



European Securities and
Markets Authority

Consultation Paper

On the review of RTS 1 (equity transparency) and RTS 2 (non-equity transparency)



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

- 1) respond to the question stated;
- 2) indicate the specific question to which the comment relates;
- 3) contain a clear rationale; and
- 4) describe any alternatives ESMA should consider.

ESMA will consider all comments received by **01 October 2021**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading '[Data protection](#)'.

Who should read this paper?

This consultation paper is of particular interest for trading venues and investment firms, including SIs, which are subject to the requirements set out in RTS 1 and 2. The consultation paper is also of interest for other stakeholder groups such as the asset management industry, data reporting service providers, as well as industry and consumer associations.

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List of abbreviations and related legal acts

ADT	Average daily turnover
ADNA	Average daily Notional Amount
ADNTE/ADNT	Average daily number of transactions
ADNTE-MRMTL	Average daily number of transactions on the most relevant market in terms of liquidity
ADVL	Average Daily Volume in Lots
AVT	Average value of transactions
APA	Approved Publication Arrangement
BIPM	Bureau International des Poids et Mesures
CDR 2017/567	Commission Delegated Regulation (EU) 2017/567
CfE	Call for evidence on RTS 1 and 2
CP	Consultation Paper
CT	Consolidated Tape
CTP	Consolidated Tape Provider
DR	Depository receipt
ECB	European Central Bank
EMIR	European Market Infrastructure Regulation
ESMA	European Securities and Markets Authority
ETF	Exchange Traded Funds
FBA	Frequent Batch Auction
FIRDS	Financial Instruments Reference Data System
FITRS	Financial Instruments Transparency System
FR	Final report
FX	Foreign Exchange



ISIN	International Securities Identification Number
LIS	Large in scale
MIC	Market Identifier Code
MiFID	Markets in Financial Instruments Directive
MiFIR	Markets in Financial Instruments Regulation
MTF	Multilateral Trading Facility
NCA	National Competent Authority
NT	Negotiated trade
OMF	Order management facility
OTC	Over-the-counter
OTF	Organised Trading Facility
RM	Regulated Market
RP	Reference price
RTS 1	Commission Delegated Regulation (EU) 2017/587
RTS 2	Commission Delegated Regulation (EU) 2017/583
RTS 11	Commission Delegated Regulation (EU) 2017/588
RTS 22	Commission Delegated Regulation (EU) 2017/590
RTS 23	Commission Delegated Regulation (EU) 2017/585
SACID	Sub-asset class identifier
SC	Segmentation criteria
SFP	Structured Finance Products
SI	Systematic Internaliser
SMS	Standard market size
SSTI	Size Specific to the Instrument
STO	Trading obligation for shares



STS

Standard Trade Size

TCTV

Third-country trading venue

ToTV

Traded on Trading Venue

TR

Trade Repository

UTC

Coordinated Universal Time



1 Executive Summary

Reasons for publication

Commission Delegated Regulation (EU) 2017/587 (RTS 1) and Commission Delegated Regulation (EU) 2017/583 (RTS 2) further specify the MiFIR pre- and post-trade transparency requirements for equity instruments (shares, depositary receipts, ETFs and certificates) and non-equity instruments (bonds, structured finance products (SFPs), emission allowances and derivatives).

Following the application of MiFID II and MiFIR for more than three years and ESMA's work on reviewing the MiFID II/MiFIR provisions, in particular on equity and non-equity transparency as well as on the functioning of the consolidated tape provider (CTP) for equity instruments, this consultation paper (CP) presents ESMA's proposals for amending RTS 1 and 2.

Given the parallel work of the European Commission (EC) on reviewing MiFIR, the review is limited in scope and focus on i) amendments of the Level 2 texts identified in the 2020 ESMA review report on the transparency regime that do not require a Level 1 amendment, including the transparency regime for commodity derivatives; ii) amendments to improve the quality of transparency data and to prepare the ground for the establishment of a consolidated tape (CT); and (iii) technical issues raised by stakeholders and/or identified by ESMA over the last years (e.g. ensuring that transparency calculations always start applying on a Monday).

Contents

The CP is split in two main sections. Section 3 presents the proposals for amending RTS 1, and section 4 presents the proposals for amending RTS 2. Concerning the review of RTS 1, ESMA proposes in particular to increase the pre- and post-trade large in scale (LIS)-thresholds for Exchange traded funds (ETFs), to develop a more consistent and clearer approach on non-price forming transactions and to strengthen the pre-trade transparency requirements by introducing tailored requirements for frequent batch auction (FBA) and hybrid systems as well as specifying fields to be populated when disclosing pre-trade transparency information.

Concerning the changes in RTS 2, a number of changes mirror the approach proposed for RTS 1, e.g. on pre-trade transparency. In addition, ESMA is seeking feedback from stakeholders on the potential review of the calibration of non-equity instruments other than commodity derivatives. For commodity derivatives, the proposed changes cover three dimensions: 1) the way in which the contracts are aggregated into sub-classes, ensuring that contracts with different liquidity profiles are not bundled together; (2) improvements to the identification of liquid instruments; and (3) the calculation of the liquidity thresholds (LIS and SSTI) ensuring that the most liquid contracts have larger thresholds than less liquid ones.

The proposals for the review of RTS 1 and 2 also cover an extensive review of the fields and flags to be populated when publishing post-trade information as well as for providing reference and quantitative to ESMA for the purpose of the transparency calculations. This review resulted in ESMA proposing further clarification for populating these fields, including the addition of new fields and/or reporting requirements, with the overall objective of improving the quality of data published and/or submitted to ESMA.

Finally, the CP also discusses the need for giving stakeholders, including ESMA, sufficient adaptation time after the entry into force of the amendments, for implementing the proposed changes to the calibration of commodity derivatives as well as for the proposed changes for reporting of quantitative and reference data to ESMA (section 5). In this respect, a minimum implementation period of 6 months is suggested.

The various Annexes to the CP present, among others, the feedback received to the technical call for evidence on RTS 1 and 2, a high-level cost-benefit analysis, the legal drafting of the proposed amendments to RTS 1 and 2 as well as more details on the proposed recalibration for commodity derivatives.

Next Steps

Stakeholders are invited to provide comments by 1 October 2021. ESMA staff will analyse the feedback received to the consultation in Q4 2021 and aims at publishing a final report and submitting the draft technical standards to the European Commission for endorsement in Q1 2022.

2 Introduction

1. This CP presents ESMA's proposal for amending RTS 1 and RTS 2 following ESMA's review of the MiFID II/MiFIR provisions, and in particular on the functioning of the consolidated tape (CT) for equity instruments of 2019¹ and the transparency requirements for equity² and non-equity instruments of 2020³.
2. Since the European Commission is currently preparing its review report on MiFID II/MiFIR, including a legislative proposal scheduled for Q3/Q4 2021, and to avoid potential overlaps with the review carried out by the European Commission, the proposed review of RTS 1 and 2 is limited in scope and focusses in particular on the following elements:
 - the recommendations made in the ESMA MiFID Review reports on equity and non-equity transparency that can be addressed at Level 2 and which do not require a Level 1 amendment;
 - amendments aiming at improving the quality of OTC data, also in view of the potential establishment of a CT for equity and non-equity instruments; and
 - technical amendments based on feedback provided by stakeholders on the technical call for evidence on RTS 1 and 2 (CfE) that was published in 2020, feedback received by investment firms and APAs on an ESMA questionnaire on OTC data quality in 2020 as well as identified by ESMA since the application of RTS 1 and 2.
3. The CP is split in two main sections. Section 3 covers the review of RTS 1. Section 3.1 and 3.2 focus on amendments of provisions in the main text of RTS 1, in particular the LIS-thresholds for exchange traded funds (ETFs), the topic of non-addressable liquidity and non-price forming transactions as well as proposed amendments to the pre-trade transparency requirements for equity instruments. Section 3.3 and 3.4 cover the annexes of RTS 1, in particular the reporting fields and flags to be populated when making post-trade information public, as well as the reporting of transparency reference and quantitative data to ESMA.
4. Section 4 presents the proposals for reviewing RTS 2. Section 4.1 covers amendments proposed to the main text of RTS 2 as well as reflections on potential changes to the calibration of the transparency regime for derivatives other than commodity derivatives. Section 4.2 covers the proposed recalibration of the transparency regime for commodity derivatives and sections 4.3 and 4.4 cover reporting fields for post-trade transparency, including flags, and the reference and quantitative data to be reported to ESMA.

¹

https://www.esma.europa.eu/sites/default/files/library/mifid_ii_mifir_review_report_no_1_on_prices_for_market_data_and_the_equity_ct.pdf

² https://www.esma.europa.eu/sites/default/files/library/esma70-156-2682_mifidii_mifir_report_on_transparency_equity_dvc_tos.pdf

³ https://www.esma.europa.eu/sites/default/files/library/esma70-156-3329_mifid_ii_mifir_review_report_on_the_transparency_regime_for_non-equity_instruments.pdf

5. Section 5 presents ESMA's reflection on the need for providing for a longer implementation period for some of the changes proposed in the CP, in particular concerning the proposals for the recalibration of commodity derivatives.
6. Annex I covers the summary of questions to stakeholders included in the CP, Annex II the mandate for delivering and amending the technical standards and Annex III a high-level cost-benefit analysis of the proposed amendments. The feedback received to the call for evidence on the RTS 1 and 2 review is presented in Annex IV. Annex V and VI cover the legal drafting of the proposed amendments of RTS 1 and 2. Finally, Annex VII provides more details on the analysis of the liquidity of commodity derivatives that was performed for the purpose of this CP.
7. Stakeholders are invited to provide comments by 1 October 2021. ESMA intends to submit the final report to the European Commission in Q1 2022.

3 Review of RTS 1

3.1 Amendments of the provisions in the main text

3.1.1 Increased LIS-threshold for waivers and deferrals for ETFs

8. MiFID II / MiFIR built on the MiFID I pre-trade transparency requirements in order to create a stronger transparency regime for all equity instruments. Article 3 of MiFIR requires market operators and investment firms operating a trading venue to make public current bid and offer prices and the depth of trading interests at those prices that are advertised through their systems for equity and equity like instruments.
9. MiFIR also allows trading venues to benefit, in clearly defined circumstances, from waivers for their pre-trade transparency obligations. Article 4 of MiFIR currently provides for four different types of waivers available to trading venues:
 - The reference price (RP) waiver: for systems that match orders based on a trading methodology by which the price of the financial instrument referred is derived from the trading venue where that financial instrument was first admitted to trading or the most relevant market in terms of liquidity, where that reference price is widely published and is regarded by market participants as a reliable reference price.
 - The negotiated trade (NT) waiver: for systems that formalise negotiated transactions which are:
 - made within the current volume weighted spread reflected on the order book or the quotes of the market makers of the trading venue operating that system (liquid equity instruments);
 - are dealt within a percentage of a suitable reference price (illiquid equity instruments); or,



- subject to conditions other than the current market price of that financial instrument, which are further specified in RTS 1 (for both liquid and illiquid equity instruments);
 - The large in scale (LIS) waiver: for orders that are large in scale compared with normal market size;
 - The order management facility (OMF) waiver: for orders held in an order management facility of the trading venue pending disclosure.
10. Although transparency has overall increased in the market following the application of MiFIR, ESMA's analysis presented in the Equity Transparency Consultation Paper⁴ and the Final Report (FR) on Equity Transparency⁵ noted that the level of pre-trade transparency for equity instruments is still limited. Therefore, in the FR, ESMA proposed targeted changes to the waiver regime in order to increase the level of pre-trade transparency available in the market. In particular, ESMA proposed to limit the RP waiver to orders above a certain percentage of the pre-trade LIS threshold of the relevant instrument or to a certain multiple of the standard market size (SMS).
11. These changes require an amendment of Article 4 of MiFIR and a mandate for ESMA to determine at Level 2 the appropriate methodology to set the minimum size of orders to be eligible for the RP waiver. Hence, they are not covered in this CP.
12. In addition to the above proposal, ESMA considered other measures that could promote transparency. In particular, ESMA noted that the level of transparency appears to be particularly low for ETFs. According to the data presented in the Equity Transparency Consultation paper, 50% of the ETF volume executed on-venue benefitted between January 2018 and August 2019 from an LIS waiver. Furthermore, 88% of volume and 11% of transactions executed under the waivers for ETFs were executed under the LIS waiver. In order to achieve a greater level of transparency, ESMA proposed in the FR on Equity Transparency to increase the LIS pre-trade transparency threshold to €3,000,000.
13. This change only requires a review of RTS 1 and is hence covered in this CP.
14. ESMA notes that the trend observed in the Equity Transparency CP has continued as highlighted in the ESMA 2020 Annual Report on Waivers and Deferrals⁶. In fact, when looking at the total turnover under a waiver in relation to total turnover, the asset class with the highest percentage of turnover traded in the dark are ETFs (58% of total ETF trading). Moreover, 91% of this total turnover under a waiver benefits from the LIS waiver whereas the remaining volume is split between the OMF and the NT waiver, 5% and 4% respectively. Finally, it can also be observed that the ETF market is characterised by a small number of orders or transactions, which are of a very high size. In consequence only

⁴ESMA70-156-2188, https://www.esma.europa.eu/sites/default/files/library/cp_review_report_transparency_equity_dvc_tos.pdf

⁵ESMA70-156-2682, https://www.esma.europa.eu/sites/default/files/library/esma70-156-3329_mifid_ii_mifir_review_report_on_the_transparency_regime_for_non-equity_instruments.pdf

⁶https://www.esma.europa.eu/sites/default/files/library/esma70-156-2401_annual_report_2020_-_equity_waivers_and_deferrals.pdf

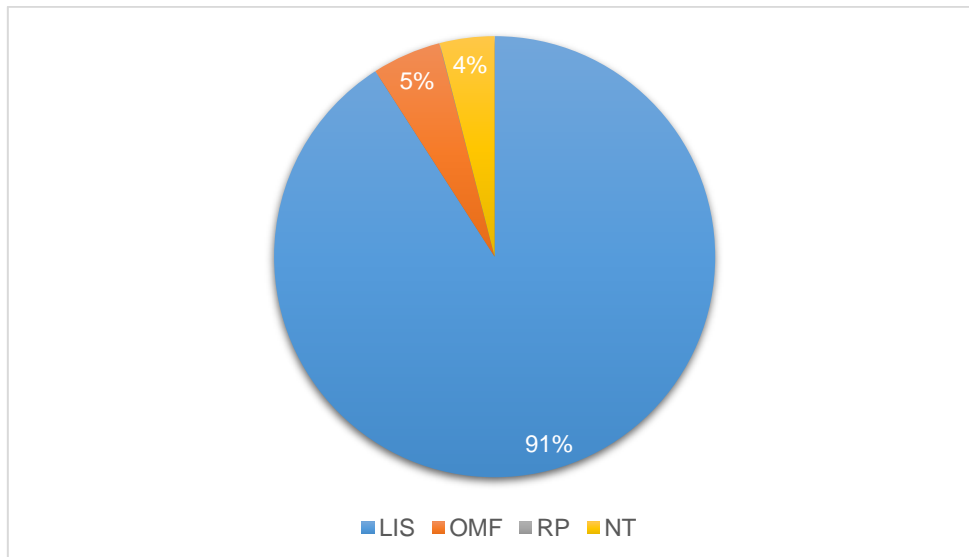
1% of transactions in equity instruments executed under a waiver in 2019 were ETFs, whereas these transactions reflected 35% of the turnover in equity instruments executed under a waiver in 2019.

TABLE 1 - TOTAL TURNOVER EXECUTED UNDER A WAIVER IN 2019 IN RELATION TO TOTAL TURNOVER, PER ASSET CLASS

% Turnover under the waiver / Total turnover per asset class	
Shares	11.8698%
ETFs	57.5618%
Certificates	0.2433%
Depositary Receipts	17.0360%
Other equity-like instruments	12.9687%
TOTAL	16.56%

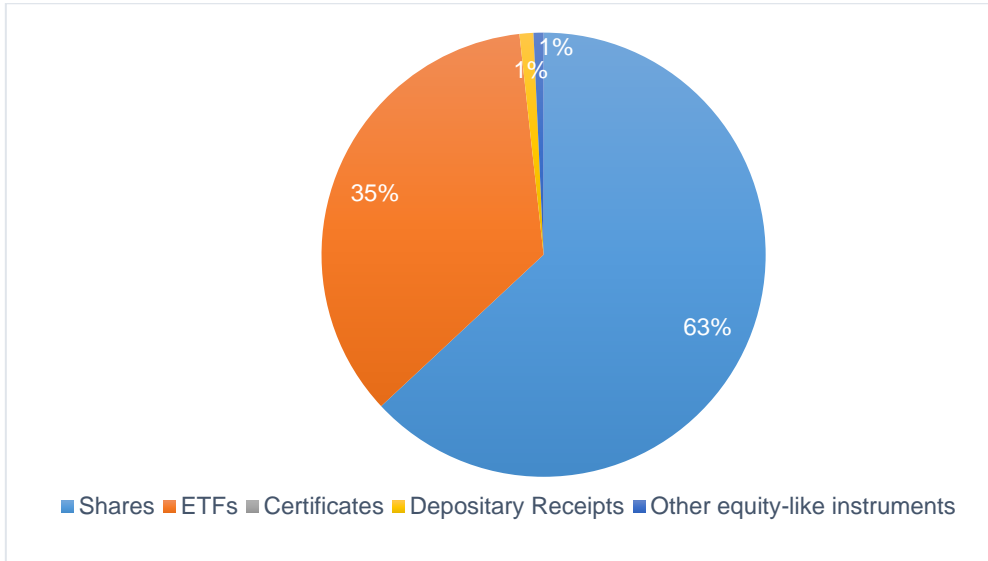
Source: ESMA Annual Report – 2020 on the application of waivers and deferrals for equity and equity-like instruments, ESMA data collection from trading venues

FIGURE 1 – TOTAL TURNOVER EXECUTED UNDER A WAIVER IN ETFs IN 2019, PER WAIVER TYPE



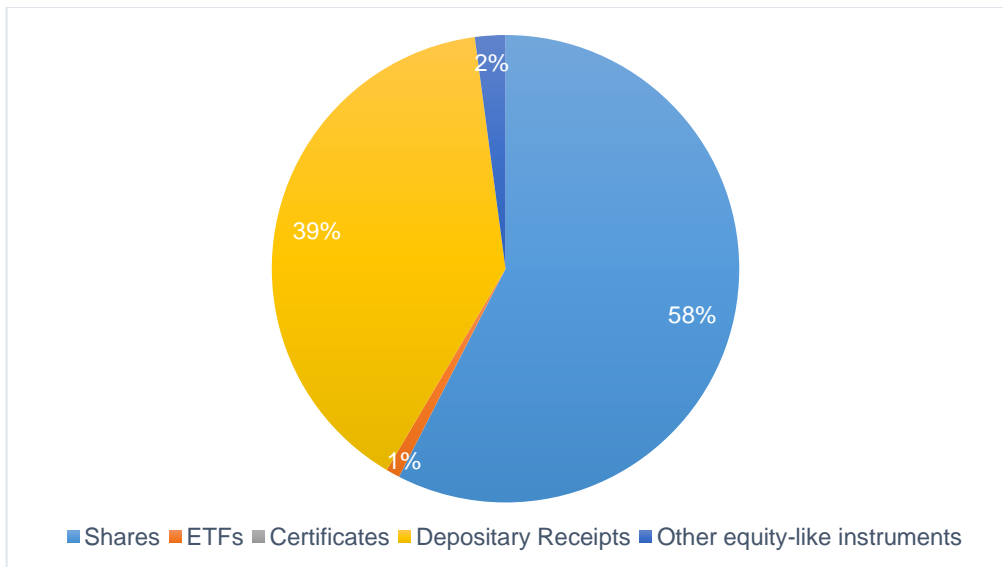
Source: ESMA Annual Report – 2020 on the application of waivers and deferrals for equity and equity-like instruments, ESMA data collection from trading venues

FIGURE 2 - TOTAL TURNOVER EXECUTED UNDER A WAIVER IN 2019, PER ASSET CLASS



Source: ESMA Annual Report – 2020 on the application of waivers and deferrals for equity and equity-like instruments, ESMA data collection from trading venues

FIGURE 3 - TOTAL NUMBER OF TRANSACTIONS EXECUTED UNDER A WAIVER IN 2019, PER ASSET CLASS



Source: ESMA Annual Report – 2020 on the application of waivers and deferrals for equity and equity-like instruments, ESMA data collection from trading venues

15. ESMA has received feedback with regards to the proposal to increase the ETF LIS pre-trade threshold in its CfE. Whilst some market participants acknowledge that the current level of transparency is low, others are of the view that an increase in the pre-trade LIS threshold could have detrimental effects on the liquidity of these instruments in particular where the underlying is a non-equity instrument.

16. Taking into account the above data and reflections, ESMA proposes to increase the pre-trade LIS threshold for ETFs from EUR 1,000,000 to EUR 3,000,000, as already suggested in the FR on Equity Transparency. ESMA is of the view that this increase provides the right balance between increasing pre-trade transparency in the market, which is an important objective of MiFIR and still remains at very low levels for ETFs both in terms of turnover and number of trades, whilst at the same time protecting large orders.

17. ESMA therefore proposes to amend Article 7(2) of RTS 1 in the following manner:

'An order in respect of an ETF shall be considered to be large in scale where the order is equal to or larger than EUR ~~1 000 000~~ 3 000 000'.

Question 1: Do you agree with the proposed amendment to Article 7(2) of RTS 1? If not, please explain your concerns about the proposed increase of the threshold.

18. Similar to the approach taken for pre-trade transparency requirements, MiFIR also reinforced the post-trade transparency regime for equity instruments. Therefore, Article 6 of MiFIR requires market operators and investment firms operating a trading venue to make public the price, volume and time of publication of the transactions executed in equity and equity-like instruments. These details should be made public as close to real time as technically possible.

