



FESE Input on the Functioning of the ESMA Database

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FESE fully agrees with ESMA that data quality and completeness is essential for the correct functioning of the legislative requirements, as these are highly data dependent.

FESE has continuously been in contact with ESMA to provide feedback on issues observed in relation to the functioning of the system and suggested solutions.

In this paper, we would like to summarise our remarks on the remaining key issues.

1. FIRDS/FITRS Database Reporting

FESE acknowledges the progress made by ESMA in the last 18 months in improving the quality of data provided on their system (FIRDS and FITRS); however, we believe that there is still much room for improvement, without underestimating the work done until now.

The FIRDS/FITRS database seems to contain several interdependencies that challenge the reporting process from the various marketplaces. One example of this is that, if an instrument is available for trading on multiple markets and one of these reports incomplete reference data, the files from other reporting entities are rejected as well, even if these other reporting entities are reporting complete and accurate reference data. We would like to suggest that in this case, the reference data from markets reporting complete and accurate data is accepted, regardless of what is reported by other markets.

In addition, if two reporting entities report non-identical data for the same ISIN, the reference data, quantitative data and DVC files should be accepted from both. Also, they should be verified against the reference data submitted by the reporting entity itself (i.e. quantitative and DVC data from reporting entity A is validated against the reference data submitted by reporting entity A). When it then comes to using the data in the ESMA publications, then the reference data provided by the most relevant MIC should be used. This also brings into question how ESMA is determining the Relevant Competent Authority and relevant MIC as it seems to be determined by the first trading venue that submits the data, which is not always the appropriate one, and this then has implications for all other venues with the same instrument admitted. The last few months have shown that deriving the logic to correctly set the most relevant market in terms of liquidity and most relevant MIC is non-trivial. FESE therefore suggest that ESMA establish a review process with the NCAs before the most relevant market in terms of liquidity and most relevant MIC is applied to the ESMA databases.

Also, when files are submitted to FIRDS or FITRS, an accept/reject should be received by the reporting entity to give the reporting entity a chance to rectify any errors. However, it is not uncommon to receive such accept/reject message several days after the file was submitted. This makes the reporting process more cumbersome for the reporting entities. In some cases, exchanges have built their systems to verify this information on the basis that these files would be received within 24 hours. The increased delay in receiving these files means that the verification checks no longer work. There are also some synchronisation issues between the different databases although we do appreciate that the amount of data received by ESMA may cause delays in processing. We would therefore like to suggest that the FIRDS/FITRS databases send an acknowledge-message to the reporting entity as soon as

the file has been received by ESMA to give the reporting entity comfort that ESMA has received the file. The accept/reject message can thereafter be distributed when the files has passed / not passed the checks in FIRDS/FITRS but we would ask that this should still be completed within 24 hours.

Overall, we would encourage ESMA to strive towards a seamless flow by providing immediate response, but also enrich with a description on how to deal in general with amendments and errors. At the moment, it seems rather ad-hoc driven and in a non-standardised way, sometimes via the NCA, and not by ESMA directly.

Furthermore, regarding derivatives reference data, ISINs on a series level do not exist anymore after maturity and are moved to an 'archive'. It is often the case that market participants believe that trading venues did not submit the reference data as they do not realise that the relevant information has been archived and look at active tables only. We would therefore suggest to clarify the process in regard to derivatives or interlink the databases in regard to search options, to simplify the retrieval of information for market participants.

Lastly, there have been observations of discrepancies regarding data available in the database and data available using the web. Also, there seems to be periods during the day when searches via the web return incomplete results. We would therefore suggest that an effort is made to ensure that the results are identical regardless of where the search is made so to ensure consistency. If a search is not possible during daily updates of the database, an informative note should appear.

2. CFI code attribution and matching with MiFIR identifiers

Classification of financial instruments (CFI) codes are crucial for the implementation of MiFID II/MiFIR as these determine the type of instrument applicable requirements. However, FESE members' experience is that CFI codes are not attributed consistently across instruments and different National Numbering Agencies (NNAs) classify differently the same instrument. For instance, one NNA may classify a given instrument as a bond whereas another classifies the same type of instrument as a structured product. Often the CFI assigned does not correspond with the exchange's classification of the security.

Moreover, the CFI codes do not clearly map across MiFIR identifiers and bond types and there are still securities that do not have CFI / FISN codes assigned by the numbering agency. The rules for the assignment of CFI codes need to be clear-cut to ensure that CFIs are exhaustive and unequivocal. In particular, we would appreciate an update to the CFI Code MiFIR Identifier mapping table (Annex 9.11) to clarify open mappings (e.g. for ETCs and ETNs). ESMA already consulted on this topic back in November 2018 but so far there were not updates available. CFI codes can also be updated by numbering agencies at any time and trading venues would not be notified of this, even when it could impact the data required.

