiscale)	The code is unique, widespread and consistent over time and it is a combination of 16 letters and numbers (3 letters for the last name + 3 letters for the name + 5 letters/numbers for the date of birth (with different combinations to distinguish between men and women) + 4 letters/numbers for the place of birth + 1 check letter/number). Example: RSS MRO 62B25 E205 Y	It can be printed on a paper card (old version) or on the National Health Service magnetic card (newer ones).
LI	Lichtenstein	National Passport Number	The Code is a combination of 1 letter and 5 numbers. For example R00536	Passport
		National Identity Card Number	The Code of the national ID-Card is a combination of 2 letters and 8 numbers. For example ID022143586	The number changes with each renewed ID-Card
		CONCAT		
LT	Lithuania	Personal code (Asmens kodas)	It is 11 digits long. Format GYYMMDDNNNC, where G is the gender (4 or 6 for women; 3 or 5 for men); YYMMDD is the date of birth; NNN - serial number; C - check digit.	Passport, National ID, Driving license
		National Passport Number	Passport or Identity card number - 8 digit number	Passport, National ID
		CONCAT		
LU	Luxemburg	*CONCAT*		
LV	Latvia	Personal code (Personas kods)	11 numerical digits of the form DDMMYY-CZZZZ where the first 6 are the date of birth (DDMMYY) and the C is century sign (where the digit "0" is the 19th century, the number "1" - the 20th century, "2" - 21th century).	Identification documents for Republic of Latvia - National ID and/or passport

			Or 11 numerical digits selected randomly, where the first six digits may be separated from other digits with a hyphen	
		CONCAT		
MT	Malta	National Identification Number	8 characters: 7 numerical digits and 1 alphabetic letter (M, G, A, P, L, H, B, Z) Each ID Card has a unique Identity Number, based on a combination of: (a) a sequential registration number in the relevant year; (b) the relevant year number (2 digits), where the year is the year of birth (for Malta-born persons) or year of registration (for non-Malta born persons), and (c) a letter designating the geographic origin of the person. The definition of the letters is given by the Public Registry Department on the registration of a birth A = applicable to Foreigners in possession of an eRes Card B = applicable to Maltese births registered in the 1800+ G= applicable to Gozitan births registered in the 1900+ H= applicable to Gozitan births registered in the 2000+ L= applicable to Maltese births registered in the 2000+ M= applicable to Maltese births registered in the 1900+ P= applicable to Maltese citizens who are unable to obtain their original birth certificate from their country of birth to be registered in Malta. Z= applicable to Gozitan births registered in the 1800+	National ID
		National Passport Number	7 Numerical digits	Civil Registration Directorate
NL	Netherlands	National Passport Number	9 characters of which: Position 1 and 2: [A-Z] except for "O"; Position 3 - 8: [A-Z] [0-9] except for "O"; Position 9: [0-9].	Dutch National Passport
		National identity card number	9 characters of which: Position 1 and 2: [A-Z] except for "O"; Position 3 - 8: [A-Z] [0-9] except for "O"; Position 9: [0-9]. The character "O" is not allowed while "0" is.	Dutch National ID
		CONCAT		
NO	Norway	11 digit personal id (Foedselsnummer)	The id is 11 digits long, where the first 6 represent birthdate in "ddmmyy" format.	Includes but not limited to: passport, national id card, driving license
		CONCAT		
PL	Poland	National Identification Number (PESEL)	11 NUMERIC. ID for natural persons is assigned to a person shortly after birth by the birth registry and does not change throughout the life of a person.	Birth Certificate, National ID, Driving License
		Tax Number (Numer identyfikacji podatkowej)	10 NUMERIC. It is used by investment firms for the tax identification of a client.	Tax form PIT8 which is sent yearly by an IF on behalf of its client to the tax office.

PT	Portugal	Tax number (Número de Identificação Fiscal)	Code composed by one block of 9 digits (999999999). The first eight digits are sequential and the last one is used as a control: 1 to 3: Personal, 3 is not yet assigned; 45: Natural person. The initial digits "45" correspond to non-residents citizens that only get in Portuguese territory income subject to withholding at source; 5: legal person required to register in the National People Collective Registry; 6: The agencies of the Central Government, Regional or Local administration; 70, 74 and 75: Used to identify different types of Heritage Indivisible; 71: Collective non-residents subject to withholding at source definitively; 72: Investment Funds; 77: officious allocation of taxable NIF (entities that do not require NIF on the official bodies (RNPC); 78: officious assignment to non-residents covered by the proceeding VAT REFUND; 79: Exceptional rules - created in 98 exclusively to the Mundial Exposition (Expo 98); 8: "sole trader" (no longer used, is no longer valid); 90 and 91: Condos, Irregular Society and undivided inheritances; 98: Non-residents without permanent establishment; 99: Civil societies without legal personality.	
		National Passport Number	The passport of uniform and optical model consists of a notebook with 32 pages numbered, identified by one letter and six digits: Position 1: letter [A-Z] and Position 2 - 6: digits [0-9]	Portuguese National Passport
		CONCAT		