19. Competent authorities can authorise trading venues to provide for deferred publication of the details of certain transactions according to their type or size in accordance with Article 7 of MiFIR. In particular, deferred publication can be authorised for transactions that are large in scale when compared to the normal size for that instrument. The qualifying size and additional technical details that should be satisfied are specified in Article 15 and Table 5 of Annex II of RTS 1. Moreover, according to Article 20(2) of MiFIR also investment firms may benefit from such deferred publication when trading outside trading venues.

20. In the Equity Transparency CP and the FR on equity transparency, ESMA also included a detailed analysis of the post trade transparency requirements applicable to equity and equity like instruments and the use of deferrals since the application of MiFID II / MiFIR and until August 2019. The analysis provided noted that in general the MiFIR objective of protecting large trades whilst maintaining a high level of real-time transparency has been achieved. In particular, for shares and depository receipts (DRs) the percentage of trades subject to real time transparency is relatively high and in accordance with the objectives of the deferral regime, with only 2% of transactions in shares and DRs benefiting from a deferral respectively.

21. With respect to volumes traded in equity instruments throughout the application of the MiFID II / MiFIR regime comparing volumes of transactions subject to real-time publication against those benefitting from a deferral, the analysis show that 87% and 79% of the total turnover is subject to real-time publication in shares and DRs respectively.

22. However, the case of ETFs is different since the proportion of deferred transactions is higher than those for shares and DRs. The analysis showed that only 60% of the total



turnover in ETFs is subject to real-time publication and 6% of transactions benefitted from a deferral.

23. Hence, considering the objective of achieving a higher level of real-time post trade transparency in ETFs ESMA proposes revisiting the thresholds applicable to these instruments in order to increase the number of transactions subject to real-time publication.
24. Therefore, ESMA proposes to increase the minimum qualifying size of transaction for permitted delay with a 60 minutes delay from EUR 10,000,000 to EUR 15,000,000. In ESMA's view this change would provide for more real-time post-trade transparency in ETF instruments whilst still providing the necessary protection for large orders. This change requires an amendment of Table 5 of Annex II of RTS 1 as follows:

Deferred publication thresholds and delays for ETFs

Minimum qualifying size of transaction for permitted delay in EUR	Timing of publication after the transaction
10 000 000 15 000 000	60 minutes
50 000 000	End of the trading day

Question 2: Do you agree with the proposed amendment to Table 5 of Annex II of RTS 1? If not, please explain why you are concerned about the proposed increase of the thresholds.

3.1.2 Non-addressable liquidity and non-price forming transactions (Articles 2, 6 and 13)

25. Since the application of MiFID II, there have been intense discussions on whether MiFID II delivered on its objective to increase market transparency. In particular, different views emerged on the impact of MiFID II on the landscape of equity trading and the share of trading activity executed on (lit) trading venues as compared to OTC and SI-trading. These controversial discussions are reflected in various studies published by different stakeholders considering that the share of OTC-trading compared to on-venue trading is



too high⁷ or is artificially inflated by not appropriately discounting for non-price forming transactions⁸.

26. One of the key drivers explaining these controversies is linked to different interpretations of the concept of non-price forming transactions, non-addressable liquidity and technical trades and to the inconsistent reporting of such transactions.
27. Moreover, while ESMA published data on the landscape of equity trading⁹, ESMA does currently not receive information on non-price forming transactions and/or non-addressable liquidity from market participants. Hence, any analysis based on ESMA data cannot fully reflect the market share of OTC vs. on-venue trading excluding non-price forming transactions, and in consequence cannot provide currently a clear answer as to the 'real' share of OTC-trading.
28. The unclarity around the concepts of technical, non-price forming or non-addressable trades comes partly from the legal structure of MiFIR. MiFIR contains indeed various provisions establishing a different regulatory treatment depending on the type of trades executed (e.g. non-price forming trades, non-addressable transactions, technical trades). In particular, Article 23 of MiFIR, which defines the trading obligation for shares, excludes transactions "that do not contribute to the price discovery process". According to the wording in MiFIR, this includes both "non-addressable liquidity trades" and exchanges of financial instruments "determined by factors other than the current market valuation of the financial instrument". Transactions eligible for this exemption have been further specified in Article 2 of RTS 1.
29. Article 4(b)(iii) of MiFIR provides for a waiver, without restrictions in terms of volumes or price of execution, for negotiated transactions which are "subject to conditions other than the current market price" (NT3 waiver). Eligible transactions have been further described under Article 6 of RTS 1.
30. Other provisions of MiFIR are also referring to the concept of orders and transactions subject to conditions other than the current market price such as Article 15(3) and 17(3)(b) of MiFIR (for the latter, the concept has been further specified in Article 14(5) of CDR 2017/567 which cross-refers to RTS 1).
31. While several provisions of MiFIR relate to the concepts of "transactions not subject to the current market price" and "non-addressable liquidity", there are no common definition for these concepts. Instead, the MiFIR framework includes separate mandates requesting

⁷ See for instance: Primary and secondary equity markets in the EU Final report November 2020; <https://www.oxera.com/wp-content/uploads/2020/11/Oxera-study-Primary-and-Secondary-Markets-in-the-EU-Final-Report-EN-1.pdf> ; or: FESE calls for greater transparency in a now overly complex European market infrastructure, 1 June 2021, <https://www.fese.eu/app/uploads/2021/05/An-analysis-on-AFMEs-The-landscape-for-European-equity-trading-and-liquidity-Final.pdf>

⁸ See for instance: The landscape for European equity trading and liquidity The importance of utilising accurate data for assessing equity market structure Prepared for the Association for Financial Markets in Europe (AFME) May 2021; <https://www.afme.eu/Portals/0/European%20equity%20liquidity%20landscape%20Q1%202021.pdf?ver=2021-05-27-125313-253>.

⁹ See for instance: ESMA, EU securities markets, Annual statistical report 2020, https://www.esma.europa.eu/sites/default/files/library/esma50-165-1355_mifid_asr.pdf

ESMA to establish various lists of “transactions subject to conditions other than current market price”. This has led to co-existing provisions in Level 2 referring to similar concepts (e.g. “transactions not contributing to the price discovery process”, “transactions subject to conditions other than the current market price”, non-reportable OTC transactions, etc...), e.g. Articles 2, 6 and 13 of RTS 1, Article 12 of RTS 2, Article 14(5) of CDR 2017/567, and Article 2(5) of RTS 22. It is ESMA’s understanding that this legal structure used has contributed to unclarity within market participants regarding the treatment of those transactions.

32. A complete clarification of these concepts would require Level 1 amendments (for instance, in order to align the different provisions on non-price forming transactions in MiFIR). However, ESMA considers it possible to already address many of the issues observed through targeted amendments to RTS 1. This should result in a clearer regime and more consistent reporting and flagging of non-price forming and non-addressable transactions¹⁰. These changes should also be reflected in the reporting of data to ESMA in order to enable ESMA to reflect non-price forming transactions in its data analysis and for obtaining a comprehensive view of the landscape of equity trading in the EU.
33. The section below (i) defines the various concepts and clarifies how they overlap, (ii) maps the current lists of non-price forming transactions and related flags, (iii) puts forward some proposals to streamline the regime¹¹.
34. The concept of non-price forming transactions is very relevant for equity instruments since it specifies notably the scope of the trading obligation for shares (STO), by excluding certain types of transactions from the STO, and the NT3 waiver, by clarifying which types of transactions are eligible to the NT3 waiver. However, it is also relevant for non-equity instruments and Article 12 of RTS 2 defines, similarly to Article 13 of RTS 1, the scope of OTC post-trade transparency. Those two Articles share the same content and ESMA has no intention to introduce divergence between equity and non-equity instruments regarding transactions that do not contribute to the price discovery process and are therefore be exempted from post-trade transparency when executed OTC. Considering this objective and in order to facilitate the analysis and discussion, it has therefore been decided to also cover Article 12 of RTS 2 in the section below.

Defining the concepts

35. There are four co-existing concepts which are commonly used, including in the MiFIR framework, to characterise liquidity. While ESMA does not intend to integrate definitions into the relevant RTS, it is nevertheless useful to clarify those concepts for the subsequent analysis. The four concepts are the following:
 - transactions that do not contribute to the price discovery process or to the price formation (also referred to as non-price forming transactions): this refers to

¹⁰ See also the discussion on this topic in the Equity Transparency CP and the FR on Equity Transparency.

¹¹ Changes to the use of flags in this respect are presented in section 3.4.2

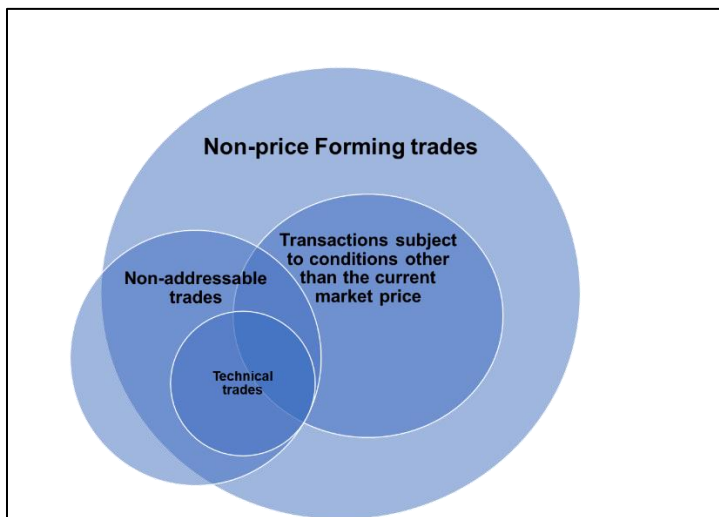
transactions that do not reflect a price determined through the genuine interaction of buying and selling trading interests;

- transactions subject to conditions other than the current market price: those refer to transactions that are executed at a price which is determined by factors other than the current market valuation;
- non-addressable liquidity trades: those relate to transactions that are not directly accessible to other parties, i.e. transactions where another investment firm could not have been a party to the transaction¹²;
- Technical trades which are transactions executed for purely technical reasons.

36. The four concepts are largely overlapping as illustrated in the diagram below. Generally, the category of “non-price forming transactions” is considered the broadest, as reflected under Article 23(3) of MiFIR and the category of “technical trades” as the most restrictive.

37. Regarding non-addressable trades, while the majority of those are non-price forming, one could consider that some of those trades are somewhat contributing to the price discovery process. For instance, negotiated transaction can be considered as non-addressable liquidity (because those are by design only negotiated between two parties) but can be price forming (i.e. the price negotiated bilaterally can result from the genuine interaction of buying and selling trading interests of the two parties).

Figure 1 Non-price forming transactions



38. To facilitate the discussion, ESMA refers generally to “non-price forming transactions” in the section below since this is the wider concept. Readers are nevertheless invited to bear

¹² There is no established definition of what constitute a non-addressable transactions and input received by ESMA so far has shown discrepancies regarding the exact list of transactions to be included here. One could for instance wonder whether all negotiated transactions should be considered non-addressable liquidity or only negotiated transactions “subject to conditions other than the current market price” (Article 4(b)(iii) of MiFIR). ESMA has



in mind that this category is not homogeneous and includes transactions which do not share all the same characteristics.

State of play

39. As mentioned above, there are co-existing Level 2 provisions referring to very similar concepts and ESMA has therefore tried to summarise the scope of those provisions in the table below.
40. ESMA is aware that some non-price forming transactions listed in the table are not relevant for equity instruments (e.g. “Pre-defined or mandatory notional amendment”) and vice versa. The table is however meant to provide a simplified overview of the regime and ESMA has therefore not reflected in the table when a specific type of transaction is only relevant for some asset classes.
41. There are also overlaps between the listed transactions (e.g. conversion trade (1) and conversion trade (2) refer essentially to the same type of transactions). To facilitate the analysis, this has however not been reflected in the table below. For instance, “conversion trade (1)” are flagged as “not exempted from OTC post-trade transparency” in the table but in practice those transactions are covered by Article 2(5)(h) of RTS 22 (i.e. “conversion trade (2)”). Similarly, the table below should not serve as supervisory guidance for the interpretation of RTS 22. For instance, the fact that “clearing purpose trades” are described as “not covered under Article 2(5)” does not mean that those transactions are necessary subject to transaction reporting. The table below aims mainly at highlighting the general discrepancies of wording used between the various lists.

TABLE 2 - MAPPING OF NON-PRICE FORMING TRANSACTIONS (CURRENT FRAMEWORK)

Short name	Definitions	Art 2 of RTS 1 (STO)	Art 6 of RTS 1 (NT3)	Art 13 of RTS 1 and Art 12 of RTS 2	Art 2(5) RTS 22	Flags RTS 1 (green = only TVs)	Flags RTS 2 (green = only TVs)
Benchmark transactions	the transaction is executed by reference to a price that is calculated over multiple time instances according to a given benchmark, including transactions executed by reference to a volume-weighted average price or a time-weighted average price;	Exempted from STO	Eligible for NT3 transactions	Not exempted from OTC post-trade transparency	Not covered under Article 2(5) of RTS 22	PRIC, BENC, TNCP	BENC
Portfolio trade	the transaction is part of a portfolio trade	Exempted from STO	Eligible for NT3 transactions	Not exempted from OTC post-trade transparency	Not covered under Article 2(5) of RTS 22	PRIC, TNCP	
Contingent trade (1)	the transaction is contingent on the purchase, sale, creation or redemption of a derivative contract or other financial instrument where all the components of the trade are to be executed only as a single lot	Exempted from STO	Eligible for NT3 transactions	Not exempted from OTC post-trade transparency	Not covered under Article 2(5) of RTS 22	PRIC, TNCP	
Funds transfers	the transaction is executed by a management company as defined in Article 2(1)(b) of Directive 2009/65/EC or an alternative investment fund manager as defined in Article 4(1)(b) of Directive 2011/61/EU, which transfers the beneficial ownership of shares from one collective investment undertaking to another and where no investment firm is a party to the transaction	Exempted from STO	Eligible for NT3 transactions	Exempted from OTC post-trade transparency	Not covered under Article 2(5) of RTS 22	PRIC, TNCP, NPFT	NPFT
Give-ups	the transaction is a give-up transaction or a give-in transaction	Exempted from STO	Eligible for NT3 transactions	Exempted from OTC post-trade transparency	Not covered under Article 2(5) of RTS 22	PRIC, TNCP, NPFT	NPFT
Clearing purpose	the purpose of the transaction is to transfer shares/financial instruments (Art 2 and 6 of RTS 1) as collateral in bilateral transactions or in the context of central counterparty (CCP) margin or collateral requirements or as part of the default management process of a CCP	Exempted from STO	Eligible for NT3 transactions	Exempted from OTC post-trade transparency	Not covered under Article 2(5) of RTS 22	PRIC, TNCP, NPFT	NPFT
Conversion/exercise trade (1)	the transaction results in the delivery of shares (//financial instruments in the context of the exercise of convertible bonds, options, covered warrants or other similar derivatives	Exempted from STO	Eligible for NT3 transactions	Not exempted from OTC post-trade transparency	Not covered under Article 2(5) of RTS 22	PRIC, TNCP	

Settlement purpose	the transaction is carried out under the rules or procedures of a trading venue, a CCP or a central securities depository to effect a buy-in of unsettled transactions in accordance with Regulation (EU) No 909/2014	Exempted from STO	Eligible for NT3 transactions	Not exempted from OTC post-trade transparency	Not covered under Article 2(5) of RTS 22	PRIC, TNCP	
Clearing or settlement purpose Article 2(5)(b) of RTS 22	a contract arising exclusively for clearing or settlement purposes						
Settlement purpose Article 2(5)(c) of RTS 22	a settlement of mutual obligations between parties where the net obligation is carried forward						
Custodial purpose Article 2(5)(d) of RTS 22	an acquisition or disposal that is solely a result of custodial activity;						
Novation Article 2(5)(e) of RTS 22	a post-trade assignment or novation of a derivative contract where one of the parties to the derivative contract is replaced by a third party						
Compression Article 2(5)(f) of RTS 22	a portfolio compression						
Creation or redemption by collective investment undertaking administrator Article 2(5)(g) of RTS 22	the creation or redemption of units of a collective investment undertaking by the administrator of the collective investment undertaking							Not exempted from STO	Not eligible to NT3	Exempted from OTC post-trade transparency	Covered under Article 2(5) of RTS 22	NPFT	NPFT
Conversion/exercise trade (2) Article 2(5)(h) of RTS 22	the exercise of a right embedded in a financial instrument, or the conversion of a convertible bond and the resultant transaction in the underlying financial instrument						
Contingent trade (2) Article 2(5)(i) of RTS 22	The creation, expiration or redemption of a financial instrument as a result of pre-determined contractual terms, or as a result of mandatory events which are beyond the control of the investor where no investment decision by the investor takes place at the point in time of the creation, expiration or redemption of the financial instrument						
Pre-defined or mandatory notional amendment Article 2(5)(j) of RTS 22	a decrease or increase in the notional amount of a derivative contract as a result of pre-determined contractual terms or mandatory events where no investment decision by the investor takes place at the point in time of the change in the notional amount						

<p>Index update Article 2(5)(k) of RTS 22</p>	<p>a change in the composition of an index or a basket that occurs after the execution of a transaction</p>						
<p>Dividend re-investment plan Article 2(5)(l) of RTS 22</p>	<p>an acquisition under a dividend re-investment plan</p>						
<p>Employee incentive plans Article 2(5)(m) of RTS 22</p>	<p>an acquisition or disposal under an employee share incentive plan, or arising from the administration of an unclaimed asset trust, or of residual fractional share entitlements following corporate events or as part of shareholder reduction programmes [...]</p>						
<p>Tender offer Article 2(5)(n) of RTS 22</p>	<p>an exchange and tender offer on a bond or other form of securitised debt where the terms and conditions of the offer are pre-determined and published in advance and the investment decision amounts to a choice by the investor to enter into the transaction with no ability to unilaterally vary its terms</p>						
<p>Collateral trade Article 2(5)(o) of RTS 22</p>	<p>an acquisition or disposal that is solely a result of a transfer of collateral.</p>						

Proposals regarding the structure of RTS 1

42. As highlighted above, the current regime has been established in a decentralised manner. There is no one-size-fits-all definition of “non-price forming” transactions but, instead, distinct technical standards providing for separate lists of transactions qualifying as non-price forming for each specific provision.
43. This has led to a complex regulatory regime and possibly divergent practices in the market. In order to simplify and improve the regime, ESMA would like to explore two main avenues: revisions of (i) the lists of non-price-forming transactions included in RTS 1 and 2 and (ii) of the system of flags (this part is further developed in section 3.4 below).
44. Regarding the lists of non-price forming transactions in RTS 1 and 2, ESMA’s intention is to streamline them by notably (i) using more consistently Article 2(5) of RTS 22 as a central point of reference and (ii) removing existing overlaps.
45. As explained above, the concept of “non-price forming transactions” is not homogenous and includes various types of liquidity and transactions which can be subject to different provisions. For instance, benchmark transactions are considered as transactions not contributing to the price discovery process and, for this reason, are exempted from the STO. Nevertheless, ESMA considers important not to exempt those transactions from post-trade transparency.
46. Post-trade transparency aims at providing information to the market regarding transactions executed. This includes a whole set of information, beyond the price of the executed transactions. Regarding benchmark transactions, ESMA considers it necessary to publish them in the post-trade data feed with appropriate flag to ensure that other market participants are informed about at least the volumes exchanged.
47. While ESMA is not suggesting a one-size-fits-all approach, there is nevertheless merit in improving the treatment of transactions across various regulatory purposes. In order to achieve this, ESMA proposes to use more systematically Article 2(5) of RTS 22 as a reference point for the lists of “non-price forming transactions” included in RTS 1 and 2. Such cross-references are already used in Article 13 of RTS 1 and Article 12 of RTS 2 but not in Articles 2 and 6 of RTS 1. ESMA would therefore propose to revise Articles 2 and 6 of RTS 1. This will ensure more consistency regarding the overall treatment of non-price forming transactions, remove possible usage of different terminology referring to the same type of non-price forming transaction and, hence, simplify the legal regime for market participants.
48. More concretely, ESMA proposes to add “excluded transactions” listed under Article 2(5) of RTS 22 into Articles 2 and 6 of RTS 1. Those “excluded transactions” would therefore not be subject to the STO and become eligible to the NT3 waiver (in practice most of them are already covered in those two Articles but using different terminologies).
49. In parallel, ESMA suggests deleting certain transactions in Articles 2 and 6 of RTS 1 which, following the addition proposed in the paragraph above, would become redundant. This is

typically the case for “clearing purpose”, “conversion” and “settlement” trade (see table below).