In addition, given there is a central database of CFIs that is managed by the Association of National Numbering Agencies (ANNA - <https://www.annaservice.com>) which only NNAs input into, we would suggest that ESMA could automatically source the CFI & FISN directly from this database, rather than the very manual process which is in place now. There would be significant cost savings for regulators and trading venues if ANNA data was directly incorporated into the daily publication of FIRDS. Instead of collecting and consolidating hundreds of different characteristics of a field of a financial instrument, and manually eliminating the negative effects in subsequent reporting (FITRS, Double Volume Cap) - a process highly resource-intensive - a central provision of the CFI code from the "Golden Source" selected by ESMA would greatly increase data quality and reduce complexity.

We would also like to receive clarification regarding the process to manage CFI code change when it impacts the category of the instrument (non-equity to equity-like for instance), resulting in the obligation to provide historical data for both RTS 1 and Double Volume Cap

(DVC). The same applies if the change is from equity to non-equity, i.e. where exchanges have to cancel the previous RTS 1 and 3 reports already sent to ESMA. It should be clarified whether the scope of instruments falling under the DVC reporting, based on the MiFIR Identifier, should be determined based on the current CFI code or the historical one.

These issues regarding CFI classification have implications for the data submitted to ESMA as the CFI determines the reference data required. It therefore leads to many rejections in relation to the FITRS trading data and can impact the MiFIR identifier and bond type codes as ESMA is reconciling all databases. For example, there are cases where an incorrect CFI has been assigned by a venue or by a numbering agency whereby reference data submitted by other venues are rejected as being incomplete because certain fields have not been supplied.

FISN/ CFI codes are specifically also challenging for derivatives contracts. It is sometimes the case that the NNA does not have the up-to-date information and passes on limited information. This confuses broadly all users of the ESMA databases. Furthermore, NNA processes sometimes do not seem to consider derivatives markets' characteristics at all times. Apparently, there is no clarity how the NNAs are embedded in the regulatory requirements and how they need to adhere to those, and interact with the derivatives exchange, who in this instance is the golden source for the derivatives contracts traded on its exchange. This lack of clarity and regulatory scope disrupts the accurate flow of information.

As pointed to in the introduction, technical improvements to processes for classification of financial instruments and the functioning of the ESMA database are essential to deliver upon the political objectives of MiFID II/MiFIR.

3. Tick Sizes

Regarding the implementation of the tick size regime, FESE does appreciate that ESMA is currently working on revised transparency calculations for equity instruments and in particular has proposed a list of dark pools which cannot qualify as “most relevant market in terms of liquidity”. We however would like to insist on the fact that this list cannot substitute the effective filtering of transactions summed up to get the turnover for the determination of the most relevant market in terms of liquidity. All transactions executed under waivers shall indeed be filtered out of the total turnover executed on a trading venue. This way is the only possibility to exclude partial/semi/quasi dark pools and reflect adequately the level of liquidity for the relevant instrument via the average daily number of transactions.

4. Legal Entity Identifiers (LEIs)

As highlighted on several occasions in the past, FESE members still encounters some difficulties in reporting LEIs for non-EU issues. Although we acknowledge the efforts done by ESMA in trying to clarify LEI reporting issues via its Q&As, reporting for non-EU issuers still remains difficult as many jurisdictions have not yet implemented requirements in relation to LEI. Trading venues have reached out to non-EU issuers to encourage these to adopt LEIs but these efforts have not always been successful as, in the absence of a legal obligation, certain non-EU issuers may not see the added value of adopting an LEI. As a consequence, not all non-EU issuers have LEIs but trading venues are nonetheless required to report these for all tradable instruments.

In addition, there does not appear to be a consistent approach to the application of LEIs to certain entities. For example, the application of LEIs to investment funds varies as some funds have LEIs at umbrella level, while others have LEIs at the sub-fund level. We would urge regulators and policy makers to clarify this and ensure a consistent approach is taken. We understand that compartments/sub-funds are eligible for a LEI and can apply for it, but it is not mandatory for them to have one. It is important to distinguish between being eligible

for a LEI and being required to have one, as the second one is driven by legal requirement issuing by national financial regulators.

5. Conclusion

While improvements are still being made by all involved in these data requirements, it is clear that there are still some fundamental points that require further consideration and discussion. These will continue to impact the quality and consistency of the various ESMA databases which results in direct knock-on consequences for the transparency regime, in terms of the calculations, the SI thresholds and also the transaction reporting regime under MiFID II. Therefore, we would welcome further engagement on these topics and urge ESMA to continue to liaise with market participants on trying to resolve the outstanding issues.