

ICMA briefing on MiFIR post-trade transparency duplicative reporting

September, 2026

Background:

On 8 April 2026, ICMA co-signed a joint briefing paper together with ISDA, AFME and the EBF, which supports the European Commission proposal as part of their Market Integration and Supervision Package (MISP) (published on 4 December 2025) to remove over-the-counter (OTC) derivatives concluded on third-country trading venues from the scope of post-trade transparency (PTT) requirements under MiFIR. The EC proposal builds on the July 2020 ESMA Opinion on ‘Determining third-country trading venues for the purpose of transparency under MiFID II/MiFIR’. The joint trade association paper agrees with the EC proposal, but it also asks the Commission and co-legislators

- a) to extend the scope of the proposal to the other asset classes covered by the 2020 ESMA Opinion, not just OTC derivatives, and
- b) to apply it to transactions which are executed off-venue between non-EU investors and non-EU branches of EU investment firms and which are made public via non-EU APAs.

Aside from co-signing the joint paper, ICMA had also included these points in its European Commission MISP response, which was published under the lead of ICMA’s Regulatory Policy Committee (RPC) in March 2026 (*see page 8 of the ICMA response, section 3. MiFIR*).

Rationale:

From a bond market perspective, ICMA would like to present the following rationale and further thoughts in regard to the above proposals:

- ✓ The removal of duplicative reporting obligations for UK branches of EU investment firms when executing transactions outside a trading venue with non-EU counterparties and report those transactions to a non-EU Approved Publication Arrangement (“TCAPA”) would present a step towards greater simplification and burden/cost reduction for firms, one of the key items on the EU SIU policy agenda.
- ✓ It would furthermore improve accuracy of post-trade transparency data by avoiding double-counting, overreporting and inflating overall perceived levels of market liquidity, thereby enhancing the value of the transparency data overall and bond consolidated tapes for investors, firms, issuers and all data users, fostering greater confidence in European bond markets.
- ✓ The amendment is fully consistent with the MiFIR text and its underlying spirit. It also enhances the competitiveness of the EU economy and its investment firms, as per the SIU’s objectives. Finally, it is aligned with ESMA’s objectives of “ensuring the integrity, transparency, efficiency and orderly functioning of financial markets” and “preventing

regulatory arbitrage and promoting equal conditions of competition”, as defined in its Founding Regulation, Article 1 (5)¹.

- ✓ As per the ESMA 2020 opinion, trades on certain third-country trading venues do not have to be reported via an APA in the EU, whereas off-venue trades executed outside the EU are subject to reporting via an APA in the EU. It can be argued that such off-venue trades reported via a non-EU APA (“TCAPA”) are subject to the same reporting requirements in the third country as on-venue trades (*thereby fulfilling the underlying rationale explained in the ESMA 2020 opinion paragraph 7*), it would therefore be consistent to apply the same rules to third-country on-venue and off-venue trades.
- ✓ Further thoughts: Further simplification could be achieved by removing the current specific criteria and individual assessments of third-country trading venues (TCTV) (and, as per above proposals, “TCAPA”), that are subject to post-trade requirements in their own jurisdiction, in the ESMA 2020 opinion, and replace by blanket exclusion for such TCTV-trades to be reported in the EU. This would reduce administrative and cost burden for ESMA, trading venues and APAs.

Proposed Action:

ICMA proposes the following Level 3 and Level 1 action points:

- ✓ Level 3: Amend ESMA 2020 Opinion on third-country trading venues (TCTV), as follows:
 - Extend the ESMA opinion so that it also covers third-country APAs (“TCAPA”) in case all of the following conditions are met:
 - The trade is executed **outside a trading venue**;
 - The execution is carried out by a **non-EU branch** of an EU investment firm;
 - The counterparty is a **non-EU investor or firm**; and
 - The trade is already reported to a **non-EU APA**.

Note that currently this amendment would affect the UK alone as a third country, given that the UK is the only other jurisdiction that operates a MiFIR regime with UK-specific APAs.

- Remove the individual assessment of TCTV (and, if applicable and as per above proposals, also “TCAPA”).
- ✓ Level 1: Extend MISP MiFIR Proposal /Amend MiFIR Articles 20 and 21 reflecting amendments in the ESMA 2020 opinion, as follows:

¹ Regulation 1095/2010 of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), EUR-Lex - 02010R1095-20200101 - EN - EUR-Lex. Article 1 (5) states: “The objective of the Authority shall be to protect the public interest by contributing to the short-, medium- and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses. The Authority shall, within its respective competences, contribute to: (a) improving the functioning of the internal market, including in particular a sound, effective and consistent level of regulation and supervision, (b) ensuring the integrity, transparency, efficiency and orderly functioning of financial markets, (c) strengthening international supervisory coordination, (d) preventing regulatory arbitrage and promoting equal conditions of competition, (e) ensuring that the taking of investment and other risks are appropriately regulated and supervised”.

- Articles 20(1) and 21(1) of Regulation (EU) No 600/2014 require investment firms which, either on own account or on behalf of clients, conclude transactions outside a trading venue, to make public the volume and price of those transactions and the time at which they were concluded through an Approved Publication Arrangement ('APA').
- In line with the proposed Level 3 amendments, a paragraph should be added stating that investment firms should not be required to publish through an APA the transactions that they conclude on a third-country trading venue, which is subject to similar post-trade transparency requirements as EEA trading venues.
- Similarly, non-EU branches of EU investment firms should not be required to publish through an EU APA the transactions that they conclude outside a trading venue with a non-EU counterparty and that they make transparent through a third-country Approved Publication Arrangement ("TCAPA"), where the third-country regime imposes on investment firms transparency provisions that are similar to those applicable to EU investment firms under the MiFID II/MiFIR framework.

About ICMA:

ICMA promotes well-functioning cross-border capital markets, which are essential to fund sustainable economic growth. It is a not-for-profit membership association with offices in Zurich, London, Paris, Brussels and Hong Kong, serving over 620 member firms in nearly 70 jurisdictions globally. Its members include private and public sector issuers, banks and securities dealers, asset and fund managers, insurance companies, law firms, capital market infrastructure providers and central banks. ICMA provides industry-driven standards and recommendations, prioritising three core fixed income market areas: primary, secondary and repo and collateral, with cross-cutting themes of sustainable finance and FinTech and digitalisation. ICMA works with regulatory and governmental authorities, helping to ensure that financial regulation supports stable and efficient capital markets.

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