50. Similarly, ESMA proposes to delete give-ups transactions from Articles 2, 6 and 13 of RTS 1. The definition included in RTS 1 specifies that those are transactions “where an investment firm passes a client trade to, or receives a client trade from, another investment firm for the purpose of post-trade processing” (emphasis added). ESMA therefore considers these transactions to be covered by the reference to Article 2(5) and in particular, the “clearing or settlement purpose” transactions. The addition of a reference to Article 2(5) of RTS 22 into Articles 2 and 6 of RTS 1 would therefore make the reference to “give-ups/give-ins” redundant.
51. With respect to Article 6, it is proposed to delete paragraph (j). This paragraph extends the eligibility to the NT3 waiver to “any other transaction equivalent to one of those described in points (a) to (i) in that it is contingent on technical characteristics which are unrelated to the current market valuation of the financial instrument traded”.
52. ESMA’s review of pre-trade transparency waivers (as foreseen under Article 4(4) of MiFIR) has shown that this provision was too restrictive to be used in practice and that the transactions listed under paragraphs (a) to (i) of Article 6 of RTS 1 sufficiently cater for all possible circumstances. The provision was used in practice only in very marginal cases such as to bring into the scope transactions executed in relation to settlement failures and pending the application of the buy-in provisions in Regulation (EU) No 909/2014. ESMA considers that those transactions should, in the future, be covered by the reference to Article 2(5) of RTS 22 and there is therefore no legitimate reason to maintain paragraph (j) into Article 6 of RTS 1.
53. ESMA proposes to delete the reference to “fund transfers” in Article 2(d) and 6(d) of RTS 1. Article 2(1)(i) of MiFID II stipulates that the Directive does not apply to “collective investment undertakings and pension funds whether coordinated at Union level or not and the depositaries and managers of such undertakings”. It is therefore ESMA’s understanding that management companies (as defined in Article 2(1)(b) of Directive 2009/65/EC) and alternative investment fund managers (as defined in Article 4(1)(b) of Directive 2011/61/EU) are not authorised as investment firms and, therefore, not subject to transparency requirements and to the STO. This obligation therefore appears redundant and should therefore be deleted.
54. Given that RTS 1 would contain no longer references to give-up and give-ins and to securities financing transactions in consequence of the proposed amendments, ESMA also suggests to delete the definitions for ‘give-up or give-in transaction’ as well as securities financing transaction in Article 1 of RTS 1

Table 3 SUMMARY OF ESMA'S PROPOSALS REGARDING THE VARIOUS LISTS OF NON-PRICE FORMING TRANSACTIONS

Short name	Types of transactions	Art 2 of RTS 1 (STO)	Art 6 of RTS 1 (NT3)	Art 13 of RTS 1 / Art 12 of RTS 2
Benchmark transactions	the transaction is executed by reference to a price that is calculated over multiple time instances according to a given benchmark, including transactions executed by reference to a volume-weighted average price or a time-weighted average price;	Exempted from STO (no change proposed)	Eligible for NT3 transactions (no change proposed)	Not exempted from OTC post-trade transparency (no change proposed)
Portfolio trade	the transaction is part of a portfolio trade	Exempted from STO (no change proposed)	Eligible for NT3 transactions (no change proposed)	Not exempted from OTC post-trade transparency (no change proposed)
Contingent trade (1)	the transaction is contingent on the purchase, sale, creation or redemption of a derivative contract or other financial instrument where all the components of the trade are to be executed only as a single lot	Exempted from STO (no change proposed)	Eligible for NT3 transactions (no change proposed)	Not exempted from OTC post-trade transparency (no change proposed)
Funds transfers	the transaction is executed by a management company as defined in Article 2(1)(b) of Directive 2009/65/EC or an alternative investment fund manager as defined in Article 4(1)(b) of Directive 2011/61/EU, which transfers the beneficial ownership of shares from one collective investment undertaking to another and where no investment firm is a party to the transaction	Delete (Collective investment undertakings and pension funds are excluded from the scope of MiFID II and therefore not subject to STO or transparency)		
Give-ups	the transaction is a give-up transaction or a give-in transaction	Delete (replace by "clearing or settlement purpose" - RTS 22 definition)		
Clearing purpose	the purpose of the transaction is to transfer shares/financial instruments (Art 2 and 6 RTS 1) as collateral in bilateral transactions or in the context of central counterparty (CCP) margin or collateral requirements or as part of the default management process of a CCP	Delete (replace by "clearing or settlement purpose" - RTS 22 definition)		

Conversion/exercise trade (1)	the transaction results in the delivery of shares (Art 2)/financial instruments (Art 6) in the context of the exercise of convertible bonds, options, covered warrants or other similar (financial (art 6)) derivatives	Delete (replace by "conversion trade (2)" - RTS 22 definition)		
Settlement purpose	the transaction is carried out under the rules or procedures of a trading venue, a CCP or a central securities depository to effect a buy-in of unsettled transactions in accordance with Regulation (EU) No 909/2014	Delete (replace by "clearing or settlement purpose" - RTS 22 definition)		
Clearing or settlement purpose Article 2(5)(b) of RTS 22	a contract arising exclusively for clearing or settlement purposes	<div style="display: flex; justify-content: space-around; align-items: center; text-align: center;"> <div data-bbox="1153 593 1348 1152"> <p>To be exempted from STO</p> </div> <div data-bbox="1348 593 1601 1152"> <p>To be made eligible for NT3 transactions</p> </div> <div data-bbox="1601 593 1921 1152"> <p>Exempted from OTC post-trade transparency (no change proposed)</p> </div> </div>		
Settlement purpose Article 2(5)(c) of RTS 22	a settlement of mutual obligations between parties where the net obligation is carried forward			
Custodial purpose Article 2(5)(d) of RTS 22	an acquisition or disposal that is solely a result of custodial activity;			
Novation Article 2(5)(e) of RTS 22	a post-trade assignment or novation of a derivative contract where one of the parties to the derivative contract is replaced by a third party			
Compression Article 2(5)(f) of RTS 22	a portfolio compression			

<p>Creation or redemption by collective investment undertaking administrator Article 2(5)(g) of RTS 22</p>	<p>the creation or redemption of units of a collective investment undertaking by the administrator of the collective investment undertaking</p>			
<p>Conversion/exercise trade (2) Article 2(5)(h) of RTS 22</p>	<p>the exercise of a right embedded in a financial instrument, or the conversion of a convertible bond and the resultant transaction in the underlying financial instrument</p>			
<p>Contingent trade (2) Article 2(5)(i) of RTS 22</p>	<p>The creation, expiration or redemption of a financial instrument as a result of pre-determined contractual terms, or as a result of mandatory events which are beyond the control of the investor where no investment decision by the investor takes place at the point in time of the creation, expiration or redemption of the financial instrument</p>			
<p>Pre-defined or mandatory notional amendment Article 2(5)(j) of RTS 22</p>	<p>a decrease or increase in the notional amount of a derivative contract as a result of pre-determined contractual terms or mandatory events where no investment decision by the investor takes place at the point in time of the change in the notional amount</p>			
<p>Index update Article 2(5)(k) of RTS 22</p>	<p>a change in the composition of an index or a basket that occurs after the execution of a transaction</p>			
<p>Dividend re-investment plan Article 2(5)(l) of RTS 22</p>	<p>an acquisition under a dividend re-investment plan</p>			
<p>Employee incentive plans Article 2(5)(m) of RTS 22</p>	<p>an acquisition or disposal under an employee share incentive plan, or arising from the administration of an unclaimed asset trust, or of residual fractional share entitlements following corporate events or as part of shareholder reduction programmes [...]</p>			



Tender offer Article 2(5)(n) of RTS 22	an exchange and tender offer on a bond or other form of securitised debt where the terms and conditions of the offer are pre-determined and published in advance and the investment decision amounts to a choice by the investor to enter into the transaction with no ability to unilaterally vary its terms			
Collateral trade Article 2(5)(o) of RTS 22	an acquisition or disposal that is solely a result of a transfer of collateral.			

55. To summarise, ESMA proposes to amend RTS 1 as follows:

“Article 1 - Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ‘portfolio trade’ means transactions in five or more different financial instruments where those transactions are traded at the same time by the same client and as a single lot against a specific reference price;

~~*(2) ‘give-up transaction’ or ‘give-in transaction’ means a transaction where an investment firm passes a client trade to, or receives a client trade from, another investment firm for the purpose of post-trade processing;*~~

~~*(3) ‘securities financing transaction’ means a securities financing transaction as defined in Article 3(6) of Delegated Regulation (EU) 2017/577;*~~

(4) ‘systematic internaliser’ means an investment firm as defined in Article 4(1)(20) of Directive 2014/65/EU of the European Parliament and of the Council (1).

Article 2 - Transactions not contributing to the price discovery process

(Article 23(1) of Regulation (EU) No 600/2014)

A transaction in shares does not contribute to the price discovery process where any of the following circumstances apply:

(a) the transaction is executed by reference to a price that is calculated over multiple time instances according to a given benchmark, including transactions executed by reference to a volume-weighted average price or a time-weighted average price;

▼ M1

(b) the transaction is part of a portfolio trade which includes five or more different shares;

▼ B

(c) the transaction is contingent on the purchase, sale, creation or redemption of a derivative contract or other financial instrument where all the components of the trade are to be executed only as a single lot;

~~(d) the transaction is executed by a management company as defined in Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council (2), or an alternative investment fund manager as defined in Article 4(1)(b) of Directive 2011/61/EU of the European Parliament and of the Council (3), which transfers the beneficial ownership of shares from one collective investment undertaking to another and where no investment firm is a party to the transaction;~~

~~(e) the transaction is a give-up transaction or a give-in transaction;~~

~~(f) the purpose of the transaction is to transfer shares as collateral in bilateral transactions or in the context of central counterparty (CCP) margin or collateral requirements or as part of the default management process of a CCP;~~

~~(g) the transaction results in the delivery of shares in the context of the exercise of convertible bonds, options, covered warrants or other similar derivatives;~~

▼ M1 —————

▼ B

~~(i) the transaction is carried out under the rules or procedures of a trading venue, a CCP or a central securities depository to effect a buy-in of unsettled transactions in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council (4).~~

~~(j) it is an excluded transaction listed under Article 2(5) of Commission Delegated Regulation (EU) 2017/590 where applicable.~~

[...]

Article 6 - Negotiated transactions subject to conditions other than the current market price

(Article 4(1)(b) of Regulation (EU) No 600/2014)

A negotiated transaction in shares, depositary receipts, ETFs, certificates and other similar financial instruments shall be subject to conditions other than the current market price of the financial instrument where any of the following circumstances applies:

(a) the transaction is executed in reference to a price that is calculated over multiple time instances according to a given benchmark, including transactions executed by reference to a volume-weighted average price or a time-weighted average price;

(b) the transaction is part of a portfolio trade;

(c) the transaction is contingent on the purchase, sale, creation or redemption of a derivative contract or other financial instrument where all the components of the trade are meant to be executed as a single lot;

~~*(d) the transaction is executed by a management company as defined in Article 2(1)(b) of Directive 2009/65/EC or an alternative investment fund manager as defined in Article 4(1)(b) of Directive 2011/61/EU which transfers the beneficial ownership of financial instruments from one collective investment undertaking to another and where no investment firm is a party to the transaction;*~~

~~*(e) the transaction is a give-up transaction or a give-in transaction;*~~

~~*(f) the transaction has as its purpose the transferring of financial instruments as collateral in bilateral transactions or in the context of a CCP margin or collateral requirements or as part of the default management process of a CCP;*~~

~~*(g) the transaction results in the delivery of financial instruments in the context of the exercise of convertible bonds, options, covered warrants or other similar financial derivative;*~~

▼ M1 _____

▼ B

~~*(i) the transaction is carried out under the rules or procedures of a trading venue, a CCP or a central securities depository to effect buy-in of unsettled transactions in accordance with Regulation (EU) No 909/2014;*~~

~~*(j) any other transaction equivalent to one of those described in points (a) to (i) in that it is contingent on technical characteristics which are unrelated to the current market valuation of the financial instrument traded.*~~

(k) it is an excluded transaction listed under Article 2(5) of Commission Delegated Regulation (EU) 2017/590 where applicable.

[...]

Article 13 - Application of post-trade transparency to certain types of transactions executed outside a trading venue

(Article 20(1) of Regulation (EU) No 600/2014)

The obligations in Article 20(1) of Regulation (EU) No 600/2014 shall not apply to the following:

(a) ~~excluded transactions listed under Article 2(5) of Commission Delegated Regulation (EU) 2017/590 where applicable;~~

~~(b) transactions executed by a management company as defined in Article 2(1)(b) of Directive 2009/65/EC or an alternative investment fund manager as defined in Article 4(1)(b) of Directive 2011/61/EU which transfers the beneficial ownership of financial instruments from one collective investment undertaking to another and where no investment firm is a party to the transaction;~~

~~(c) give-up transactions and give-in transactions;~~

~~(d) transfers of financial instruments as collateral in bilateral transactions or in the context of a CCP margin or collateral requirements or as part of the default management process of a CCP.”~~

56. The Proposed changes to Article 12 of RTS 2 are detailed in section 4 of this paper.

Question 3: Do you agree with ESMA’s amendments to Articles 2, 6 and 13 of RTS 1 described above? If not, please explain why.

3.1.3 Pre-trade transparency requirements for trading systems (Table 1 of Annex I)

57. Article 3(2) of MiFIR sets out a list of different types of trading systems for which pre-trade transparency requirements should be calibrated, including continuous auction order book, quote-driven, hybrid and periodic auction trading systems. Table 1 of Annex I of RTS 1 provides a short description of each of those trading systems for equity instruments, together with the related pre-trade information to be made public. Similarly, Annex I of RTS 2 provides the description of each trading system and the related pre-trade transparency requirements for non-equity instruments.

58. In the MiFIR review reports for equity and non-equity transparency, ESMA suggested to update the catalogue of trading systems in table 1 of Annex 1 of RTS 1 and Annex 1 of RTS 2 and the applicable pre-trade transparency requirements in order to better reflect market developments and to ensure the consistent application of pre-trade transparency across the Union. In particular, ESMA recommended adding Frequent Batch Auction (FBA) systems as a new type of trading system with tailored pre-trade transparency requirements and to further specify the pre-trade transparency requirements applicable to hybrid systems and any other trading system.

59. This section presents ESMA’s proposal for the specification of pre-trade transparency requirements for FBA systems and hybrid systems.

3.1.3.1 FBA trading systems

60. Currently, FBA systems are captured by the description of periodic auction trading systems (‘a system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention’) and are subject to the following pre-trade

transparency requirements: 'The price at which the auction trading system would best satisfy its trading algorithm in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system and the volume that would potentially be executable at that price by participants in that system'.

61. ESMA considered in the final report to the call for evidence on FBAs that three elements differentiate FBAs from 'conventional' periodic auctions¹³:

- FBAs have a shorter duration than conventional periodic auctions, often only lasting for some milliseconds;
- FBAs are triggered by members or participants of a trading venue, either as soon as an order is submitted or once two matching orders have been identified, whereas conventional periodic auctions are scheduled by the trading venue (e.g. opening or closing auctions) or triggered after a volatility interruption as a way to restart continuous trading; and
- FBAs are triggered throughout the trading day, whereas conventional periodic auctions are held outside of trading hours, i.e. either before or after trading hours, or when trading is interrupted due to a volatility event.

62. These differences translate in numerous FBAs of a very short duration held during the trading day with, in the vast majority of cases, only few orders participating in each FBA and many FBAs resulting in only few, if any, transactions. This outcome is different to conventional periodic auctions where, in particular for the opening and closing auction, a high number of orders are submitted during (and before) the auction call and resulting in a high number of transactions.

63. The current pre-trade transparency requirements for periodic auction trading systems have been developed to cover a situation where many orders are submitted during the auction call, thereby not making it necessary to provide for a granular pre-trade disclosure but only for an aggregated view of the expected outcome of an auction, i.e. the indicative execution price and volume.

64. ESMA set out its expectations on the application of pre-trade transparency by FBA systems in the ESMA opinion on FBAs and the double volume cap mechanism¹⁴ by clarifying that FBAs are currently captured by the definition of period auction trading systems and requesting that, in order to sufficiently inform investors of the true level of potential trading opportunities, FBA systems should inform market participants where an auction has started on the basis of a first incoming order, i.e. pending a potential match, and that as soon as a potential match has been identified, the trading venue should make public the indicative price and volume.

¹³ See ESMA's Final report on the call for evidence on periodic auctions, ESMA-70-156-1035, 11 June 2019, https://www.esma.europa.eu/sites/default/files/library/esma70-156-1035_final_report_call_for_evidence_periodic_auctions.pdf

¹⁴ https://www.esma.europa.eu/sites/default/files/library/esma70-156-1355_opinion_frequent_batch_auctions.pdf

65. While the guidance provided in the opinion on FBAs aims to ensure that a minimum level of information is disclosed, ESMA is of the view that an approach based on tailored pre-trade transparency requirements for FBAs would result in the disclosure of more meaningful pre-trade information to investors. Therefore, ESMA suggested in the final review report on equity transparency to add FBAs as a new type of trading systems in RTS 1 and to develop tailored pre-trade transparency requirements for FBA systems.
66. In particular, the current pre-trade transparency requirements for period auction trading systems do not cover two aspects that are frequently encountered with FBAs. Firstly, FBAs frequently result in no potential match, which under the current approach leads to a situation where no pre-trade information is published other than the information that an FBA has started. It hence appears necessary to ensure that some pre-trade information is disclosed where a FBA does not result in a transaction.
67. Secondly, where FBAs result in a transaction, this is often based on the submission of only few orders. Hence, it appears that there should be more granular pre-trade transparency requirements to provide investors with a more detailed view of available liquidity.
68. In view of this, ESMA suggests the following description for FBA trading systems: 'A system that matches orders periodically during continuous trading hours, using a trading algorithm. FBA system are not based on scheduled auctions, and the start of an auction is determined by the submission of orders by members or participants or by the identification of two potentially matching orders'.
69. This description captures two of the three main characteristics of FBAs, i.e. the auctions take place during the trading day and are triggered following the submission of orders by members or participants. Moreover, since some trading venues set the trading price at the beginning of an auction, the reference to an auction system operated without human intervention has been removed from the description.
70. To ensure a proper delineation between the definition of FBA trading systems and conventional periodic auction trading systems, ESMA suggests to also update the description of periodic auction trading systems: '***A system that matches orders on the basis of ~~a periodic auction~~ an auction schedule and/or following a volatility interruption and using a trading algorithm operated without human intervention. The start of an auction is determined by the trading venue. Periodic auction trading systems include opening auctions, closing auctions and auctions following a volatility interruption, but not frequent batch auctions (row 4)***'.
71. ESMA has developed two options on the applicable pre-trade transparency requirements for FBA trading system.

Option 1

72. Under the preferred approach (option 1), ESMA proposes the following pre-trade transparency requirements for FBA trading systems: '***The price at which the system would best satisfy its trading algorithm in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading***

system and the volume that would potentially be executable at that price by participants in that system as well as the side and size of any order imbalance. Pending the identification of two matching orders the best price and the aggregated volume on both sides at that price shall be made public.'

73. ESMA is of the view that this proposal strikes a good balance between disclosing more granular information to enable market participants to form a view about available liquidity while at the same time avoiding undue information leakage, i.e. the disclosure of too granular trading interest to the public may impact price formation during the FBA and/or expose the market participant submitting the order to predatory behaviour by other market participants and thereby ultimately impairing liquidity. When the FBA would result in two matching orders, the trading venue would be required to disclose and update in real time the executable volume and price. Pending the identification of two matching orders, the trading venue would be required to publish in real time the side and aggregated size of orders on both sides at the best price.
74. ESMA appreciates that this approach would reveal some potentially sensitive information pending the identification of two matching orders. At the same time, it should be noted that other trading systems also disclose information on an order by order basis, that orders of a large size could benefit from a waiver from pre-transparency, and that, in many cases, only few orders participate in a FBA, thereby justifying more granular pre-trade transparency requirements.

Option 2

75. ESMA has also explored another option (option 2) on which it is interested in receiving feedback from stakeholders. According to option 2 the following pre-trade transparency requirements would apply to FBA trading systems: ***'The price, size and side of any order submitted to a frequent batch auction as well as the price at which the system would best satisfy its trading algorithm in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system and the volume that would potentially be executable at that price by participants in that system.'***
76. This proposal would hence require order-by-order disclosure and, once a potential match had been identified, the executable volume and price. ESMA is aware that this proposal might face resistance by some stakeholders given the disclosure of individual orders, which may result in information leakage.
77. At the same time, ESMA notes that given that only few orders are submitted to each FBA auction, and in consequence many FBAs do not result in a match, disclosing only the executable volume and price would result in no pre-trade transparency at all or for a very short period only in many cases, thereby resulting de facto in the operation of a system that is exempted from pre-trade transparency. Finally, it should be noted that the average transaction size on FBAs is rather low, and hence the concerns on information leakage may be less valid.

Question 4: Do you agree with the proposed description of FBA trading systems and the updated description of periodic auction trading systems? If not, please explain why and which elements should be added to the description and/or removed.

Question 5: Which of the two options for the pre-trade transparency requirements for FBA trading systems do you prefer? Please explain in case you are supportive of a different approach than the two options presented.

