

Stockholm, 22 December 2021

SSMAs response to ESMA's consultation on best execution reports

The Swedish Securities Markets Association (SSMA) welcomes the opportunity to respond to ESMA's consultation on best execution reports. Before responding to the specific questions, we would like to make the following comments.

1. General comments

The SSMA considers that the RTS 27 and RTS 28 reports provide very little added value to investors, which is best illustrated by the extremely low frequency of downloads from clients. These reports are also very time consuming and complex to produce since they need huge amounts of different data to be collected. Our preferred solution is to abolish both reporting requirements permanently from the level 1 text.

Based on the above, we fully support COMs proposal to remove the RTS 27 report. We also suggest that the temporary exemption introduced by MiFID Quick Fix is extended until the European Parliament and Council have adopted the MiFIR Review changes in order to avoid the creation of a "gap"

If the reports are kept, the SSMA considers that it is very important to simplify the rules, to limit the scope of the reports and to make certain clarifications in order to increase legal certainty.

Amendments to best execution rules require IT changes that are very costly and administrative burdensome to implement. It is therefore important to focus on changes that can be clearly justified from a cost/benefit perspective. Changes in the form of deletion or limitation of requirements are generally less burdensome than adding new requirements.

The SSMA fully support ESMA's proposal to limit the scope of RTS 27 to liquid bonds and to delete the [passive/aggressive] field. We do not however support that the rules should continue to be applicable to "other liquidity providers" as this is a very unclear concept to the market. A preferred solution would be to limit the reporting requirements in RTS 27 to trading venues and SIs only.

IT changes as well as adjustments to internal routines and procedures makes it very important with sufficiently long implementation period.

Finally, the SSMA wants to underline that in order to make the reports useful it is important to continue the work to improve data quality, including clear instrument definitions and standards.

2 Specific questions

Q1: Do you agree with the proposed scope in terms of execution venues for the reporting under a possible new RTS 27?

The SSMA does not support that the rules should continue to be applicable to “other liquidity providers” as this is a very unclear concept to the market. A preferred solution would be to limit the reporting requirements in RTS 27 to trading venues and SIs only.

If kept, it is necessary to further clarify the concept of “other liquidity provider” and how it is referred to in article 1.1.

The SSMA would also like to request clarification as regards what is meant by “non anonymous” trading.

SSMA believes a new more limited scope is good, but there is still a lot of data that needs to be compiled and think 3 months should be kept for producing the report and not shorten it to one month.

Q2: Do you agree with the proposed level of granularity by types of financial instruments instead of individual financial instruments under a new potential reporting regime? In particular, do you agree with the two proposed categories concerning shares (i.e., shares considered to have a liquid market and shares not considered to have a liquid market)? If not, please state the reasons for your answer and clarify what alternative categorisations you would propose in order to have a meaningful level of granularity for a new reporting regime.

SSMA believes that RTS 27 and RTS 28 reports should be abolished permanently. If they are not abolished SSMA believes that the new level of granularity will be a simplification to the current regime. Any changes must however take the cost/benefit into account. It is easier to remove things than to amend or introduce new elements. The SSMA therefore fully support ESMA’s proposal to limit the scope of RTS 27 to liquid bonds and to delete the [passive/aggressive] field. We also believe that all derivatives and illiquid instruments should be exempted from this report since there are too few trades to make the reports meaningful.

It should be clarified that liquidity shall be interpreted in accordance with RTS 1 and 2

Q3: Do you agree with the proposed metrics to report the execution quality obtained by execution venues?

SSMA believes the proposed metrics will be a significant simplification if the report is not abolished. We do however believe some points need further clarification and specification since they seem complicated in practice.

Point 47 There are a few points that should not relate to SIs. Cost related issues should be N/A for SIs since the SI do not apply costs. Linking different statistics is problematic. Finding the median transaction is not very difficult but linking it to a relevant bid-offer spread is difficult. It should be stand-alone numbers and not linked statistics. Speed of execution should be clarified.

Table 2

Field 1-4	ok
Field 5	Is this applicable for an SI? In our view it is not relevant and should be N/A. Is it the same definition as in the RTS?
Field 6-11	ok
Field 12	What EUR exchange rate should be used in this conversion? Specification needed!
Field 13	ok, but the same EUR uncertainty as in field 12
Field 14	For Sis this should be N/A or set to zero since the SI does not apply execution costs
Field 15	Very technically difficult to link the bid-offer spread to the median transaction. This should maybe be N/A for SIs since they for equities already have quoting requirements and cannot differ from RMs. For other instruments it might not be possible quote both bid and offer for all trades, which would result in a one-sided price from the SI and therefore also be N/A.
Field 16	A link should be provided for “where applicable”
Field 17	Needs further clarification on acceptance of order. Is it when it hits the SOR, Order management system or the SI? For RFQs it should be N/A since it is an acceptance from a quote, not execution of an order.
Field 18	Is N/A for SIs since no other DMMs are on a SI. Only applies for RMs.

Q4: Have you observed good or bad practices of reporting by execution venues under the current RTS 27 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.

SSMA has not observed any specific good or bad practices. What we have noticed is the extremely low number of downloads and probably most of those few are from other Investment Firms looking at how other firms have implemented their reports. This is further evidence for not producing these reports.

Q5: Have you observed good or bad practices of reporting by investment firms under the current RTS 28 that can be relevant for the elaboration of proposals to enhance access and user-friendliness of this information? Please provide specific examples if possible.

SSMA members have in principle the same experience of the RTS 28 reports as for RTS 27. We have not identified any specific good or bad practices. We note that these reports also are extremely rarely downloaded by clients. For example, one of the largest Investment Firms in Sweden had 5 downloads in a year. If clients want to evaluate how their orders are executed, they ask other questions directly to their broker. SSMA therefore questions if this RTS 28 report serves any purpose and suggests that it should also be abolished.

Q6: Do you agree with the classification for reporting proposed in Annex I of the possible new RTS 28, especially with regard to the suggested methodology for the reporting on equity instruments? If not, what alternative categorisations would you propose?

SSMA is of the understanding that no real change is made to the classification. If that is correct, we agree to not change the classification. We do not see a need for changes, which would only result in unnecessary implementation costs.

Q7: Do you agree with the proposals for a possible review of RTS 28?

SSMA has the general view that it is easier to remove fields or tables than amend them or introduce new ones. We therefore agree to remove passive/aggressive from the report. On the split between retail/professional clients SSMA is of the opinion that either not introduce the split or leave it unchanged as it is today.

SSMA also thinks the reference to Payment For Order Flow should be stricken since this is an extremely limited practice in Sweden. We also note the proposal in Mifir Review to prohibit PFOF, which also is a cause to remove the reference in the new RTS 28

Q8: Do you agree with the cost benefit analysis as it has been described in Annex II?

SSMA believes that the analysis not fully takes into account the costs for introducing changes or amendments. It should also be clearer how low the benefit is for clients because of how seldom the reports are downloaded or looked at.

Q9: Are there any additional comments that you would like to raise and/or information that you would like to provide?

SSMA would have preferred a mark-up version of the proposed changes in the new RTS 27 & 28. It is easy to miss something when cross reading the new and old versions.

SSMA also thinks it is good that it is possible to have N/A in fields that are not relevant.