RO	Romania	National Identification Number (Cod Numeric Personal)	Romanian Personal Numerical Code (Cod Numeric Personal, CNP) consist of 13 digits and is created by using the citizen's gender and century of birth (1/3/5/7 for male, 2/4/6/8 for female and 9 for foreign citizen), date of birth (six digits, YYMMDD), the country zone (two digits, from 01 to 52, or 99), followed by a serial number (3 digits), and finally a checksum digit. The first digit encodes the gender of person as follows: 1 Male born between 1900 and 1999 2 Female born between 1900 and 1999 3 Male born between 1800 and 1899 4 Female born between 1800 and 1899 5 Male born after 2000 6 Female born after 2000 7 Male resident 8 Female resident 9 Foreign citizen The country zone is a code of Romanian county in alphabetical order. For Bucharest the code is 4 followed by the sector number. To calculate the checksum digit, every digit from CNP is multiplied with the corresponding digit in number 279146358279; the sum of all these multiplications is then divided by 11. If the remainder is 10 then the checksum digit is 1, otherwise it's the remainder itself.	The CNP is unique for each person, it is assigned at birth and never changes except in cases of erroneous attribution, sex change or change of status from legal resident to citizen, and it's written on Birth Certificate, Identity Card and Driving License.
		National Passport Number	Romanian Passport Number consist of 8 digits of which: Position 1 and 2: [A-Z] and Position 3 - 8: [0-9]	Romanian National Passport
		CONCAT		
SE	Sweden	Personal identity number	Personal code number: 12 digits numerical in the format CCYYMMDDZZZQ CCYYMMDD is the date of birth, ZZZ the individual serial number, and Q is the control character (calculated with Luhn-algoritm). The individual number ZZZ is odd for males and even for females. CC is century, YY year, MM month and DD day.	Personal code number is used for unique personal identification and are written on or into various personal documents such as passports, health care cards, driver's licenses, and is held by authority registration at Swedish tax agency.
		CONCAT		

SI	Slovenia	Personal Identification Number (EMŠO: Enotna Matična Številka Občana)	It consists of 13 digits. The first 7 numbers represent the date of birth of the person - DDMMYYY. Digit 8 and 9 represent the number of a register where EMŠO was assigned: • 10-19 – Bosnia and Hercegovina (if signed in before 18 February 1999) • 20-29 – Montenegro (if signed in before 18 February 1999) • 30-39 – Croatia (if signed in before 18 February 1999) • 40-49 – Macedonia (if signed in before 18 February 1999) **• 50-59 – Slovenia (if signed in before 18 February 1999, if later number 50 is used)** • 60-69 – (not in use) • 70-79 – Serbia (if signed in before 18 February 1999) • 80-89 – Autonomous Province of Vojvodina (if signed in before 18 February 1999) • 90-99 – Kosovo (if signed in before 18 February 1999)). Digit 10, 11 and 12 are a combination of gender and serial number for persons, born on the same day (000-499 for male and 500-999 for female). Number 13 is a control number and is calculated by a special procedure, defined in Article 4 of the Regulation on the way of assigning the personal identification number (Nos. no. 8/99).	Slovenian Personal Identity Card Slovenian National Passport
		CONCAT		
SK	Slovakia	Personal number (Rodné číslo)	The Personal Number consist of ten digits in the form YYMMDDCCCX. The first part is created from the date of birth (differently for male and female): YY - the last 2 digits of the year of birth; MM - month of birth for male (01 -12), month of birth plus 50 for female (51-62); DD - day of birth; CCC- number distinguishing persons born on the same date; X - check digit. The Person Number must be divisible by 11.	It is printed on a birth certificate (paper), national ID card (laminated or plastic card), drivers licence (laminated or plastic card), and possibly other documents.
		National Passport Number	It is issued in the format XXNNNNNNN. It is a 9-digit unique code where XX are block letters and NNNNNNN are numbers. It has a validity of 10 years.	Citizens can have two passports and this code can only be found on the first one.
		CONCAT		

Question 3 **[Last update: 07/07/2017]**

Could there be circumstances where the buyer and seller in a transaction report made under Article 26 of MiFIR are the same?

Answer 3

Yes, where a firm or investment firm, Firm A, instructs an investment firm, Firm B, to make a simultaneous buy and sell for its clients but Firm A has not complied with the conditions for transmission under article 4 of Commission Delegated Regulation (EU) 2017/590. If Firm B executes these transactions outside a trading venue then it should report the ISO 17442 LEI of Firm A in the buyer and seller fields in its transaction reports.

Question 4

How shall Field 30 (Quantity) in Commission Delegated Regulation (EU) 2017/590 Annex I Table 2 be reported for a transaction where there have previously been acquisitions or disposals that are excluded from the meaning of a transaction? For example, a decrease in notional amount in a financial instrument which has previously had pre-determined contractual down payments exempted from transaction reporting under Commission Delegated Regulation (EU) 2017/590 Article 2(5)(j)?