3.1.3.2 Hybrid systems

78. 'Hybrid systems' are currently included in the 'any other trading system' category and described, as per the last row of Table 1, Annex I of RTS 1, as any other system "falling into two or more of the types of trading systems" referred to in the same table. Furthermore, a similar description is included in Annex I of RTS 2.
79. When processing pre-trade transparency waiver notifications, in particular for non-equity instruments but also for equity instruments, ESMA noted an increasing number of trading venues operating hybrid systems, and in consequence being categorized as 'any other trading system', due to the absence of a separate category.
80. Such situation is likely to result in several trading systems being inaccurately classified, and by being classified generically as 'any other trading system', this may offer inappropriate leeway to trading venues to decide on the level of pre-trade-transparency they consider appropriate, leading to an inconsistent application of pre-trade transparency across the Union.
81. ESMA therefore considers that the current description of 'any other trading system' in Table 1, Annex I of RTS 1 should not be used as a default category, or a catch-all category, to facilitate the avoidance of pre-trade transparency. This assessment was also shared by a number of market participants responding to the CP on the MiFIR review report on non-equity transparency¹⁵, where ESMA first raised the issue. At the same time, stakeholders supporting a more stringent approach on 'any other trading system' stressed that the catalogue of trading systems in Table 1 of Annex I of RTS 1 and of Annex I of RTS 2 still needs to offer sufficient flexibility to accommodate market developments and potential novel regulatory issues that may arise.
82. Taking the above into consideration, ESMA proposes to separate the category of 'hybrid system' from 'any other trading system', hence introducing a new type of trading system.
83. To this effect, ESMA proposes that a system should be classified as a 'hybrid system' when it falls within two or more of the types of trading systems currently covered in Table 1 of Annex I of RTS 1, as per the following: ***Hybrid System: A system falling into two or more of the types of trading systems referred to in rows 1 to 5 of this table.***

¹⁵ Consultation Paper on MiFID II/ MiFIR review report on the transparency regime for non-equity instruments and the trading obligation for derivatives, 10 March 2020, ESMA70-156-2189, available here: https://www.esma.europa.eu/sites/default/files/library/esma70-156-2189_cp_review_report_transparency_non-equity_tod.pdf

84. ESMA suggests that a trading venue operating a hybrid system should comply with the transparency requirements of the combined systems. Consequently, such trading system would have to meet the pre-trade transparency obligations that apply to each relevant row or component part of the overall system.
85. Therefore, ESMA proposes the following pre-trade transparency requirements for hybrid systems: 'For hybrid systems that combine different trading systems at the same time, the requirements correspond to the pre-trade trade transparency requirements applicable to each type of trading system that forms the hybrid system. For hybrid systems that combine two or more trading systems sequentially, the requirements correspond to the pre-trade transparency requirements applicable to the respective trading system operated at a particular point in time'.
86. For example, if a hybrid system is composed of a continuous auction order book trading system (corresponding to row one) and a periodic auction trading system (corresponding to row three), the pre-trade transparency requirements for this hybrid system correspond to the application of the requirements listed for both row one and row three: during the continuous auction phase, at least the five best bid and offer price levels should be disclosed, and during the periodic auction phase, the executable price.
87. Another example of a hybrid system is one composed of a continuous auction order book trading system (corresponding to row one) and a quote-driven trading system (corresponding to row two). In this case, and since both systems can run at the same time, the pre-trade transparency requirements correspond to all applicable requirements for each of the systems. Therefore, the disclosed information should be the combination of the pre-trade transparency requirements of rows 1 and 2. In this case, the information to be disclosed should be the top five best bid and offer price levels for the central limit order book and the quotes of the market makers.
88. In consequence of the introduction of hybrid systems as a new type of trading system, ESMA proposes a revised description of 'any other trading system'. ESMA considers that this category should cover any trading system not described in the catalogue of trading systems, meaning that any type of trading system not covered by rows one to six.
89. To this effect, ESMA proposes to keep the pre-trade transparency requirements for this type of trading systems unaltered, corresponding to the ones specified under the current last row of Table 1, Annex I of RTS 1.
90. Moreover, ESMA noted that the description of trading systems specified in table 1 of Annex I of RTS 1 and Annex I of RTS 2 slightly differ. In order to ensure consistent descriptions and requirements applicable to both equity and non-equity instruments, ESMA proposes to align the description of trading systems and the respective pre-trade transparency requirements in RTS 1 and 2. Hence, ESMA proposes the same changes for hybrid systems and FBA trading systems also in RTS 2. While RTS 2 also includes voice trading systems, ESMA does not suggest adding those to RTS 1 since voice trading systems are only used for non-equity instruments.

91. Additionally, over the last years ESMA noted that several trading venues are operating ‘trading at last’ or ‘trading at close’ functionalities. Trading at close’ or ‘trading at last’ refers to a short continuous trading phase after the closing auction, in which orders are executed at the closing price. ESMA is of the view that ‘trading at last’ or ‘trading at close’ should not be considered a separate system, but rather as a separate trading phase that meets the description of a continuous auction order book trading system. Given that ‘trading at last’ uses the closing price, there would be only bids and offers submitted reflecting one price level, i.e. the closing price. Furthermore, since orders in trading at close functionalities are matched continuously, there would be only pending (bid or offer) orders in case of an order imbalance. In consequence, ESMA expects such functionalities to disclose the closing price as well as the aggregate number of resting orders at such closing price, including information on the side of the order imbalance.

Question 6: Do you agree with ESMA’s proposals for ‘hybrid systems’? If not, please explain why and which elements should be added and/or removed.

Question 7: Do you agree with aligning both Table 1, Annex I of RTS 1 and Table describing the type of system and the related information to be made public in accordance with Article 2, of Annex I of RTS 2, to describe the same systems (with the exception of voice trading systems) and pre-trade transparency requirements? If not, please explain why.

3.1.3.3 Format of the pre-trade transparency information

92. As opposed to post-trade transparency, RTS 1 does not include a specific description of the format of pre-trade transparency information to be disclosed. In practice, this means that trading venues and SIs have discretion to interpret the requirements set out in Table 1 of Annex I and to use the format that, they consider, suits them best.

93. While this has provided some flexibility to market participants regarding the application of pre-trade transparency information, this has also led to diverging practices affecting ultimately the consumption of the information by receiving entities and its aggregation with information from other sources.

94. MiFIR’s objective was to address weaknesses in the way information on trading opportunities and prices in financial instruments is published, in particular in terms of timing, granularity, equal access, and reliability of the published information. While the calibration of pre-trade transparency per trading system improved the pre-trade information disclosed, it remains very different in terms of both the format used and the exact details disclosed. ESMA therefore considers it necessary to further align the practices for disclosing pre-trade information.

95. To this end, it is necessary to further detail how “the range of bid and offer prices or designated market-maker quotes, and the depth of trading interest at those prices” should be made public (Article 4(6)(a) of MiFIR) specifying not only the type of information expected to be disclosed but also the general format to be used depending on the type of execution venue making the information public.

96. Therefore, ESMA proposes to amend Annex I of RTS 1¹⁶ by inserting a new table (see below) establishing clearer obligations regarding the provision of pre-trade information.

97. The proposed new table provides for harmonised format for the publication pre-trade transparency information. It complements Table 1 of Annex of RTS 1 which provides for a generic description of the trading systems and how pre-trade transparency should apply to those systems. The new table specifies only the format of the information to be provided as required under Table 1.

98. In order to leverage on existing requirements and practices, ESMA used Table 3 of Annex I of RTS 1 as a basis for the new table. The table however needed to be adjusted to cater for the specific need of pre-trade transparency information and certain fields have been added to reflect on the specific characteristics of pre-trade information (e.g. “side”, “number of orders”).

99. ESMA has purposely proposed an exhaustive list of fields in the new table in order to allow feedback on the large set of information. ESMA appreciates that there is however merit in reflecting on whether all the information currently included (i) is meaningful and, more importantly, (ii) can be provided without creating unnecessary technical challenges for reporting entities.

100. To facilitate the consumption and aggregation of pre-trade transparency information published on EU markets, it is important that the new requirements apply to both trading venues and SIs.

101. To that effect, it is proposed to amend Article 3, Article 9 and Annex I of RTS 1 as described below:

102. Paragraph 1 of Article 3 is amended as follows: *‘Market operators and investment firms operating a trading venue shall make public the range of bid and offer prices and the depth of trading interest at those prices. The information is to be made public in accordance with the type of trading systems they operate as set out in ~~Table 4~~ Tables 1, 1a and 1b of Annex I’;*

103. A new paragraph is added to Article 9: ‘(e) the arrangement complies with the formats as set out in Tables 1a and 1b of Annex I’; and

104. The table below (Table 4) is added to RTS 1 as Table 1b of Annex I

TABLE 4 - PROPOSED LIST OF DETAILS FOR THE PURPOSE OF PRE-TRADE TRANSPARENCY (EQUITY INSTRUMENTS)

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
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¹⁶ Please refer to section 4 for the proposal for non-equity financial instruments.

1	Submission date and time	<p>For trading venues, where the orders and quotes do not have to be published on an aggregated basis, the date and time when the order or quote was introduced for execution into the trading system.</p> <p>For trading venues the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.</p>	Regulated Market (RM), Multilateral Trading Facility (MTF)	{DATE_TIME_FORMAT}
2	Instrument identification code	Code used to identify the financial instrument	RM, MTF, systematic internaliser (SI)	{ISIN}
3	Side	Side of the order or quote	RM, MTF, SI	'BID' or 'ASK'
4	Price	<p>The price of orders and quotes as required under Table 1 and excluding, where applicable, commission and accrued interest.</p> <p>Where price is reported in monetary terms, it shall be provided in the major currency unit.</p>	RM, MTF, SI	<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>
5	Price currency	Major currency unit in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF, SI	{CURRENCYCODE_3}

6	Price notation	Indication as to whether the price is expressed in monetary value, in percentage or in yield.	RM, MTF, SI	<p>'MONE' — Monetary value in the case of equity and equity-like financial instruments</p> <p>'PERC' — Percentage in the case of certificates and other equity-like financial instruments</p> <p>'YIEL' — Yield in the case of certificates and other equity-like financial instruments</p> <p>'BAPO' — Basis points in the case of certificates and other equity-like financial instruments</p>
7	Quantity	<p>Number of units of the financial instruments.</p> <p>The nominal or monetary value of the financial instrument.</p> <p>Where Table 1 requires the aggregated publication of orders, the total number of unit or the total nominal or monetary value of aggregated orders.</p>	RM, MTF, SI	<p>{DECIMAL-18/17} in case the quantity is expressed as number of units</p> <p>{DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value</p>
8	Venue	<p>Identification of the trading venue through the system of which orders and quotes are advertised or the systematic internaliser providing a quote.</p> <p>Use the ISO 10383 segment MIC for or, where the segment MIC does not exist, use the operating MIC.</p>	RM, MTF, SI	{MIC}

9	Number of orders and quotes	The number of aggregated orders or quotes from different members or participants (where aggregated information is required under Table 1 of Annex I).	RM, MTF	{DECIMAL-18/0}
10	Trading system	Type of trading system where the order or quote is advertised	RM, MTF, SI	<p>Trading venues: 'CLOB' for continuous auction order book trading systems, 'QDTS' for quote driven trading systems, 'PATS' for periodic auction trading systems, 'RFQT' for request for quote trading systems, 'FBAS' for Frequent Batch Auction trading systems, 'HYBR' for hybrid trading systems, 'XXXX' for any other trading system</p> <p>Systematic internalisers: 'SINT'</p>
11	Publication date and time	<p>Date and time when the information was published. For trading venues, and APAs the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.</p> <p>For systematic internalisers, the time reported shall be granular to at least the nearest second.</p>	RM, MTF, SI	{DATE_TIME_FORMAT}

12	Publication identification code	<p>Alphanumerical code assigned by trading venues and systematic internalisers allowing to identify the information published.</p> <p>The identification code shall be unique, consistent and persistent per ISO 10383 segment MIC and per trading day. Where the trading venue or the systematic internaliser does not use segment MICs, the identification code shall be unique, consistent and persistent per operating MIC per trading day.</p> <p>The components of the identification code shall not disclose the identity of the members or participants which have submitted the orders or quotes.</p>	RM, MTF, SI	{ALPHANUM-52}
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Question 8: Do you agree with ESMA’s proposals to require a specific format and standardise further the pre-trade information to be disclosed? If not, please explain why. If yes, please clarify which elements should be amended, added and/or removed, if any.

3.2 Other amendments of the main text of RTS 1

3.2.1 Deferred publication of transactions (Article 15)

105. Article 15 of RTS 1 sets out the mechanism for transactions for which deferred publication is permitted. Where a competent authority authorises the deferred publication of the details of trades, investment firms trading outside a trading venue and market operators and investment firms operating a trading venue shall make public each transaction no later than at the end of the relevant period, provided that: (a) the transaction is between an investment firm dealing on own account other than through matched principal trading and another counterparty; (b) the size of the transaction is equal to or



exceeds the relevant minimum qualifying size, as specified in Tables 4 to 6 of Annex II as appropriate.

106. As per Article 15 (3) of RTS 1, transactions should be either published as close to real-time as possible after the end of the trading day (for transactions executed more than two hours before the end of the trading day), or no later than noon of the following trading day for all the transactions not covered by the first case.

107. In 2015, these two options were chosen, in that time context, to provide sufficient time to publish the necessary information.

108. Since the application of RTS 1, it appears that due to changes in trading practices and/or technological developments it does no longer appear appropriate to allow for the publication of such transactions until noon of the following trading day. This observation was also shared by some stakeholders contributing to the CfE. Those stakeholders considered that such period would be unnecessarily long and suggest significantly shortening it.

109. Therefore, ESMA proposes to amend Article 15 (3) of RTS 1 as following:

‘For transactions for which deferred publication is permitted until the end of the trading day as specified in Tables 4, 5 and 6 of Annex II, investment firms trading outside a trading venue and market operators and investment firms operating a trading venue shall make public the details of those transactions either:

(a) as close to real-time as possible after the end of the trading day which includes the closing auction, where applicable, for transactions executed more than two hours before the end of the trading day;

*(b) no later than ~~noon local time~~ **the opening of the trading day of the most relevant market in terms of liquidity** on the next trading day for transactions not covered in point (a).’*

Question 9: Do you agree with the changes proposed by ESMA to amend Article 15 (3) of RTS 1? If not, please explain your rationale.

3.2.2 Changes to Article 17

Date of application of transparency calculations (Article 17)

110. Article 17 of RTS 1 sets out the methodology and the dates of publication and application of the transparency calculations for equity and equity like instruments. Looking in particular at the dates of publication and application of the transparency calculations, Article 17(1) of RTS 1 specifies that competent authorities shall ensure the publication by 1 March of each year of the following information:



- a) the trading venue which is the most relevant market in terms of liquidity¹⁷;
- b) the average daily turnover for the purpose of identifying the size of orders that are large in scale¹⁸;
- c) the average value of transactions for the purpose of determining the standard market size¹⁹.

111. Furthermore, the information published in relation to the transparency calculations referred to above, applies from 1 April following their publication, and for a period of 12 months. These requirements are spelled out in Article 17(2) of RTS 1.

112. Following the application of MiFID II, and taking into account a number of discussions held with market participants from different areas within the financial industry, ESMA understands that the complexity behind the infrastructural and IT adjustments necessary for firms to be ready to apply the new calculations are quite significant. ESMA is aware that most of these necessary updates to IT systems and infrastructures are, ideally, processed throughout the weekend in order to avoid unintended consequences should a glitch in the process occur during a working day.

113. Taking this aspect into consideration, ESMA is therefore proposing that the transparency calculations start to apply from the first Monday of April following the publication of the calculations. The application period should last until the day before the first Monday of April of the subsequent year.

114. This minor modification aims at ensuring that the process of updating the transparency calculations run as smoothly as possible whilst maintaining relatively unchanged the timelines envisage in RTS 1.

115. Article 17(2) is amended as follows:

*‘Competent authorities, market operators and investment firms including investment firms operating a trading venue shall use the information published in accordance with paragraph 1 for the purposes of points (a) and (c) of Article 4(1) and paragraphs 2 and 4 of Article 14 of Regulation (EU) No 600/2014, for **a the period of 12 months from 1 between the first Monday of April of the year in which the information is published and the day before the first Monday of April of the subsequent year.***’

Insertion of a new paragraph 17(6)

116. In the New table to report quantitative data for the purpose of the transparency calculations (Reporting to FITRS) proposed in Section 3.3.2.1 of this CP, ESMA proposes to provide clarity and legal certainty to market participants and to align the structure of RTS 1 and CDR 2017/567 and includes in the former a new annex with the details of the relevant

¹⁷ As set out in Article 4(2) of RTS 1.

¹⁸ As set out in Article 7(3) of RTS 1.

¹⁹ As set out in Article 11(2) of RTS 1.

quantitative data, which will complement the reference data necessary for the performance of the calculations as per CDR 2017/567.

117. It is suggested to add a new paragraph 6 to Article 17 requiring competent authorities to collect that data from trading venues, APAs and CTP as set out in the proposed Annex IV of RTS 1:

(6) 'Where ESMA or competent authorities require information in accordance with Article 22 of Regulation (EU) No 600/2014 trading venues, APAs and CTPs shall provide such data as per Annex IV of this Regulation.'

Clarification on exchange rate

118. Article 7 of RTS 1 specifies the size of orders that are LIS compared with normal market size for each class of equity instruments. Paragraph 1 of Article 7 sets out which orders shall be considered LIS in respect of shares, depositary receipts, certificates or other similar financial instruments. Those values are set out in EUR and are specified on Tables I and II of Annex II RTS 1. Similarly, paragraph 2 sets out that an order for ETF instruments should be considered as LIS where it is equal or above EUR 1,000,000.

119. Furthermore, Article 8(2)(b) requires that, in the context of the OMF waiver, a reserve order that is held in an OMF pending disclosure at the point of entry has a size greater than or equal to EUR 10,000.

120. Similarly to the above requirements applicable to pre-trade transparency waivers, RTS 1 also provides, in Article 15, that transactions can benefit from a deferral of real-time publication, where the size of a transaction is equal to or exceeds the relevant minimum qualifying size specified in tables 4, 5 and 6 of Annex II of RTS 2.

121. Finally, for the provisions applicable to the SMS, Article 11 of RTS 2 sets out that the liquidity determination shall be determined in accordance with paragraphs 2 and 3 of Article 11 and Table 3 of Annex II.

122. Throughout the application of MiFID II, in particular when assessing pre-trade transparency waiver requests in respect of LIS orders, ESMA noted a practical issue concerning equity instruments that are not denominated in EUR. In fact, RTS 1 does not specify which exchange rate should be used to convert the monetary value expressed on those financial instruments. In order to promote a convergent and coherent application of the LIS waiver throughout the Union, ESMA deems necessary to include a provision in RTS 1 to provide all market participants with a clear indication of which foreign exchange rate to use when orders are not denominated in EUR. Regarding the absence of such provision in RTS 1, ESMA reminds that for non-equity instruments RTS 2 clearly indicates which exchange rate should be used.

123. ESMA has therefore taken a similar approach to that of RTS 2 and proposes to add a new paragraph seven in Article 17 of RTS 1. The goal is to cover all instances of RTS 1, including pre-trade waivers, post-trade deferrals and the liquidity determination for the SMS, where the application of an exchange rate is required. Hence, the amendment

proposed requires market participants to apply the European Central Bank (ECB) Euro foreign exchange reference rate as of 31 December of the previous year when an order is on a financial instrument which is not denominated in Euros:

(7) ‘Where the trade size defined for the purpose of paragraph 1 and 2 of Article 7, paragraph 2(a) of Article 8, paragraph 1 of Article 11 and paragraph 1 of Article 15 is expressed in monetary value and the financial instrument is not denominated in Euros, the trade size shall be converted to the currency in which the financial instrument is denominated by applying the European Central Bank euro foreign exchange reference rate as of 31 December of the preceding year.’

Question 10: Do you agree with the proposed amendments to Article 17? If not, please explain.

3.2.3 Clarification on the applicable large-in-scale threshold for Article 11(3)(c) of RTS 1

124. Article 11 of RTS 1 further specifies the methodology for determining the SMS, i.e. the order size up to which the quoting obligations for SI apply. Article 11(2) of RTS 1 specifies the transactions that should be included in that calculation. According to Article 11(3)(c) of RTS 1, post-trade LIS transactions as set out in table 4 of Annex I should not be included when determining the SMS.

125. Since table 4 of Annex I of RTS 1 provides for various post-trade large in scale thresholds for equity instruments depending on the average daily turnover (ADT) and, for shares, depositary receipts and certificates, the minimum qualifying size of a transaction, there is some ambiguity in Article 11(3)(c) as to the transactions above the post-trade LIS threshold to be excluded from the SMS calculations. Furthermore, Article 11(3)(c) of RTS 1 only covers shares and depositary receipts, thereby creating uncertainty on the exclusion of post-trade LIS transactions for ETFs and certificates.

126. In order to provide clarity on the post-trade LIS transactions to be excluded under Article 11(3)(c) of RTS 1, ESMA clarified in Q&A 20 that “ [...] for shares, depositary receipts and certificates only the highest threshold for the related average daily turnover (ADT) band in Tables 4 and 6 of Annex II should be used to identify those transactions. For ETFs the highest threshold in Table 5 should be used to identify those transactions.” ESMA suggests to integrate this approach in Article 11(3)(c) to provide further certainty on the transactions that should not be included when determining the SMS and in view of the amendments proposed in section 3.3.2.1 (field 19 of table 2 of the new Annex IV of RTS 1).

127. ESMA therefore suggests amending Article 11(3) of RTS 1 as follows:

*‘(c) it shall exclude for **shares, depositary receipts and certificates** post-trade large in scale transactions **of a size at or above the highest threshold for the related***



average daily turnover band in Tables 4 and 6 as set out in table 4 of Annex II. For ETFs, it shall exclude post-trade large in scale transactions at or above the highest threshold in Table 5 of Annex II. ‘

Question 11: Do you agree with the proposed amendment of Article 11(3)(c) of RTS 1? Please explain.

3.2.4 Correction of wrong cross-references

128. ESMA identified a number of wrong cross-references in RTS 1, either referring to a wrong Article or to a wrong CDR. This applies to cross-references in Article 9(b), Article 18 as well as in Tables 3 and 4 of Annex I. ESMA suggests correcting these cross-references (see the legal drafting in Annex V (section 6.5)).

3.3 Reporting fields (Tables 2 and 3 of Annex I, Tables 1 and 2 of Annex III)

129. The section on the reporting fields will cover two dimensions: (i) the fields to be published for the purpose of post-trade transparency, and (ii) the reference data and the quantitative data to be provided for the performance of the transparency calculations.

130. The changes performed aim at providing more clarity on what has to be reported both to the public and to the FITRS, with the ultimate goal to improve data quality and data aggregation.

3.3.1 Fields for the purpose of post-trade transparency

131. Articles 6 and 20 of MiFIR provide for the post-trade transparency requirements for trading venues and investment firms, including SI, in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments.

132. The details to be published for the purpose of post-trade transparency, by trading venues and APAs, on behalf of investment firms and SIs, are provided in Tables 2 and 3 of Annex I of RTS 1 and, by means of Article 15 of RTS 13, CTPs are also obliged to publish the same details.

133. The proposed changes related to the post-trade fields (Annex I of RTS 1) are explained in the following sections. In addition, Section 6.5 Annex V – Draft RTS amending RTS 1 shows the proposed new Table 3 of Annex I of RTS 1 with changes highlighted in red.

3.3.1.1 Field names and sequential order

134. One of the most recurrent comment received in the CfE was the difficulty to use the post-trade reports and to aggregate them. To alleviate this issue, ESMA proposes to standardise in RTS 1 the order and the name of the fields to be used in the publication of the post-trade reports as per Table 3 in Annex I of the draft amending RTS 1 provided in Annex VI.

135.* The same approach is proposed for the post-trade transparency reports of non-equity instruments in RTS 2 in Section 4.3.1.1.

3.3.1.2 Fields “Trading date and time”

136. In the row related to the field “trading date and time”, OTFs are listed in the column “type of execution or publication venue”. ESMA is proposing to delete the reference to OTF because OTFs, according to their definition set out in Article (2)(1)(24) of MiFID II, are trading venues dedicated for the trading of non-equity instruments.

137. Furthermore, in the context of the CfE, it was requested to align the timestamps for trading venues and other execution venues. More specifically, it was suggested to harmonise it in accordance with Commission Delegated Regulation (EU) 2017/574 (RTS 25).

138. ESMA highlights that Article 18 of RTS 13 prescribes the timestamps and maximum divergence from the Coordinated Universal Time (UTC) to which APAs must adhere to for the publication of post-trade transparency information as well as requiring a maximum granularity of the timestamp. At this stage, requiring a less granular timestamp across venues does not seem appropriate as it would loosen the current requirement.

139. However, in order to further harmonise the timestamps, ESMA could require future CTPs to aggregate the data at the a common granularity, e.g. 1 second or to the smallest granularity providing the additional zeros to make less granular timestamps comparable and. By means of Guidelines it could also be specified that investment firms and SIs should not diverge by more than one second from the UTC issued and maintained by one of the timing centres listed in the latest Bureau International des Poids et Mesures (BIPM) Annual Report on Time Activities.

140. The requests on the time stamps and on clock synchronisation all relate to the difficulty of aggregation of the post-trade transparency reports. In this context, ESMA highlights that a number of Q&As have been published (See Section 6.8 - Annex VIII - Q&As supporting consistent post-trade transparency reporting) such as Q&A 2(c) of the General section of the Questions and Answers on MiFID II and MiFIR transparency topics where it is clarified that RTS 1 and 2 do not require the use of a specific technical format (such as XML) for transporting and making data public.

141. The same approach is proposed for the post-trade transparency reports of non-equity instruments in RTS 2 in Section 4.3.1.2.

3.3.1.3 Fields “Price”, “Price currency”, “Price notation” and “Quantity”

142. In the CfE several stakeholders requested that APAs publish the price in the post-trade reports in EUR. ESMA considers that the information on the currency in which the trade was made is sufficient to compare post-trade reports and does not consider it necessary to add this new requirement.

143. Nevertheless, ESMA proposes to clarify the information to be provided in the field ‘price’ on how the price should be populated for the different types of equity and equity like instruments, and in particular for certificates.

Price	<p>Traded price of the transaction excluding, where applicable, commission and accrued interest.</p> <p>Where price is reported in monetary terms, it shall be provided in the major currency unit.</p> <p>Where price is currently not available but pending, the value should be ‘PNDG’.</p> <p>Where price is not applicable shall not be populated, the value shall be ‘NOAP’.</p> <p>The information reported in this field shall be consistent with the values provided in field Quantity.</p>	RM, MTF, APA, CTP	<p>{DECIMAL-18/13} when in case the price is expressed as monetary value in the case of equity and equity-like financial instruments</p> <p>{DECIMAL-11/10} when in case the price is expressed as percentage or yield in the case of certificates and other equity-like financial instruments</p> <p>‘PNDG’ in case the price is not available</p> <p>‘NOAP’ in case the price is not applicable</p>
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144. Furthermore, ESMA highlights that the currency in which the price is provided should comply with the 3-letters ISO 4217 which includes only major currencies units. Therefore, the price of instruments reported in cents or other minor currency units shall be converted to the relevant major currency unit. The minor adjustment in the “Description and details to be published” of the “Price currency” field is for consistency with the current one of the “Price” field.

Price currency	Major C urrency unit in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF APA, CTP	{CURRENCYCODE_3}
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145. Moreover, considering that the price can be reported in different units, a new field ‘price notation’ is added as per below.

Price notation	Indication as to whether the price is expressed in monetary value, in percentage or in yield	RM, MTF APA, CTP	‘MONE’ — Monetary value in the case of equity and equity-like financial instruments ‘PERC’ — Percentage in the case of certificates and other equity-like financial instruments ‘YIEL’ — Yield in the case of certificates and other equity-like financial instruments ‘BAPO’ — Basis points in the case of certificates and other equity-like financial instruments
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146. As far as the “Quantity” field is concerned, only a minor drafting amendment is made.

Quantity	<p>Number of units of the financial instruments when the price is reported in monetary terms.</p> <p>The nominal or monetary value of the financial instrument otherwise.</p> <p>The information reported in this field shall be consistent with the values provided in field Price.</p>	RM, MTF, APA, CTP	<p>{DECIMAL-18/17} in case the quantity is expressed as number of units</p> <p>{DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value</p>
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3.3.1.4 Field “Venue of execution” and “Third-country trading venue of execution”

147. In the context of the CfE, stakeholders mentioned an issue related to the reporting of transactions executed on third-country trading venues (TCTV) and requested the possibility to identify the TCTV in the post-trade reports.

148. In accordance with ESMA’s opinion determining third-country trading venues for the purpose of transparency under MiFIR (ESMA70-154-165), two types of transactions should be reported to an APA:

- transactions in instruments traded on a trading venue (ToTV) executed on TCTV not included in the [annex](#) of the opinion (ESMA70-155-10816); and
- transactions in ToTV instruments executed on TCTV included in the annex of the opinion with a partially positive assessment, with respect to instruments not mentioned in the field "Exemptions from the positive assessment".

149. ESMA published guidance (ESMA70-155-10587) clarifying that when the post-trade transparency requirements apply to a transaction executed on a TCTV covered by the above two cases, the field “venue of execution” in the published post-trade report should be populated with the value ‘XOFF’.

150. This means that the identification of the TCTV of execution is absent from the publication. It is therefore not possible to disentangle bilateral (OTC) transactions from transactions executed on those TCTV. As noted by some market participants, the identification of the TCTV of execution in the post-trade reports would be beneficial in terms of transparency.

151. Therefore, ESMA is suggesting the addition of a field to identify the TCTV. ESMA is aware that the identification of TCTV might be an issue because some of them do not have a MIC. Therefore, this field should be populated as follows: (1) when the MIC is available, the MIC; (2) when the MIC is not available and the TCTV appears in the annex of the opinion (this would concern only venues with a partially positive assessment), the code

provided in the field “ESMA ID” in the annex of the opinion, e.g. ‘US1141’; (3) when the MIC is not available and the TCTV does not appear in the annex of the opinion, the two letters identifying the country of the venue (ISO3166) followed by the name of the trading venue, e.g. ‘JP– Trading Venue XYZ’.

152. The proposal concerning the format of the field provided in the paragraph above cannot be detailed in the RTS because from a legal perspective it is not appropriate to include a cross reference to ESMA’s opinion in the RTS. ESMA suggests referring to MIC and free-text field in the RTS, and replicating the guidance provided in the paragraph above in the related guidance document (ESMA70-155-10587).

Third-country trading venue of execution	Identification of the third-country trading venue where the transaction was executed. Where the transaction is not executed on a third-country trading venue, the field shall not be populated.	APA, CTP	{MIC} where MIC is available or {ALPHANUM-25} otherwise
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153. The same approach is proposed for the post-trade transparency reports of non-equity instruments in RTS 2 in Section 4.3.1.3.

154. Finally, ESMA is proposing a minor adjustment related to the field “Venue of execution”, the column “Description/Details to be published” should be corrected in relation to the use of the code ‘XOFF’.

155. Indeed, the sentence currently reads ‘Use MIC code ‘XOFF’ for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is not executed on a [...] organised trading platform outside of the Union.’ The term ‘organised trading platform’ is neither defined nor used elsewhere in RTS 1, RTS 2 or MiFIR. Besides, transactions executed on ‘organised trading platform outside of the Union’ (i.e. on TCTV) have to be reported with the value ‘XOFF’ in some cases as explained in paragraph 148.

Venue of execution	<p>Identification of the venue where the transaction was executed.</p> <p>Use the ISO 10383 segment MIC for transactions executed on an EU trading venue. in the Union. Where the segment MIC does not exist, use the operating MIC.</p> <p>Use 'SINT' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is executed on a Systematic Internaliser.</p> <p>Use MIC code 'XOFF' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is either (1) not executed on an EU trading venue or in the Union, and not executed on a systematic internaliser or (2) executed on an organised trading platform outside of the EU (the latter requires also the population of the field "Third-country trading venue of execution").</p>	RM, MTF, APA, CTP	{MIC} – EU trading venues or 'SINT' — systematic internaliser 'XOFF' — otherwise
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Question 12: Do you agree with the changes proposed to Table 3 of Annex I of RTS 1 (List of details for the purpose of post-trade transparency) presented above? If not, please explain and provide any alternative proposal you might have. Are there other issues to be addressed and how?

3.3.2 Reference and Quantitative data to be provided for the purpose of transparency calculations (Reporting to FITRS)

156. The transparency calculations for equity and equity-like instruments are to be performed by the NCAs. However, NCAs have signed a delegation agreement with ESMA in order to (i) either perform the transparency calculations only or to (ii) both collect the necessary data to perform the transparency calculations directly from the reporting entities and perform such calculations.

157. The delegation agreement will end by end 2021 since as part of the ESAs' review, the amendment of MiFIR Article 22 and 27 implies that trading venues, SI, APAs, and CTPs should provide financial instruments reference data, data necessary for the transparency calculations and data necessary for the double volume cap calculations directly to ESMA. However, the changes in Article 22 of MiFIR have not amended the responsibilities for performing the transparency calculations, which remains with NCAs. Therefore, a new delegation agreement is currently developed to ensure the continuity of ESMA performing the calculations.

158.* The transparency calculations for equity and equity-like instruments include the following parameters:

159. In RTS 1:

- the most relevant market in terms of liquidity (MRMTL) as per Article 4 of RTS 1;
- the average daily turnover (ADT) for the determination of the LIS thresholds;
- the average value of transactions (AVT) for the determination of the SMS.

160. In CDR 2017/567:

- the determination of the liquid market based on:
 - the average daily turnover (ADT);
 - the average daily number of transactions (ADNTE);
 - the free-float;
 - daily trading.

161. In RTS 11:

- the average daily number of transactions on the most relevant market in terms of liquidity (ADNTE-MRMTL).

162. In order to perform such calculations, reference and quantitative data is necessary. The provision of reference and quantitative data is split among the different legal texts. More specifically, Annex III of RTS 1 provides for the reference data needed to perform the transparency calculations mentioned above and the related information on the quantitative data can be found in the Reporting Instructions²¹. Therefore, the specific fields are currently missing from the legal texts. Moreover, the calculations provided in RTS 11 can be performed by leveraging on the data received for the calculations required by RTS 1. Finally, CDR 2017/567 provides for both, reference and quantitative data for the liquidity assessment as determined in Articles 1 to 5 of CDR 2017/567.

163. ESMA proposes to provide clarity and legal certainty to market participants and to align to the extent possible the structure of RTS 1 and CDR 2017/567 and includes in the former a new annex with the details of the relevant quantitative data currently missing from the legal texts but that can be found, as mentioned above in the Reporting Instructions. Those will complement the reference data necessary for the performance of the calculations as per CDR 2017/567 (see Section 3.3.2.1).

²¹ [esma65-8-1776_firds_transparency_reporting_instructions_v2.1.pdf \(europa.eu\)](#)

164.* No changes are proposed to the tables related to reference data to be provided for the purpose of transparency calculations (Tables 1 and 2 of Annex III of RTS 1).

Question 13: Do you agree with ESMA’s proposal not to change Tables 1 and 2 of Annex III of RTS 1? If not, and you consider that certain modifications shall be made, please explain.

3.3.2.1 New table to report quantitative data for the purpose of the transparency calculations (Reporting to FITRS)

165. Article 22(4) of MiFIR requires trading venues, APAs and CTPs to provide information for the performance of the transparency calculations. Currently, the quantitative data to be reported to FITRS (Financial Instruments Transparency System) for the transparency calculations is not defined in RTS 1 but it is generically envisaged in RTS 3. To increase legal certainty and transparency to market participants, ESMA is proposing to define this quantitative data, by introducing a new Annex IV in RTS 1 which is based on the Reporting Instructions which are currently containing such information. After the introduction of this new Annex, the Reporting Instructions will still be available as they also contain further technical aspects related to the implementation of the reporting of the data necessary for the performance of the transparency calculations.

166. All changes between this new Annex and the Reporting Instructions are marked in bold below. As an example, as mentioned in the FR on equity transparency, ESMA is proposing to change the reporting requirements related to the trading volumes executed per waiver type.

167. Last but not least, ESMA recalls that the transparency reference data shall be sent only at pre-determined dates specified in the RTS, while the quantitative data is expected to be received, as per Reporting Instructions, on a daily basis with a t+7 delay.

168. The new Annex IV of RTS 1, for which a new Article 17(6) will be added to RTS 1 (see section 3.2.2) aims at clarifying the quantitative data to be collected for the transparency calculations.

Annex IV

Data to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT and the AVT

Table 1

Symbol table

Symbol	Data Type	Definition
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166

{MIC}	4 alphanumeric characters	Market identifier as defined in ISO 10383
{DATEFORMAT}	ISO 8601 date format	Dates should be formatted by the following format: YYYY-MM-DD.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. decimal separator is '.' (full stop); negative numbers are prefixed with '-' (minus); values are rounded and not truncated.
{INTEGER-n}	Integer number of up to n digits	Numerical field for both positive and negative integer values.

Table 2

Details to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT and the AVT (based on the current reporting instructions0

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 1
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1	Instrument identification code	Code used to identify the financial instrument	Regulated Market (RM) Multilateral Trading Facility (MTF) Approved Publication Arrangement (APA) Consolidated tape provider (CTP)	{ISIN}
2	Reporting Execution date	Date for which the data is provided and on which the trades are executed.	RM, MTF, APA, CTP	{DATEFORMAT}
3	Trading Execution venue	Segment MIC for the trading venue, where available, otherwise operating ena MIC.	RM, MTF, APA, CTP	{MIC} – of the trading venue or systematic internaliser or {MIC}- XOFF'
4	Suspended instrument flag	Indicator of whether the instrument was suspended for the whole trading day on the respective TV APA on the reporting execution dayte . The suspension flag shall be populated with Y if the instrument is suspended during the whole trading day. As a consequence, Fields 5 to 20 shall be reported with a value of zero.	RM, MTF, CTP	TRUE - if the instrument was suspended for the whole trading day or FALSE – if the instrument was not suspended for the whole trading day
5	Total number of transactions	The total number of transactions executed on the reporting execution dayte . (**)	RM, MTF, APA, CTP	{INTEGER-18}

6	Total turnover	The total turnover executed on the reporting execution day, expressed in EUR. (*) (**)	RM, MTF, APA, CTP	{DECIMAL-18/5}
7	Total number of transactions executed under reference price waiver	The total number of transactions executed under a waiver in accordance with Article 4(1)(a) of Regulation (EU) No 600/2014 (reference price waiver) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
8	Total turnover of transactions executed under reference price waiver	The turnover executed under a waiver in accordance with Article 4(1)(a) of Regulation (EU) No 600/2014 (reference price waiver) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
9	Total number of transactions executed under negotiated transaction waiver of type 1	The total number of transactions executed under a waiver in accordance with Article 4(1)(b)(i) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 1) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
10	Total turnover of transactions executed under negotiated transaction waiver of type 1	The turnover executed under a waiver in accordance with Article 4(1)(b)(i) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 1) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}

11	Total number of transactions executed under negotiated transaction waiver of type 2	The total number of transactions executed under a waiver in accordance with Article 4(1)(b)(ii) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 2) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
12	Total turnover of transactions executed under negotiated transaction waiver of type 2	The turnover executed under a waiver in accordance with Article 4(1)(b)(ii) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 2) on the execution date, expressed in EUR. (*) (**)	RM, MTF, CTP	{DECIMAL-L-18/5}
13	Total number of transactions executed under negotiated transaction waiver of type 3	The total number of transactions executed under a waiver in accordance with Article 4(1)(b)(iii) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 3) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
14	Total turnover of transactions executed under negotiated transaction waiver of type 3	The turnover executed under a waiver in accordance with Article 4(1)(b)(iii) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 3) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
15	Total number of transactions executed under large in scale waiver	The total number of transactions executed under a waiver in accordance with Article 4(1)(c) of Regulation (EU) No 600/2014 (large in scale waiver) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}

16	Total turnover of transactions executed under large in scale waiver	The turnover executed under a waiver in accordance with Article 4(1)(c) of Regulation (EU) No 600/2014 (large in scale waiver) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
17	Total number of transactions executed under order management facility waiver	The total number of transactions executed under a waiver in accordance with Article 4(1)(d) of Regulation (EU) No 600/2014 (order management facility waiver) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
18	Total turnover of transactions executed under order management facility waiver	The turnover executed under a waiver in accordance with Article 4(1)(d) of Regulation (EU) No 600/2014 (order management facility waiver) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
19	Total number of transactions excluding those executed under large-in-scale waiver the post-trade LIS deferral.	Total number of transactions executed on the reporting day, excluding those transactions executed under Large-In-Scale waiver (post-trade) The total number of transactions executed under a waiver in accordance with Article 11(3) of this Regulation (post-trade LIS deferral) on the execution date. (***)	RM, MTF, APA, CTP	{INTEGER-18}

20	Total turnover of excluding transactions executed under large-in-scale waiver the post-trade LIS deferral.	Total volume of transactions executed on the reporting day, excluding those transactions executed under Large-In-Scale waiver (post-trade). The turnover executed under a waiver in accordance with Article 11(3) of this Regulation (post-trade LIS deferral) on the execution date. (*) (***)	RM, MTF, APA, CTP	{DECIMAL-18/5}
21	Non-price forming transactions flag	Indicator of whether for off-venue transactions (XOFF), Field 5 and Field 6 for the instrument are related to one type of non-price forming transactions, excluding NPFT. Indicator of whether for transactions executed on a trading venue, Fields 9 and 10 or Fields 11 and 12 or Fields 13 and 14 or Fields 15 and 16 for the instrument are related to one type of non-price forming transactions.	RM, MTF, APA, CTP	In case of benchmark transactions BENC, or In case of portfolio transactions PORT, or In case of contingent transactions CONT, or In case of other non-price forming transactions NPFT, or empty otherwise

(*) The turnover shall be calculated as number of instruments exchanged between the buyers and sellers multiplied by the unit price of the instrument exchanged for that specific transaction and shall be expressed in EUR.

(**) Transactions that have been cancelled should be excluded from the reported figures. Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date. In all cases, the field has to be populated with any value greater than or equal to zero up to 18 numeric characters including up to 5 decimal places.

(***) Transactions that have been cancelled should be excluded from the reported figures. **Transactions that benefit from a waiver publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date.** In all cases, the field has to be populated with any value greater than or equal to zero up to 18 numeric characters including up to 5 decimal places.

Question 14: Do you agree with ESMA's proposal on the new Tables 1 and 2 of Annex IV of RTS 1? If not, please explain and provide any alternative proposal you might have.

3.3.3 Other issues that emerged in the CfE

169. The two issues below will not be part of the proposed amendments. However, considering their relevance, ESMA provides feedback and a possible way forward to alleviate or solve the issue.

3.3.3.1 Field "Price" of CDR 2017/567

170. In the context of the CfE, stakeholders requested clarifications on the reporting of the field 'price' in CDR 2017/567 and the possibility to set such price equal to zero. Even though the review of this CDR is out of the scope of this report, this is a relevant field to be reported to FITRS. Therefore, ESMA provides the following clarifications in this regard.

171. As specified in CDR 2017/567, this price has to be reported on four occasions.

- case 1: the day corresponding to the 'Date of admission to trading or first trading date' as per Article 5(3)(a);
- case 2: the last day of the 4 weeks period starting on the 'Date of admission to trading or first trading date' as per Article 5(3)(b)(i);
- case 3: the last trading day of each calendar year as per Article 5(3)(b)(ii);
- case 4: the day on which a corporate action is effective as per Article 5(3)(b)(iii).

172. Therefore, the first price which has to be provided the day before the day on which the financial instrument was admitted to trading or first traded, might be the reference price of the instrument or the no-arbitrage price which should reflect the instrument valuation since such price should be used to perform the estimates of the liquidity parameters of the instrument.

173. Furthermore, ESMA highlights that the price should refer to a price forming transaction (See Section 3.1.2).

174. ESMA appreciates the difficulty to provide such price and would like to receive concrete examples or scenarios when the price cannot be determined as above or cases of the need to set a zero price for the different types of instruments: shares, ETFs, depositary receipts, certificates, other equity-like financial instruments.

175. Where the same ISIN is listed multiple times on the same venue at different prices, ESMA recommends reporting the price of the most liquid trading venue for that ISIN. In any case, the price should be expressed in Euros. ESMA intends to provide this recommendation in the future Guidelines on transparency/Q&A.

Question 15: Please provide concrete examples or scenarios when the price cannot be determined as described or cases of the need to set a zero price for the different types of instruments: shares, ETFs, depositary receipts, certificates, other equity-like financial instruments.

3.3.3.2 Field 11 - “Date of admission to trading or date of first trade” of RTS 23

176. In the context of the CfE it was highlighted that in the case of equity instruments, the admission to trading date of an instrument (Field 11 of RTS 23) determines whether an 'ESTM'²² or 'FFWK'²³ record is valid and in some cases it is necessary to check this field (Field 11) in Financial Instruments Reference Data System (FIRDS) in order to determine which transparency record to apply from FITRS.