Answer 4

Competent authorities require an accurate and holistic view of transactions that are within the scope of reporting requirements under Article 26 of MiFIR. Therefore, Article 15(5) of Commission Delegated Regulation (EU) 2017/590 obliges an Investment Firm to ensure that a collective view of the transaction reports reported by the Investment Firm as the executing entity accurately reflects all changes in its position and in the position of its clients that arise from reportable transactions.

It should be noted that the reporting requirements are not intended to capture the Investment Firm's or the Investment Firm's client's actual position. What is of interest to competent authorities is the change of position resulting from reportable transactions. Therefore only acquisitions or disposals that are reportable transactions under Article 2 of Commission Delegated Regulation (EU) 2017/590 are reported and only the amount of the acquisition or disposal that takes place at the date time of the execution of the reportable transaction should be reported in field 30.

Scenario: Decrease in notional amount of a financial instrument originally reported with a notional amount of EUR 10 mill. The instrument has an ongoing amortisation cash flow and after 2 years, the contract has a remaining notional of EUR 8.5 million due to amortisations, i.e. contractually pre-determined payments that have not been reported due to the exemptions under Article 2(5)(j) of Commission Delegated Regulation (EU) 2017/590. The contract is then terminated, i.e. the notional amount is decreased to zero, in a transaction that was not contractually pre-determined to take place.

Field 30 (Quantity) shall be populated with 8.5 mill. This corresponds to the actual decrease of notional and it reflects the change in position of the investment firm resulting from a reportable transaction at the point of execution.

Question 5 **[Last update: 05/10/2017]**

In the case of a transaction on an OTC derivative contract[22], what is expected in the transaction report when any of the following characteristics of that contract is changed: fields 50 to 56 of annex 2 of CDR 2017/590?

Answer 5

When any of those characteristics of the contract change, the transaction thereof should be considered as a new contract and therefore two transaction reports are expected:

- One materializing the closing out of the initial derivative contract (swapping the buyer and the seller).
- One for the opening of the new contract with the new characteristics.

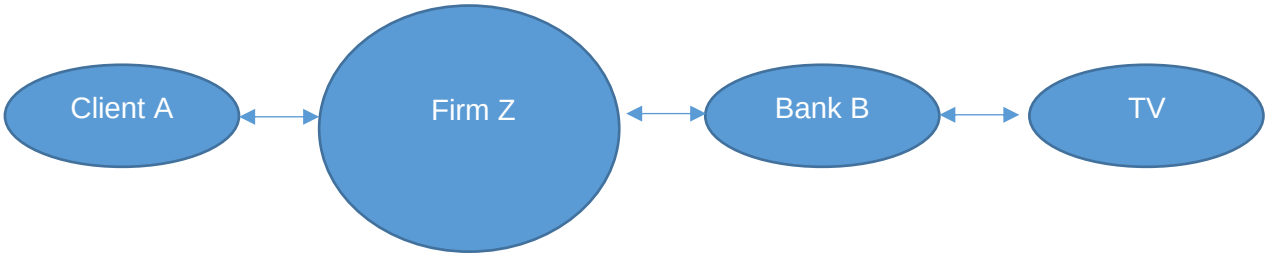
Portfolio management

Question 6 **[Last update: 05/10/2017]**

Consider a scenario where an investment firm (Bank B) executes a reportable transaction under a discretionary mandate for a Client A (portfolio management).

a) *Does the Client A also have an obligation to report this transaction under Art. 26 MiFIR?*

b) *Does the Client A also have an obligation to report this transaction under Art. 26 MiFIR when a fund management company that is not a MiFID II investment firm (Firm Z) is interposing between client and Bank B?*



Answer 6

Yes, in both cases there is an own reporting obligation for Client A under Art. 26 MiFIR, if Client A is an investment firm.

[22] MIC code-field 36 = "XXXX". These are all derivatives falling under MiFIR Article 26(2)(b) and (c).

Client A has to report under Art. 26 MiFIR because it provides the service under Art. 3 (1) (c) Commission Delegated Regulation (EU) 2017/590 “dealing on own account”. Dealing on own account as it is defined in Art. 4 (1) (6) MiFID II means trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments. Even though the client outsources the investment decision and execution to Bank B it is still considered to be “dealing on own account” under Art. 3 (1) c Commission Delegated Regulation (EU) 2017/590.

16 Order Record Keeping [Last update: 07/07/2017]

Question 1

Are actionable indications of interest subject to the order record keeping requirements for Investment Firms and trading venues under Article 25(1) and (2) of MiFIR?

Answer 1

Yes. An “*actionable indication of interest*” is defined in Article 2(1)(33) of MiFIR as “*a message from one member or participant to another within a trading system in relation to available trading interest that contains all necessary information to agree on a trade*”. Actionable indications of interest are subject to pre-trade transparency requirements under Articles 3(1) and 8(1) of MiFIR, along with current bid and offer prices and the depth of trading interests at those prices. To ensure that relevant and sufficient data is kept at the disposal of competent authorities, paragraphs 1 and 2 of Article 25 of MiFIR set out the obligation on investment firms and trading venues to maintain records of, amongst others, the relevant data relating to these orders, including actionable indications of interest.