177. More specifically, it was mentioned that there are cases of confusing admission to trading dates which can distort the application of transparency records from FITRS and the example mentioned was when an instrument has undergone an ISIN change and FITRS contains a new 'ESTM' or 'FFWK' record for the new ISIN.

178. In such cases, all venues need to report an updated admission to trading date to FIRDS for the new ISIN; it suffices for a single venue to maintain the admission to trading date of the old ISIN for any new 'ESTM' or 'FFWK' record in FITRS to be rendered invalid.

179. In this context, ESMA clarifies that Q&A 13 in the section of General topics in the Q&A document on MiFID II and MiFIR transparency topics²⁴ has been published to clarify which date has to be reported in the case of corporate actions which determine a new ISIN.

180. Furthermore, another Q&A, Q&A 3 in the Equity transparency section of the Q&A document on MiFID II and MiFIR transparency topics²⁵ will be amended to clarify how to determine which type of transparency calculations methodology has to be applied: estimates ('ESTM'), 4-weeks ('FFWK'), annual calculations. In any case, ESMA will investigate if additional validations can be added to ensure better data quality.

²² The record providing the transparency calculations based on the estimates

²³ The record providing the transparency calculations based on the trading activity recorder over the first four weeks of trading

²⁴ esma70-872942901-35_qas_transparency_issues.pdf (europa.eu)

²⁵ esma70-872942901-35_qas_transparency_issues.pdf (europa.eu)

3.4 Flags (Table 4 of Annex I)

182. Table 4 of Annex I of RTS 1 specifies flags for identifying different types of transactions, thereby aiming at informing market participants and regulators of specific characteristics of transactions. According to Articles 7(2)(e) and 20(3)(a) of MiFIR the flags aim at 'distinguishing between those [transactions] determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors'. Furthermore, according to Article 20(3)(b) of MiFIR, ESMA may specify the application of post-trade transparency obligations 'to transactions involving the use of those financial instruments for collateral lending or other purposes where the exchange of financial instruments is determined by factors other than the current market valuation of the financial instrument.
183. Table 4 of Annex I of RTS 1 specifies the name of the flag and its description, including the circumstances when the flag should be used, the symbol to be used and the type of execution venue (RM, MTF) or publication venue (APA, CTP) to which the obligation for flagging a type of transactions apply.
184. Broadly speaking, RTS 1 currently provides for 4 types of flags:
- Flags used to signal that a transaction has been amended or cancelled ('CANC', 'AMND');
 - Flags to identify transactions that are non-price forming and/or where the price has been determined based on factors other than the market price ('BENC', 'NPFT', 'TNCP');
 - Flags linked to waivers from pre-trade transparency or deferred publication of transactions ('LRGS', 'RFPT', 'NLIQ', 'OILQ', 'PRIC');
 - Other flags introduced either due to regulatory requirements ('ALGO'), to avoid the double-reporting of OTC transactions by the CTP ('DUPL') or to provide information on certain transactions executed on an SI ('SIZE', 'ILQD', 'RPRI') or for other purposes ('ACTX', 'SDIV').
185. ESMA issued via Q&As guidance on the application of flags²⁶, explaining in particular that flags should only be applied in case the circumstances described are met and that where none of the specified circumstances apply the transaction should be published without a flag. Moreover, ESMA provided guidance on which flags are mutually exclusive and which flags can be combined with other flags.
186. Nevertheless, since the application of MiFID II ESMA noted that a number of issues with flags persist, thereby undermining the quality and usability of transactions published,

²⁶ See Q&A 2a of section 2 of the Q&As on MiFID II transparency topics.
https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-35_qas_transparency_issues.pdf

in particular for OTC-transactions. ESMA observed and/or has been made aware by market participants of the following:

- Inconsistent use of flags, in particular for the 'NPFT' and 'TNCP' as well as the 'AMND' and 'CANC' flags, but also for 'LRGS', which is at times used to flag that the transaction benefitted from a waiver;
- Different approaches for the cumulative use of flags, for instance for non-price forming transactions;
- Limited use of certain flags, e.g. the SI specific flags; and
- Publication of flags in different order, thereby making it difficult for users to quickly read the information and making it more challenging to consolidate the information in real time.

187. In view of these observations, ESMA has reviewed the complete set of flags with the objective of ensuring that flags are applied in a consistent manner across the Union by all market participants, thereby delivering meaningful and accurate information of important characteristics of different types of transactions to market participants and regulators. Based on this review, ESMA suggests deleting a number of flags, amending certain existing flags and introducing a few additional flags. Finally, ESMA is suggesting requiring the publication of flags in a prescribed order.

3.4.1 Deletion of existing flags

SI flags SIZE, ILQD, RPRI

188. In line with ESMA's general approach to limit the number of flags in order to streamline the use of flags across market participants and improve the quality of pre-and post-trade transparency data, ESMA proposes to delete the SI flags 'SIZE', 'ILQD' and 'RPRI' as specified in Table 4 of Annex I of RTS 1.

189. From the feedback that ESMA received through the OTC data quality questionnaire that it carried out in 2020 with APAs and SIs, it appeared that SIs themselves noted that these flags are rarely used and that there are questions on the accuracy of the use of these flags.

190. ESMA recognises that these flags, introduced to identify and provide information on certain transactions executed on an SI, may be used for the purpose of carrying out data analysis. ESMA is aware that there are some use cases existing in practice, in particular in relation to identifying transactions which have received a price improvement through the RPRI flag. Without this RPRI flag, information on price improvements may be difficult to find.

191. Through this CP, ESMA would like to hear from stakeholders whether they use any of these flags for any particular purpose and whether they consider these flags to have an

added value. Unless feedback from stakeholders points to a different direction, ESMA would propose to delete these particular flags.

192. The following would hence be deleted from Table 4 of Annex I:

Flag	Name	Type of execution or publication venue	Description
'SIZE'	Transaction above the standard market size flag	APA CTP	Transactions executed on a systematic internaliser where the size of the incoming order was above the standard market size as determined in accordance with Article 11.
'ILQD'	Illiquid instrument transaction flag	APA CTP	Transactions in illiquid instruments as determined in accordance with Articles 1 to 9 of Commission Delegated Regulation (EU) 2017/567 (1) executed on a systematic internaliser.
'RPRI'	Transactions which have received price improvement flag	APA CTP	Transactions executed on a systematic internaliser with a price improvement in accordance with Article 15(2) of Regulation (EU) No 600/2014.

Question 16: Do you agree with the deletion of the SI flags 'SIZE', 'ILQD' and 'RPRI'? If not, please explain what you consider to be their added value.

Agency cross transaction flag

193. RTS 1 provides for an agency cross transaction flag (ACTX) to be used for OTC-transactions where an investment firm has brought together clients' orders with the purchase and the sale conducted as one transaction and involving the same volume and price.

194. Agency-cross transactions were a practice frequently used by UK investment firms, in particular pre-MiFID II where the activity of broker-crossing networks was not regulated. However, given that under MiFID II SIs are not allowed to perform matched principal trading on a regular basis, the use of the flag is limited to pure OTC-trading. Moreover, since Article 23(2) of MiFIR requires firms that operate an internal matching system to be authorised as an MTF, the practical use case of the ACTX flag appears limited. ESMA therefore suggests deleting the ACTX flag.

Question 17: Do you agree with the deletion of the ACTX flag? If not, please explain what you consider to be its added value.

195. The proposed approach for non-price forming transactions in RTS 1, no longer requires the use of the flags 'PRIC and 'TNCP', ESMA therefore suggests deleting these flags. More detail on this is provided in the next subsection.

3.4.2 Amendment of existing flags – non-price forming transactions

196. There are currently different flags that are relevant for non-price forming transactions. There are first flags for some specific non-price forming transactions, i.e. BENC for benchmark trades. In addition to those, there are two more generic flags, i.e. NPFT for transactions not subject to post-trade transparency when executed OTC (Article 13 of RTS 1) and TNCP for transactions exempted from the Share Trading Obligation (Article 2 of RTS 1). Finally, negotiated transactions subject to conditions other than the current market price (NT3) also have a dedicated flag, i.e. PRIC.
197. The flagging of non-price forming trades has revealed challenging to apply in practice for market participants. The broad variety of flags and existing overlaps between those flags have led to the inconsistent application of the RTS 1 flagging requirements and, ultimately, to blurring the picture for market participants and supervisors trying to interpret executed transactions on the basis of existing flags.
198. The example of benchmark transactions illustrates well this overlap. Where such a transaction is executed OTC, it could possibly be subject to two flags, i.e. 'BENC' and 'TNCP'. Similarly, when executed as a negotiated transaction on a trading venue, the transaction can be flagged with 'BENC', 'NPFT', 'TNCP' and 'PRIC'.
199. ESMA therefore believes there is merit in making proposals to avoid such an overlap and is working on two main amendments in parallel. ESMA would like to reduce the number of existing flags to simplify the regime and avoid confusion for market stakeholders. In addition, ESMA would like to better clarify how flags should be used and combined. This latter proposal is further developed in Section 3.4.4.
200. Regarding the possible simplification of the regime, ESMA suggests in section 3.1.2 amendments to the lists of the non-price forming transactions in RTS 1, i.e. Articles 2, 6 and 13. The proposed amendments would result in more consistency between those three Articles. Under the proposed drafting, the only difference would be the inclusion in Articles 2 and 6 of benchmark, portfolio and contingent transactions (paragraphs (a), (b), (c) of Articles 2 and 6). Contrary to other transactions listed under Articles 2 and 6, those three types of transactions are not listed in Article 13 and are therefore subject to post-trade transparency when executed OTC. All other non-price forming transactions are not subject to post-trade transparency and should not be reported.
201. Considering that benchmark transactions already benefit from a dedicated flag (i.e. 'BENC') this means that the flag 'TNCP' remains useful for only "portfolio" and "contingent" transactions (when those are executed OTC). ESMA would therefore first propose to replace this flag with two new flags, i.e. 'PORT' and 'CONT'. This proposal is consistent with recent requests received from some market participants asking to introduce a specific flag for portfolio transactions. As explained in section 3.4.4, ESMA proposes that those three flags ('BENC', 'PORT' and 'CONT') are never combined with other "non-price forming" flags.

202. Regarding on-venue trading, ESMA would also like to simplify the regime. As mentioned above, there are, under the current regime, three main overlapping flags: i.e. 'NPFT', 'TNCP' and 'PRIC' (in addition to 'BENC' flag used for benchmark transactions). It is proposed to only maintain the 'NPFT' and to use this flag to flag all non-price forming transactions other than benchmark, portfolio or contingent trades (which will already benefit from a dedicated flag). In practice, this flag would be used for all transactions excluded from transaction reporting under Article 2(5) of RTS 22 and executed on trading venue. It is to be noted that ESMA does not have a mandate to exclude those transactions from the scope of post-trade transparency when executed on-venue. Those are therefore reportable under the current rules.

203. In ESMA's view, the TNCP flag does not add any additional information for market participant and it is therefore proposed to delete it. In addition, ESMA also proposes to delete the 'PRIC' flag which is meant to identify negotiated transactions subject to conditions other than the current market price - Article 4(1)(b)(iii) of MiFIR (NT3 waiver).

204. It is indeed ESMA's understanding that non-price forming transactions (i.e. transactions exempted from the STO through Article 2 of RTS 1) are generally executed either under the waiver set out under Article 4(1)(b)(iii) (i.e. negotiated transactions subject to conditions other than the current market price or NT3) or under an LIS waiver (when used for pre-arranged transactions). ESMA therefore proposes to create a new flag to identify pre-arranged transactions executed under the LIS waiver ('NTLS', see section 3.4.3). This new flag therefore makes the 'PRIC' flag redundant since transactions executed under the NT3 waiver will include all transactions that are non-price forming but not executed under the LIS waiver.

205. To summarise, ESMA proposes:

- a. to add two new flags to Table 4 of Annex 1 of RTS 1, i.e. 'PORT' and 'CONT' for transactions listed respectively under (i) Articles 2(b) and 6(b) and (ii) Articles 2(c) and 6(c) of RTS 1;
- b. to delete the flags 'PRIC' and 'TNCP' from Table 4 of Annex I of RTS 1; and
- c. to change the definition of the 'NPFT' flag which should include transactions excluded under Article 2(5) of RTS 22.

206. ESMA's proposals and the new suggested flagging system of non-price forming transactions are summarised in the table below.

Type of transactions	Venue of execution	Waiver	Flags
Benchmark transactions	OTC	N/A	BENC
	On-venue	NT3 waiver	BENC
		pre-arranged LIS	BENC, NTLS
Portfolio trade	OTC	N/A	PORT
	On-venue	NT3 waiver	PORT

		pre-arranged LIS	PORT, NTLS
Contingent trade	OTC		CONT
	On-venue	NT3 waiver	CONT
		pre-arranged LIS	CONT, NTLS
Excluded transaction under Article 2(5) of RTS 22	OTC*		
	On-venue	NT3 waiver	NPFT
		pre-arranged LIS	NPFT, NTLS

* Non-reportable

Question 18: Do you agree with the approach suggested for non-price forming transactions? If not, please explain.

3.4.3 Addition of new flags

207. ESMA proposes to introduce two new equity flags in RTS 1. This would concern one flag related to on-book transactions benefitting from a pre-trade large in scale (LIS) waiver and one for off-book transactions that are pre-arranged and benefit from a LIS waiver (due to order size) but do not benefit from a negotiated trade (NT) waiver.

208. First and foremost, from the experience that ESMA has on providing waiver opinions on intended waivers from trading venues, it appears that in the equity sphere many trading venues use the current post-trade flag as a pre-trade flag. In view of the inconsistent use of the 'LRGS' post-trade flag, which is often used to flag that the transaction benefitted from an LIS waiver, ESMA would propose to introduce two dedicated pre-trade LIS waiver flags.

209. For on-book transactions the flag 'WAIV' would be used for transactions executed on venue where at least one order benefitted from the LIS waiver. This is to avoid difficulties in using the flag, i.e. in the case where not both sides of the transaction were above LIS.

210. For off-book transactions the flag 'NTLS' would be used for OTC transactions brought onto a venue. As this would concern negotiated transactions, it is expected that both orders would always be above LIS.

211. ESMA acknowledges that a pre-trade waiver flag has been subject to previous discussion, such as in the Discussion Paper and the Final Report on the Draft Regulatory and Implementing Technical Standards of MiFID II/MiFIR back in 2014 and 2015²⁷. ESMA had previously in its Final Report settled on substituting the pre-trade LIS waiver flag for a post-trade LIS deferral flag. However, it should be noted that most of the orders that can benefit from a waiver would also be able to benefit from a deferral. Hence the information leakage that may occur would be very limited. At the same time though, ESMA recognises

²⁷ https://www.esma.europa.eu/sites/default/files/library/2015/11/2014-548_discussion_paper_mifid-mifir.pdf; https://www.esma.europa.eu/sites/default/files/library/2015/11/2015-esma-1464_-_final_report_-_draft_rts_and_its_on_mifid_ii_and_mifir.pdf

that for partially filled orders, there may be some information leakage. Therefore, it may be considered to limit the flag to only completely filled LIS orders.

212. Last but not least, it should be noted that the off-book flag has been specifically suggested by market participants, also as feedback to the latest CfE. ESMA hence considers that there would be support for introducing the 'WAIV' and 'NTLS' based on the current practice of various trading venues.

213. Stakeholders are invited to indicate whether they support the proposal by ESMA to introduce two equity pre-trade LIS waiver flags, consisting of one for on-book transactions and one for off-book transactions.

Question 19: Do you agree with ESMA's proposal to introduce a pre-trade LIS waiver flag for on-book transactions? If not, please explain. Should it be limited to completely filled LIS orders?

Question 20: Do you agree with ESMA's proposal to introduce a pre-trade LIS waiver for off-book transactions? If not, please explain

214. Market participants, including the FIX Trading community, recommended the addition of few additional flags, with the main objective to better identify addressable liquidity.

215. Trades brought on a venue purely for clearing purposes: Stakeholders recommended the introduction of a flag to identify trades that are purely for settlement purposes and hence non-addressable liquidity. Articles 2, 6 and 13 list transactions carried out only for clearing and settlement purposes. Under the proposal for the flagging of non-price forming transactions such transactions would be flagged as 'NPFT'. ESMA is not convinced that it is necessary to provide the flagging of trades listed in Article 6(c) to (k) of RTS 1 on a more granular basis since all these transaction types are non-addressable liquidity.

216. Out of trading reporting hours: Market participants also recommended the introduction of a new flag to mark trades that have been published the business day after the trade date, due to the trade being published to an APA or trading venue outside of operating hours. ESMA assessed this proposal and concluded that such a flag does not seem indispensable. The fields in Table 3 of Annex I of RTS 1 already provide for dedicated fields for trading date and time and publication date and time. Hence, the information is already available for market participants and therefore ESMA would not propose adding such a flag.

217. Inter-affiliate group transactions: ESMA received also a request to introduce a new flag to mark transactions undertaken between legal entities of a single company where those transactions are considered to be for 'housekeeping' purposes (e.g. position management) or intercompany back-to-back trades. ESMA considers that the transactions for 'housekeeping purposes' would be exempted from post-trade transparency for OTC trades under Article 13 of RTS 1 or flagged as 'BENC' or 'PORT'. Where such transactions are executed on trading venue, they would be flagged using 'NPFT', 'BENC', or 'PORT'. Furthermore, introducing such a flag risks introducing some uncertainty on the reporting



and flagging of inter-affiliate activities that are addressable liquidity. For these reasons ESMA does not propose adding such a flag.

Question 21: Do you agree with the proposal not to add such additional flags? If not, please explain why those flags are needed in your view.

Question 22: Do you recommend adding/deleting/amending any other flags? If yes, please explain.

3.4.4 Order of flags

218. Table 5 below provides basic instructions on the publication of flags. Flags are categorised in levels (i.e. 1, 2, 3...) and should be populated in ascending order. Where more than one mutually exclusive flag can be populated per level, those flags are assigned sub-levels (e.g. 1.1, 1.2, 1.3...). Only one flag can be populated per level. Where a transaction does not meet the description of (any) flag in a level, the transaction should be encoded with ‘-’ for that level.

219. ESMA intends to provide further guidance on the use of flags, in particular on the combination of different flags and on different trade scenarios, once the amendments to RTS 1 and 2 have been endorsed by the European Commission.

220. Table 6 below provides an overview of the proposed list of flags for the purpose of post-trade transparency.

221. In order to better enable stakeholders to read the information provided in the post-trade transparency flags and to ease the consolidation of data by the CTP, ESMA suggests prescribing the order of flags being used. The proposal below is largely based on the current approach in the FIX MMT standard. However, since ESMA proposes to delete and add certain flags, the proposal below cannot fully match the current FIX MMT approach. Also, it should be noted that the FIX MMT standard includes further elements going beyond the list of flags for the purpose of post-trade transparency. This information is not included in the table below.

222. ESMA proposes to add Table 5 to Annex I of RTS 2 (as table 4a) and to replace the current table 4 of Annex of RTS 1 by TABLE 6 (as table 4).

Table 5 Instructions for the publication of flags

Definition	Population of Flags
Level (i.e. 1, 2, 3,...)	Flags shall be populated in the order of levels in table 2 and be separated by commas (,). One flag may be used per level. Where a transaction does not meet the description of a flag in a particular level, no flag should be used and/or the transaction should be encoded with ‘-’.

*Sub-levels (i.e. 1.1, 1.2, 1.3,...)	Flags on sublevels are mutually exclusive and only one flag per level shall be used.
Type of Execution or publication venue	Execution (RM, MTF) or publication venues (APA, CTP) should only populate fields applicable to that type of execution or publication venue. Where a flag is not applicable to a publication or execution venue, no flag should be used and/or the transaction should be encoded with '-'.

TABLE 6 - LIST OF FLAGS FOR THE PURPOSE OF POST-TRADE TRANSPARENCY

Level	Sublevel	Flag	Name	Type of execution or publication venue	Description
1	1.1	‘NLIQ’	Negotiated transaction in liquid financial instruments flag	RM, MTF CTP	Transactions executed in accordance with Article 4(1)(b)(i) of Regulation (EU) No 600/2014.
	1.2	‘OILQ’	Negotiated transaction in illiquid financial instruments flag	RM, MTF CTP	Transactions executed in accordance with Article 4(1)(b)(ii) of Regulation (EU) No 600/2014.
	1.3	‘NPFT’	Non-price forming transaction flag	RM, MTF CTP	Transactions where the exchange of financial instruments is determined by factors other than the current market valuation of the financial instrument as listed under Article 13.

					Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590
	1.4	‘BENC’	Benchmark transactions flag	RM, MTF APA CTP	Transactions executed in reference to a price that is calculated over multiple time instances according to a given benchmark, such as volume-weighted average price or time-weighted average price.
	1.5	‘PORT’	Portfolio transactions flag	RM, MTF APA CTP	Transactions in five or more different financial instruments where those transactions are traded at the same time by the same client and as a single lot against a specific reference price.
	1.6	‘CONT’	Contingent transactions flag	RM, MTF APA CTP	Transactions that are contingent on the purchase, sale, creation or redemption of a derivative contract or other financial instrument where all the components of the trade are meant to be

					executed as a single lot.
2	2.1	‘CANC’	Cancellation flag	RM, MTF APA CTP	When a previously published transaction is cancelled
	2.2	‘AMND’	Amendment flag	RM, MTF APA CTP	When a previously published transaction is cancelled
3	3.1	‘RFPT’	Reference price transaction flag	RM, MTF CTP	Transactions which are executed under systems operating in accordance with Article 4(1)(a) of Regulation (EU) No 600/2014.
	3.2	‘WAIV’	Pre-trade LIS order flag for on-book transactions	RM, MTF CTP	Transactions executed on a trading venue (on-book) where at least one order benefitted from the large in scale waiver in accordance with Article 4(1)(c) of Regulation (EU) No 600/2014
	3.3	‘NTLS’	Pre-trade LIS transaction flag for off-book transactions	RM, MTF CTP	Off-book transactions that benefit from a large in scale waiver in accordance with Article 4(1)(c) of Regulation (EU) No 600/2014

4		‘SDIV’	Special dividend transaction flag	RM, MTF APA CTP	Transactions that are either: executed during the ex-dividend period where the dividend or other form of distribution accrues to the buyer instead of the seller; or executed during the cum-dividend period where the dividend or other form of distribution accrues to the seller instead of the buyer.
5		‘ALGO’	Algorithmic transaction flag	RM, MTF CTP	Transactions executed as a result of an investment firm engaging in algorithmic trading as defined in Article 4(1)(39) of Directive 2014/65/EU.
6		‘LRGS’	Post-trade large in scale transaction flag	RM, MTF APA CTP	Transactions that are large in scale compared with normal market size for which deferred publication is permitted under Article 15.
7		‘DUPL’	Duplicative trade reports flag	APA	When a transaction is reported to more than one APA in accordance with Article 16 17(1) of Delegated



					Regulation (EU) 2017/571.
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Question 23: Do you agree with the proposal to prescribe the order of the population of flags? If not, please explain and provide an alternative proposal.

4 Review of RTS 2

223. Similarly to the review report on equity transparency, ESMA published in September 2020 a review report analysing the transparency regime applicable to non-equity financial instruments and putting forward some proposals to both simplify and improve it (FR report on non-equity transparency)²⁸. With respect to the transparency regime, the main proposals made in this report include: (i) the deletion of the SSTI waiver and deferral, (ii) the removal of the discretionary supplementary deferral regime available to NCAs and (iii) a streamlined deferral regime.
224. ESMA also published a dedicated review report focusing more specifically on the pre-trade transparency regime applicable to SIs in non-equity financial instruments²⁹. ESMA made in this report some practical recommendations regarding a possible simplification of Article 18 of MiFIR.
225. It is important to note that the Commission has not yet published its proposal regarding the future revision of MiFIR. Uncertainty therefore remains about whether the proposals made by ESMA in its various review reports will be included in the Commission's proposal (and in the final legislative act amending MiFIR).
226. The proposals below therefore take this current situation into account. Certain aspects of the transparency regime for non-equity financial instruments have in particular been deliberately left outside of the scope of this review because they are too much linked to possible amendments of Level 1.
227. This is typically the case for the calibration of the LIS and SSTI thresholds. Pending the Commission's proposal, ESMA has considered more relevant to focus its analysis on targeted adjustments which appeared the most urgent to implement (e.g. with respect to commodity derivatives) and on collecting general feedback on the regime. Beyond those proposals, a larger scale review of LIS and SSTI thresholds would appear more appropriate once ESMA has received more clarity regarding future level 1 amendments.
228. However, in view of the many requests received by stakeholders over the last years, and building on the work carried out for the FR on non-equity instruments, ESMA includes in this CP its proposals for the recalibration for the determination of the liquidity status and the LIS- and SSTI-thresholds for commodity derivatives.
229. Section 4 is structured as follows: Section 4.1 discusses some general aspects and presents some targeted changes suggested for RTS 2, including pre-trade transparency requirements and amendments to Article 13 of RTS covering the methodology for the various transparency calculations for non-equity instruments. Section 4.2 covers the proposed changes to the methodology used to determine LIS and SSTI thresholds for commodity derivatives, including C 10 derivatives, emission allowances (EA) and

²⁸ MiFID II/ MiFIR review report on the transparency regime for non-equity instruments and the trading obligation for derivatives, 28 September 2020, ref. ESMA70-156-3329.

²⁹ MiFIR report on systematic internalisers in non-equity instruments, 16 July 2020, ref. ESMA70-156-2756.

derivatives on emission allowances (DEA). Section 4.3 presents the proposed changes to the various reporting fields in RTS 2 for post-trade transparency purposes and of quantitative and qualitative data submitted to ESMA for the transparency calculation. This subsection also reflects the changes concerning the proposed recalibration such as the segmentation criteria for specifying the granular commodity derivatives sub-classes. Finally, section 4.4 presents ESMA's proposals for reviewing the regime of flags to be used for post-trade transparency purposes.

4.1 General issues

4.1.1 Pre-trade transparency requirements for trading systems

4.1.1.1 Description of trading systems and related pre-trade transparency requirements (Table 1 of Annex I)

230. Similarly to the regime applicable to equity financial instruments, the pre-trade transparency requirements applicable to non-equity financial instruments are calibrated per type of trading systems (Article 8(2) of MiFIR). This obligation is specified in Table 1 of Annex I RTS 2. The table provides for a description and the related pre-trade transparency requirements for 5 distinct types of trading systems, i.e. continuous auction order book, quote-driven, periodic auction, request-for-quote and voice trading systems.

231. Moreover, RTS 2 also includes another category for "trading systems not covered by first 5 rows" and which is meant to capture "A hybrid system falling into two or more of the first five rows or a system where the price determination process is of a different nature than that applicable to the types of system covered by first five rows".

232. While the pre-trade transparency requirements per trading system are generally consistent across RTS 1 and 2 regarding the description of trading systems and pre-trade transparency requirements applicable to those systems, there are differences between the two and notably: (i) a specific reference to voice trading systems in RTS 2 that is not included in RTS 1 and (ii) a slightly different presentation of trading systems not specifically captured in the tables, including hybrid systems ("any other trading system" in RTS 1 and "trading systems not covered by the first 5 rows" in RTS 2). Moreover, the proposals for RTS 1 (see section 3.1.3) include the addition of a new trading system for FBAs and some adjustments to the category of periodic auction trading systems.

233. There are differences regarding the market structures of equity and non-equity EU markets which justify not to fully align the requirements between RTS 1 and 2. Typically, voice trading systems are used in the non-equity space only. If it is hence relevant to have this specific category listed under RTS 2, it would not be appropriate for RTS 1. On the other side, FBA systems exist for both equity and non-equity financial instruments. Furthermore, the same considerations concerning "hybrid systems" as for equity financial instruments apply also to the non-equity market. Beyond those specificities related to the market structure of non-equity financial instruments, ESMA supports aligning the two tables to facilitate their application.

234.* For this reason, ESMA proposes to replicate the changes presented under sections 3.1.3.1 and 3.1.3.2 also in RTS 2 (See the amended table 1 of Annex I of RTS 2 in section 6.6 (Annex VI)).

Question 24: Do you agree with the proposed amendments above? If not, please do not reiterate the arguments made under the previous question asked for equity instruments and please rather explain why those amendments are not suitable for non-equity financial instruments.

4.1.1.2 Format of the pre-trade transparency information

235. RTS 2 does currently not prescribe for a specific description of the pre-trade transparency information to be published and the specific format to be used. In order to foster more convergent practices and facilitate the consumption and aggregation of the pre-trade information published, ESMA considers complementing Annex I of RTS 2 by fields to be populated for pre-trade transparency purposes to establish clear minimum requirements for the provision of pre-trade information.

236. As explained under section 3.1.3.3, the current requirements leave discretion to market participants to decide on the exact information that should be published and the format to be used. ESMA appreciates that such flexibility facilitates the implementation and application of the RTS 2 obligations for market participants. This is all the more true for non-equity space which encompasses a broad variety of instruments. At the same time, this flexibility leaves room for non-harmonised practices affecting ultimately the readability and usability of the information disclosed by receiving entities and its aggregation with information from other sources.

237. So similarly to what has been proposed for RTS 1, ESMA proposes to further detail how “the range of bid and offer prices or designated market-maker quotes, and the depth of trading interest at those prices” should be made public (Article 9(5)(b) of MiFIR) specifying not only the type of information expected to be disclosed but also the general format to be used depending on the type of execution venue making the information public.

238. ESMA has therefore developed a table based on table 3 in Annex I of RTS 2 for post-trade purposes specifying the fields to be populated for pre-trade transparency. This new table hence complements the pre-trade transparency requirements calibrated per trading system as set out in Table 1 of Annex I.

239. The proposed table consists of 20 fields which have been deemed relevant for the purpose of pre-trade transparency. As explained, ESMA uses as a basis the information already required for post-trade transparency purposes, adapting however the fields as and where necessary. Some fields have also been added (e.g. field # 3 – “side”) to address the specific needs of pre-trade information.

240. The proposed list below for non-equity instruments is longer than the one proposed for equity instruments under section 3.1.3. This is due to the fact that non-equity financial instruments encompass a much greater variety of instruments, the characteristics of which

need to be adequately reflected. ESMA however encourages market participants to provide input on the proposed list of fields and on possible ways to streamline it.

241. For certain fields, ESMA has decided not to further specify how they should be populated for the various types of non-equity instruments. This is typically the case for field # 3 (side) which might require further guidance for products where there are no clear buyer and seller (e.g. derivative contracts). ESMA expects market participants to populate the field based on previous guidance provided, e.g. in Q&A 3(a) of section 2 of the Q&A on transparency issues (ref. ESMA70-872942901-35). ESMA is however open to integrate this guidance into the table if it is considered more appropriate.

242. Unlike for equity financial instruments, MiFIR does not include a mandate for ESMA to specify the arrangements for the publication of quotes by SIs with respect to non-equity financial instruments. The proposed requirements would therefore only apply to trading venues. However, ESMA encourages SIs to also apply the same standard to allow for a consistent approach across execution venues and to provide more certainty to market participants.

243. Taking the above into account, it is proposed:

- a. to amend Article 2 of RTS 2 as follows: ‘Market operators and investment firms operating a trading venue shall make public the range of bid and offer prices and the depth of trading interest at those prices, in accordance with the type of trading system they operate and the information requirements set out in Tables 1, 2 and 3 of Annex I’; and
- b. to add the table below (Table 7) to RTS 2 as Table 2 of Annex I.

Table 7 PROPOSED LIST OF DETAILS FOR THE PURPOSE OF PRE-TRADE TRANSPARENCY (NON-EQUITY INSTRUMENTS)

#	Field identifier	Financial instruments	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 1
1	Submission date and time	For all financial instruments	For trading venues, where the orders and quotes do not have to be published on an aggregated basis, the date and time when the order or quote was introduced for execution into the trading system. For trading venues, the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	Regulated Market (RM), Multilateral Trading Facility (MTF), Organised Trading Facility (OTF)	{DATE_TIME_FORMAT}
2	Instrument identification code	For all financial instruments	Code used to identify the financial instrument	RM, MTF, OTF	{ISIN}

3	Side	For all financial instruments	Side of the order or quote	RM, MTF, OTF	'BID' or 'ASK'
4	Price	For all financial instruments	<p>The price of orders and quotes as required under Table 1 and 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.</p> <p>For credit default swaps (CDS) it shall be the coupon in basis points.</p> <p>In the case of spread bets it shall be the reference price of the underlying instrument.</p> <p>In the case of other derivative contracts and contracts for difference, it is the price of the derivative or contract for difference itself excluding, where applicable, commissions at which the contract is exchanged between the buyer and the seller.</p> <p>Where price is reported in monetary terms, it shall be provided in the major currency unit.</p> <p>Where price is currently not available but pending, the value should be 'PNDG'.</p> <p>Where price is not applicable the field shall not be populated.</p>	RM, MTF, 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>'PNDG' in case the price is not available</p> <p>{DECIMAL-18/17} in case the price is expressed as basis points</p>
5	Price Currency	For all financial instruments	Major currency in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF, OTF	{CURRENCYCODE_3}
6	Price notation	For all financial instruments	Indication as to whether the price is expressed in monetary value, in percentage or in yield	RM, MTF, OTF	<p>'MONE' — Monetary value</p> <p>'PERC' — Percentage</p> <p>'YIEL' — Yield</p> <p>'BAPO' — Basis points</p>

7	Strike price	For all financial instruments underlying an option contract	Strike price of the option expressed in the same currency as the price. Where the strike price is reported in percent values, it should be expressed as percentage where 100 % is represented as '100'.	RM, MTF, OTF	{DECIMAL-18/13} in case the price is expressed as monetary value {DECIMAL-11/10} in case the price is expressed as percentage or yield 'PNDG' in case the price is not available {DECIMAL-18/17} in case the price is expressed as basis points
8	Strike price notation	For all financial instruments underlying an option contract	Indication as to whether the strike price is expressed in monetary value, in percentage or in yield	RM, MTF, OTF	'MONE' — Monetary value 'PERC' — Percentage 'YIEL' — Yield 'BAPO' — Basis points
9	Quantity	For all financial instruments	The number of units of the financial instrument, or the number of derivative contracts in the transaction.	RM, MTF, OTF	{DECIMAL-18/17}
10	Quantity in measurement unit	For contracts designated in units in commodity derivatives, C10 derivatives, contracts for difference, emission allowance derivatives and emission allowances	The equivalent amount of commodity or emission allowance traded expressed in measurement unit.	RM, MTF, OTF	{DECIMAL-18/17}
11	Notation of the quantity in measurement unit	For contracts designated in units in commodity derivatives, C10 derivatives, contracts for difference, emission	Indication of the notation in which the quantity in measurement unit is expressed.	RM, MTF, OTF	'TOCD' — tonnes of carbon dioxide equivalent, for any contract related to

		allowance derivatives and emission allowances			emission allowances 'TONE' — metric tonnes 'MWHO' — megawatt hours 'MBTU' — one million British thermal unit 'THMS' — Therms 'DAYS' — days Or {ALPHANUM-4} otherwise
12	Notional amount	For all financial instruments	<p>This field shall be populated:</p> <p>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> <p>for ETCs, ETNs and securitised derivatives, number of instruments to be exchanged between the buyers and sellers multiplied by the price of the instrument to be exchanged. Equivalently, the price field multiplied by the quantity field;</p> <p>for structured finance products (SFPs), with the nominal value per unit multiplied by the number of instruments at the time of the transaction;</p> <p>for swaps, futures and forwards as per Article 3(a)(1)(a) of Commission Delegated Regulation (EU) No 148/2013;</p> <p>for options, as per Article 3(a)(1)(b) of Commission Delegated Regulation (EU) No 148/2013;</p> <p>for emission allowances, designated in units such as</p>	RM, MTF, OTF	{DECIMAL-18/5}

			<p>barrels or tonnes, the resulting amount of the quantity at the relevant price set in the contract;</p> <p>for emission allowance derivatives, contracts for difference related to commodities, commodity derivatives and C10 derivatives as per Article 3(a)(1)(c) of Commission Delegated Regulation (EU) No 148/2013;</p> <p>For spread bets, the monetary value wagered per point movement in the underlying financial instrument.</p> <p>In case of contracts for difference not related to commodities, number of instruments to be exchanged between the buyers and sellers multiplied by the price of the instrument to be exchanged. Equivalently, the price field multiplied by the quantity field.</p>		
13	Notional currency	For all financial instruments	<p>Major currency in which the notional amount is denominated.</p> <p>In the case of an FX derivative contract, this will be the notional currency of leg 1.</p>	RM, MTF, OTF	{CURRENCYCODE_3}
14	Notional currency 2	For FX derivative contracts	<p>Major currency in which the notional amount is denominated.</p> <p>In the case of an FX derivative contract, this will be the notional currency of leg 2.</p>	RM, MTF, OTF	{CURRENCYCODE_3}
15	Type	For emission allowances and emission allowance derivatives only	This field is only applicable for emission allowances and emission allowance derivatives.	RM, MTF, OTF	<p>'EUAE' — EUA</p> <p>'CERE' — CER</p> <p>'ERUE' — ERU</p> <p>'EUAA' — EUAA</p> <p>'OTHR' — Other</p>
16	Venue	For all financial instruments	<p>Identification of the venue through the system of which orders and quotes are advertised.</p> <p>Use the ISO 10383 segment MIC for transactions executed</p>	RM, MTF, OTF	{MIC}

			on a trading venue in the EU and with an EU SI. Where the segment MIC does not exist, use the operating MIC.		
17	Number of orders and quotes	For all financial instruments	The number of aggregated orders or quotes from different members or participants (where aggregated information is required under Table 1 of Annex I).	RM, MTF, OTF	{DECIMAL-18/0}
18	Trading system	For all financial instruments	Type of trading system on which the order or quote was published.	RM, MTF, OTF	Trading venue: 'CLOB' for continuous auction order book trading systems, 'QDTS' for quote driven trading systems, 'PATS' for periodic auction trading systems, 'RFQT' for request for quote trading systems, 'FBAS' for Frequent Batch Auction trading systems, 'VOIC' for voice trading systems, 'HYBR' for hybrid trading systems, 'XXXX' for any other trading system Systematic internalisers: 'SINT'
19	Publication date and time	For all financial instruments	Date and time when the information was published. For trading venues, APAs and CTPs, the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574. For systematic internalisers, the time reported shall be granular to at least the nearest second.	RM, MTF, OTF	{DATE_TIME_FORMAT}

20	Publication identification code	For all financial instruments	<p>Alphanumerical code assigned by trading venues, SI.</p> <p>The identification code shall be unique, consistent and persistent per ISO 10383 segment MIC and per trading day. Where the trading venue or the SI does not use segment MICs, the identification code shall be unique, consistent and persistent per operating MIC per trading day.</p> <p>The components of the identification code shall not disclose the identity of the members or participants which have submitted the orders or quotes.</p>	RM, MTF, OTF	{ALPHANUM-52}
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Question 25: Do you agree with the proposal to specify the fields to be populated for pre-trade transparency purposes? If not, please explain. In case you support the proposal, please comment on the fields proposed, in particular whether you would consider them necessary and/or whether additional information is required.

4.1.2 LIS and SSTI thresholds in RTS 2 excluding commodity derivatives

244. Considering the possible amendments to the Level 1 text in relation to non-equity transparency in the upcoming MiFIR review, including those suggested by ESMA to the European Commission in the FR on non-equity transparency³⁰, ESMA would refrain from undertaking a large-scale fundamental revision of the LIS and SSTI thresholds across all asset classes at this point in time. In particular, ESMA's proposal for a revised transparency regime whereby the SSTI waiver and the SSTI deferral would be deleted and the pre-trade and post-trade LIS thresholds would be adapted to a lower level, would have an impact on how the threshold methodologies should be adapted.

245. At the same time however, ESMA recognises that in response to the CfE several stakeholders asked to revise certain aspects of the methodologies for both LIS and SSTI calibrations in RTS 2. ESMA received comments on a variety of issues, relating to Articles 9, 10, 13 of RTS 2 and Table 6.2 of Annex II of RTS 2. The comments on threshold calibration issues included the following:

³⁰ [Final Report on the MiFID II/MiFIR transparency regime applicable to non-equity financial instruments](#)



- It was indicated that thresholds for fixed income products (e.g. sovereigns) are too high for smaller markets, as no distinction is made based on the size of the market or the liquidity of the bonds traded in question;
- On LIS thresholds for fixed income options (e.g. Bund and Schatz options), respondents noted that by using the percentile approach, products with an active order book will have a lower block trade threshold as a higher number of smaller trades get executed in the order book. Further, less liquid products tend to trade more off-order book in larger trade sizes resulting in a larger LIS block trade threshold using the percentile approach;
- For pre- and post-trade thresholds for listed equity derivatives it was indicated that thresholds are too low and not reflective of on-screen liquidity. For instance, the minimum quote sizes set by exchanges often exceed the current LIS levels;
- It was suggested by some stakeholders to have a general change of approach in Article 13 of RTS 2 by changing the methodology for both SSTI and LIS thresholds from dynamic pan-European based percentiles to fixed thresholds, to minimise uncertainty as to what would be included;
- It was suggested to set LIS threshold levels for several classes (e.g. stock index options, stock options, ETF options and bond options) by way of a methodology based on the minimum quote size set by exchanges, the aggregation of the minimum quote sizes across market makers in the orderbook and the maximum onscreen trade size executed.

246. Taking into account that a number of issues were raised in relation to the threshold calibrations, ESMA would consider carrying out a targeted review of specific issues in a subsequent review of RTS 2, in a similar vein to what is currently being done for commodity derivatives. However, as mentioned previously, awaiting the proposals from the EC, ESMA would not undertake any fundamental changes. Any changes to the regime that would imply considerable changes to the ESMA reporting and IT systems, would also be less likely to be taken up in the short-term.

247. Consequently, ESMA would invite stakeholders, with the above in mind, to comment on which item would be most pressing to resolve at this point in time and suitable for such a targeted review. This could be, for instance, a particular issue within a particular sub-asset class.

Question 26: Please indicate, if applicable, which medium-term targeted improvements you would like to see to the threshold calibrations in RTS 2.

4.1.3 Amendments to Article 13

4.1.3.1 Date of application of transparency calculations

248. Article 13 of RTS 2 sets out the methodology and the dates of publication and application of the transparency calculations for non-equity instruments. In particular, Article 13(17) requires competent authorities to ensure the publication of the results of the annual transparency calculations³¹ for each financial instrument and class of financial instrument by 30 April each year. Furthermore, those results shall apply from 1 June each year following publication and apply for 12 months.

249. Taking into account the arguments already put forward in section 3.2.2, in particular the complexity behind the infrastructural and IT adjustments necessary for firms to be ready to apply the new calculations, ESMA is of the view that the application of the transparency calculations should be effective on a Monday in line with the proposal put forward for RTS 1. This minor modification aims at ensuring that the process of updating the transparency calculations runs as smoothly as possible while maintaining the timelines envisaged in RTS 2.

250. Therefore, Article 13(17) of RTS 2 should be amended as follows:

*‘Competent authorities shall ensure the publication of the results of the calculations referred to under paragraph 5 for each financial instrument and class of financial instrument by 30 April of the year following the date of application of Regulation (EU) No 600/2014 and by 30 April of each year thereafter. The results of the calculations shall apply from **4 the first Monday of June** each year following publication **until the day before the first Monday of June of the subsequent year.**’*

251. In addition, RTS 2 provides for a derogation for bonds, except ETCs and ETNs, in Article 13(18). Accordingly, NCAs should ensure the publication of the liquidity determination for bonds on a quarterly basis, on the first day of February, May, August and November. In this case, the date of application is the sixteenth day of February, May, August and November and apply for a three-month period.

252. Also here, ESMA is of the view that the date of application should start on a Monday and proposes to amend Article 13(18) as follows:

*‘For the purposes of the calculations in paragraph 1(b)(i) and by way of derogation from paragraphs 7, 15 and 17, competent authorities shall, in respect of bonds except ETCs and ETNs, ensure the publication of the calculations referred to under paragraph 5(a) on a quarterly basis, on the first **day Monday** of February, May, August and November following the date of application of Regulation (EU) No 600/2014 and on the first **Monday day** of February, May, August and November each year thereafter. The calculations shall include transactions executed in the Union during the preceding calendar quarter and shall*

³¹ The calculations are performed to determine the financial instruments and classes of financial instruments not having a liquid market and the sizes large in scale compared to normal market size and the size specific to the instrument.

~~apply for the 3 month period beginning on from the third Monday of February, May, August and November each year until the calculations of the subsequent quarterly period apply.~~

4.1.3.2 Submission of quantitative data

253. Similarly to what is proposed for RTS 1 and as further developed in section 4.3.3, it is necessary to collect quantitative data in order to perform the transparency calculations for non-equity financial instruments as prescribed under Article 13 of RTS 2.

254. Under the current regime, the provision of data to NCAs and ESMA is framed by Commission Delegated Regulation (EU) 2017/577 which defines in general terms how information should be provided for the purposes of transparency and other calculations. Those requirements have been further specified in ESMA's reporting instructions.

255. As for RTS 1, it is proposed to further specify the details of the relevant quantitative data in a new Annex of RTS 2. This is intended to not only provide more clarity and legal certainty to market participants but also, more generally, to ensure more convergent reporting practices contributing ultimately to improved data quality.

256. As explained, the detailed description of the new table to be inserted into the Annex of RTS 2 is provided under section 4.3.3. In addition to this table, it is also necessary to amend the main text of RTS 2 to introduce a reference to the new table. ESMA therefore proposes to add a new subparagraph to Article 13(5) of RTS 2:

“(5) In accordance with Delegated Regulations (EU) 2017/590 and (EU) 2017/577 competent authorities shall collect on a daily basis the data from trading venues, APAs and CTPs which is necessary to perform the calculations to determine:

- (a) The financial instruments and classes of financial instruments not having a liquid market as set out in paragraph 1;*
- (b) The sizes large in scale compared to normal market size and the size specific to the instrument as set out in paragraphs 2 and 3.*

The data referred to in the first paragraph shall be collected as per Annex V”.

Question 27: Do you agree with the proposed changes to Article 13? If not, please explain

4.1.4 Other amendments to the main text of RTS 2

4.1.4.1 Article 4(2)(a) of RTS 2

257. Currently, Article 4(2)(a) of RTS 2 established the minimum size of reserve orders as a monetary threshold in euros (i.e. EUR 10,000). ESMA received some questions about the application of this requirement for certain non-equity financial instruments. ESMA has therefore clarified in a Q&A that “the minimum size of orders held in an order management

facility of a trading venue pending disclosure should be calculated according to Table 4 of Annex II of RTS 2 except for emission allowances and emission allowance derivatives for which the notional amount of traded contracts should be used”³².

258. In order to ensure more clarity and legal certainty for market participants, it is proposed to move this Q&A into RTS 2. To this end, ESMA proposes to add a new paragraph 4 to Article 4 of RTS 2:

“(4) For the purpose of letter (a) of paragraph 2, market operators and investment firms operating a trading venue shall calculate the minimum size of orders held in an order management facility:

(a) as set out in Table 4 of Annex II of RTS 2 for all financial instrument except for emission allowances, emission allowance derivatives and commodity derivatives;

(b) the notional amount of traded contracts shall be used for emission allowances, emission allowance derivatives and commodity derivatives.”

Question 28: Do you agree with the proposed changes to Article 4? If not, please explain

4.1.4.2 Article 12 of RTS 2, non-price forming transactions

259. As highlighted in section 3.1.2, the treatment of non-price forming transactions has been subject to criticism and ESMA is mindful to simplify the regime in this respect by both (i) simplifying the legal text to have clearer rules and exemptions regarding non-price forming transactions and (ii) improving the flagging of non-price forming transactions.

260. The issue however appears less crucial for non-equity financial instruments since the concept of “non-price forming” transactions is not used to specify key transparency obligations as it is the case for equity financial instruments (e.g. share trading obligation). ESMA proposed amendments are therefore more limited and simply consist in amending Article 12 of RTS 1 where some exemptions appear duplicative and therefore redundant.

261. In line with what ESMA proposes under Article 13 of RTS 1, it is proposed to amend Article 12 of RTS 2 as follows:

“Article 12 - Application of post-trade transparency to certain transactions executed outside a trading venue

The obligation ~~to make public the volume and price of transactions and the time at which they were concluded as set out~~ in Article 21(1) of Regulation (EU) No 600/2014 shall not apply to any of the following:

³² Q&A 12 of section 5 of ESMA Q&As on MiFID II and MiFIR transparency topics, ref. ESMA70-872942901-35.

(a) ~~excluded transactions listed in Article 2(5) of Commission Delegated Regulation (EU) 2017/590;~~

~~(b) transactions executed by a management company as defined in Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council (3) or an alternative investment fund manager as defined in Article 4(1)(b) of Directive 2011/61/EU of the European Parliament and of the Council (4) which transfer the beneficial ownership of financial instruments from one collective investment undertaking to another and where no investment firm is a party to the transaction;~~

~~(c) ‘give-up transaction’ or ‘give-in transaction’ which is a transaction where an investment firm passes a client trade to, or receives a client trade from, another investment firm for the purpose of post-trade processing;~~

~~(d) transfers of financial instruments such as collateral in bilateral transactions or in the context of a central counterparty (CCP) margin or collateral requirements or as part of the default management process of a CCP.”~~

262. The changes proposed regarding the flagging of non-price forming transactions in non-equity financial instruments are described in section 4.4.1.

Question 29: Do you agree with the proposed changes to Article 12? If not, please explain. Please do not reiterate the general comments made in the equity section and try to focus on arguments that are specific to non-equity financial instruments.

4.2 Commodity derivatives, emission allowances and derivatives on emission allowances

263. ESMA is following up on the work initiated in the context of the MiFID II/ MiFIR review report on the transparency regime for non-equity instruments (the non-equity report), regarding the liquidity determination of commodity derivatives and the related review of RTS 2. Additional background information is available in section 4.2 of the consultation paper (ESMA70-156-2189) and in section 4.2 of the final report (ESMA70-156-3329).

264. The conclusions of the final report related to three aspects of the MiFID liquidity framework applicable to commodity derivatives:

- 1) The segmentation criteria, which define the way in which the contracts are aggregated into smaller subsets called “sub-classes”;
- 2) The liquidity determination, which refers to the methodology used to determine whether a sub-class has a liquid market;
- 3) The large in scale (LIS) thresholds, which refers to the methodology used to calculate the LIS thresholds for liquid sub-classes.

265. As anticipated in the final report, ESMA collected data from all EU commodity trading venues in the first quarter of 2021, on the trading activity that took place in 2020 (the “data collection”). The objective of the data collection was to test and calibrate the first ideas that had been developed in the final report on the basis of recent data and with the appropriate segmentation and granularity. The detailed analysis of this data collection is provided in Annex VII.

266. On the basis of the data collection, ESMA has developed concrete proposals with the objective of further adapting the liquidity determination in RTS 2 to the specificities of commodity derivatives markets. The proposals related to the segmentation criteria and to transparency reference data are set out in Section 4.3.3.3.7 (they have been grouped in the same section as the proposals related to the other non-equity instruments). The proposals related to the liquidity determination and the LIS and SSTI thresholds are further developed below.

267. The scope of the following sections is broader than the one covered in the non-equity transparency report, as it covers all commodity derivatives, including C10 derivatives (freight derivatives) and also emission allowances (EA) and derivatives (DEA) thereof.

4.2.1 Overview of commodity derivatives, EA and DEA available in the EU after Brexit

268. According to the data collection, the asset classes available on EU trading venues (with positive volumes in 2020) refer to derivatives on agriculture, electricity, natural gas and freight, as well as to EA and DEA. In addition, there is one type of metal derivative (Iron Ore) available on one EU trading venue with no trading activity in 2020.

269. In the rest of the CP, the discussion hence focuses on the six asset classes listed above, ignoring metal derivatives where the analysis was not possible due to the absence of trading activity in 2020. Although some metal derivatives continue to be made available for trading on a trading venue and possibly OTC, at this point in time there is no evidence supporting the idea that any metal sub-class could be deemed to have a liquid market. Therefore, the first proposal ESMA makes in this respect is to determine that all metal sub-classes do not have a liquid market (same approach as for FX derivatives).

270. Other types of commodity derivatives are no longer traded on a trading venue following the UK departure from the EU (such as oil derivatives). However, given that those contracts were grouped in the same sub-asset classes as contracts which continue to be traded on EU venues (the energy sub-asset classes), it does not appear necessary to make adjustments to RTS 2 in this respect.

271. Finally on EA and DEA, the data collection does not take into account the migration of trading activity from ICE Futures Europe (UK) to ICE Endex (NL), which took place in June 2021. This means that the volumes on EA and DEA used in the calibration are (possibly to a large extent) underestimated.

Proposal Commodity Derivatives 1: [Metals] Determine that all metal sub-asset classes do not have a liquid market

Stakeholders are invited to provide comments on this proposal in their answer to Question 30, which is set out at the end of Section 4.2.

4.2.2 Liquidity determination for commodity derivatives

272. Under the current liquidity framework in RTS 2, a sub- class is deemed liquid if both the following conditions are met:

- 1) The average daily number of trades (ADNT) is greater than a given threshold (set in number of trades); and
- 2) The average daily notional amount (ADNA) is greater than a given threshold (set in EUR, or in tonnes of CO₂ for EA and DEA).

273. The liquidity determination for non-equity instruments is published annually by ESMA by 30 April of each calendar year, on the basis of transactions executed in the previous calendar year. They apply from 1 June of each calendar year.

4.2.2.1 Average daily number of trades (ADNT)

274. Stakeholders who responded to the consultation on the non-equity report made two non-mutually exclusive proposals in relation to the ADNT: (1) replacing the average by the median daily number of trades; and (2) using higher thresholds for the trade frequency. Both are explored below.

4.2.2.1.1 ADNT versus MDNT

275. Stakeholders indicated that the median daily number of trades might be a better liquidity criterion compared to the average, because the median minimises the effect of extreme values, in this case days with an abnormally high number of trades.

276. In the data collection, trading venues reported both the average and the median daily number of trades for each sub-class, which allowed a comparison between the two (see section 6.7.1.1 of Annex VII). As shown in Table 13, the use of MDNT instead of ADNT is unlikely to make a significant difference. This is because there are very few cases where, for a given sub-class, the ADNT is higher than a given threshold while the MDNT is lower than the same threshold. This has been tested for different parameters with the same result.

277. From a technical point of view, the calculation of the median daily number of trades would require some IT developments on ESMA side. Following the principle of proportionality, **ESMA would conclude that the costs of changing the liquidity criterion from ADNT to MDNT would outweigh the benefits, hence is not taking this proposal forward.**

Proposal Commodity Derivatives 2: [ADNT] Maintain the criterion “average daily number of trades” (do not switch to “median daily number of trades”)

Stakeholders are invited to provide their views on this proposal in their answer to Question 30.

4.2.2.1.2 Calibration of the ADNT

278. Respondents to the consultation on the non-equity report agreed that the use of the trade frequency was a reasonable metric to assess liquidity, as it reflects the ability to find a counterparty in a relatively short period of time. They however suggested that the current parameter for the ADNT was too low: instead of the current value of 10 trades per day (which corresponds to 1 trade every 48 minutes, assuming an 8-hour trading session), they proposed to set the value at 100 trades per day (which corresponds to 1 trade every 5 minutes).
279. On the basis of the data collection, ESMA has calculated the ADNT at sub-class level and measured the percentage of trades that would be deemed “liquid” (in the sense of ADNT only) using different thresholds for the ADNT, from the current parameter (10 trades per day for all sub-classes except for EA and DEA where it is 5 trades per day) to the proposed parameter (100 trades per day). The results are presented in Table 14 in Annex VII.
280. The sensitivity of the results to the calibration of the ADNT varies depending on the asset classes. For derivatives on agriculture, natural gas and for DEA, the sensitivity of the results to the calibration is low: choosing any parameter between the current 10 trades per day, and 100 trades per day, would not make a big difference and most of the trading activity would continue to be captured under liquid classes even with a parameter set at 100 trades per day. For freight derivatives and emission allowances, any calibration above 30 (for freight) and 10 (for EA) would render the whole asset class illiquid. Finally for derivatives on electricity, the sensitivity of the results to the calibration is high: moving the cursor between the current 10 trades per day, and 100 trades per day, would decrease the proportion of trades captured under liquid classes from 92% to 48%.
281. There are two possible routes from here: either to consider that the same parameter should be used for all asset classes, which means considering that irrespective of the asset class, a class cannot be liquid if it trades less often than X times per day; or to set the parameters per asset class in such a way that comparable percentages of trading activity would fall under liquid class.
282. The first approach treats all classes in the same way while the second approach (different parameters per asset class) would be mainly driven by the outcome, with limited justification from a liquidity perspective.
283. Therefore, ESMA suggests an approach where the ADNT parameter is the same for all classes and proposes to calibrate the parameter at 50 trades per day, which roughly corresponds to a frequency of one trade every 10 minutes.

284.* The impact of this new calibration would be very limited on agriculture, natural gas and derivatives on emission allowances. On electricity derivatives, the percentage of trades caught under liquid classes would decrease from 91.8% to a level of 71.4%, which remains significant. Based on 2020 data, no freight classes would be deemed liquid with a calibration of 50 trades per day. Given that freight derivatives are exclusively traded off-book (trade registration), a different outcome might be disproportionate. Finally on EA, while the data used for the calibration would also lead to no liquid EA classes, it has been estimated that after the migration of EA and DEA contracts from ICE Futures to ICE Endex, the currently liquid EA class would remain liquid, even with a parameter of 50 trades per day.

Proposal Commodity Derivatives 3: [ADNT] Increase the parameter of the ADNT to 50 trades per day for all commodity, C10, EA and DEA sub-classes.

Stakeholders are invited to provide their views on this proposal in their answer to Question 30.

4.2.2.2 Average daily notional amount (ADNA)

285. As explained in the non-equity transparency review report, there are two main issues related to the use of the ADNA to determine the liquidity of commodity derivatives. First, the ADNA does not allow distinguishing between **(1) a market with on average few trades of large sizes (potentially illiquid); and (2) a market with on average numerous trades of small sizes (potentially liquid). Those two markets could have the same average daily notional amount while exhibiting different liquidity profiles.**

286. Second, the use of notional amounts implies that factors such as prices and currency fluctuations are taken into account for the liquidity determination. Indeed, calculating notional amounts in euros means converting the volume traded (in lots) on the basis of the instrument price, and potentially the currency (if the price is expressed in e.g. USD per unit). Yet, such factors are not directly related to the liquidity status and tend to add noise to the liquidity determination.

287. Based on the feedback received in the context of the non-equity report, ESMA has worked on a proposal to replace the ADNA by a measure of the standard trade size (STS), under the assumption that the more liquid an instrument, the smaller the STS. This STS should be denominated either in the unit of the underlying commodity (i.e. in tonnes, MWh etc.) or in lots to avoid the influence of price and currency fluctuations. To simplify the analysis and make it comparable across asset classes, the STS is calculated in lots. Lots can easily be converted to unit with the lot size (e.g. on milling wheat futures contract, 1 lot is equivalent to 50 tonnes). Section 4.2.4.1 further explores the differences in setting the parameters in lots versus in unit.

288. Two options are considered to calculate the STS: (1) to calculate the “mode” i.e. the most frequently traded size; (2) to calculate the median trade size, i.e. the 50th percentile of the trade size distribution (meaning that 50% of the transactions have a size which is lower than the STS).

289. On the basis on the data collection, ESMA has calculated the standard trade size using the mode (STS_mode) and the median (STS_median) and compared the two. The results and analysis broken down per asset class are presented in Section 6.7.2 of Annex VII (Table 15 for STS_mode, Table 16 for STS_median and Table 17 for the comparison between the two).

290. The conclusions of the analysis can be summarised as follows. First, both the STS_mode and the STS_median allow the distinction between (1) classes with a high number of small trades; and (2) classes with a small number of large trades. Classes of the first type have by construction a small STS (1 to 5 lots) while classes of the second type have by construction a larger STS. In both cases, using a maximum value for the STS, instead of a minimum value for the ADNA, would likely avoid that classes dominated by few trades of large sizes are deemed liquid.

291. Second, the use of STS_mode versus STS_median leads in many cases to the same results: the classes for which the STS_mode is equal to the STS_median represent 76% of the total number of trades. The remaining differences between the two methodologies depend on the parameters used for the STS: setting a parameter of maximum 5 lots for the STS would lead to determine that the same classes are liquid irrespective of whether the mode or median is used (with the exception of 5 classes representing 0.5% of the total number of trades). However, setting a parameter of 1 lot for the STS would lead to more liquid classes using the STS_mode compared to the STS_median.

4.2.2.3 Calibration of the liquidity parameters for commodity derivatives

292. On the basis of the data collected, ESMA has simulated a liquidity determination under various scenarios and compared the classes that would be deemed liquid under each scenario. The scenarios have been built as combinations of the following:

- For the first liquidity criterion: ADNT equal to 10, 50 or 100 trades per day; and
- For the second liquidity criterion: status quo (ADNA as currently set in RTS 2); STS_mode equal to 1 or 5 lots; or STS_median equal to 1, 2, 3, 4 or 5 lots.

293. The results and analysis are presented in Section 6.7.3 in Annex VII: the scenarios in Table 18, the simulation for all scenarios across asset classes in Table 19 and the simulation for a sub-set of scenarios per asset class in Table 20, Table 21 and Table 22. For each asset class, some graphs provide illustrations of the classes that would be deemed liquid under all scenarios, and those that would be liquid only under specific scenarios.

294. The conclusions of the analysis can be summarised as follows. First, using a calibration of 5 lots for the STS (either using mode or median) leads to overall similar results compared to the status quo; however there is a small increase of the number of trades that would fall under liquid classes, and a small decrease of the volumes that would fall under liquid classes. This outcome is expected, given that liquid classes determined with the STS

typically include classes with numerous small trades, while classes dominated by few large trades are deemed illiquid.

295. Second, as shown in Figure 3 to Figure 6 in Annex VII, the liquid classes determined with the STS present **more homogeneous liquidity profiles compared to the classes determined with the ADNA**. One illustration of this feature is reproduced in Figure 2 below. The classes in red are liquid under all scenarios. The classes in blue are liquid under the current liquidity framework and would become illiquid using the STS_mode (irrespective of the calibration). In between, the classes in green are liquid under the current liquidity framework and would stay liquid with the STS_mode only with a calibration of 5 lots.

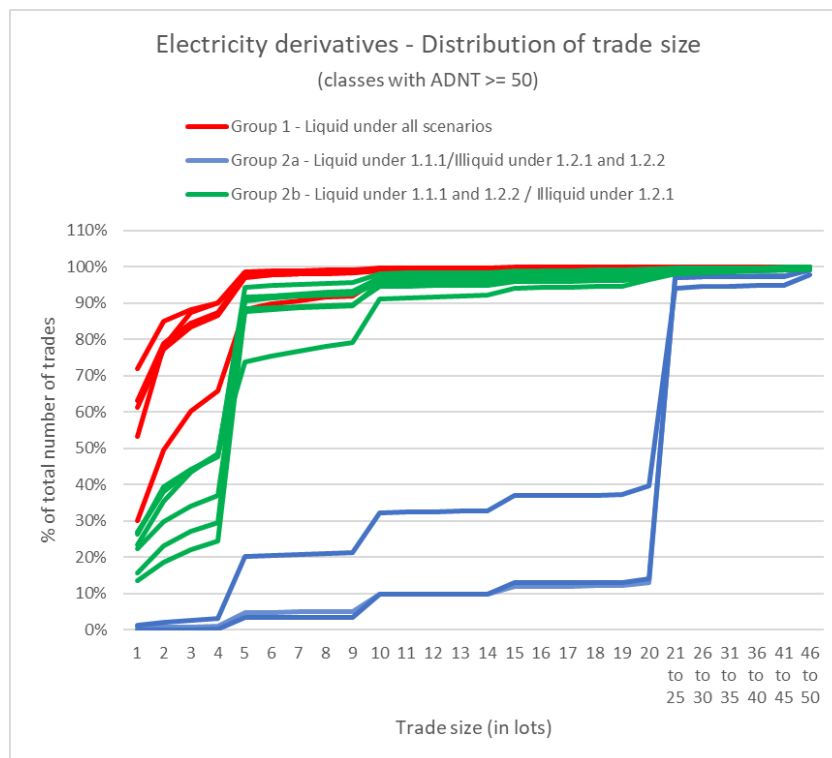


Figure 2: Trade size distribution of liquid electricity classes with an ADNT >= 50

296. Taking into account all of the above, ESMA considers it appropriate to replace the ADNA with the STS as a quantitative liquidity criterion. To calculate the STS, ESMA would favour using the most frequently traded size (STS_mode) over the median trade size (STS_median) as the former is likely to prove more robust in particular on the least liquid classes. In terms of calibration, ESMA suggests using the value 5 lots for all asset classes meaning that any class with an STS_mode lower than or equal to 5 lots would be deemed liquid (provided the other quantitative liquidity criterion is also fulfilled).

297. However, the data shows that no option classes would be deemed liquid with a calibration of the STS_mode at 5 lots. Setting a different parameter for options could be justified on the basis of structural differences in the liquidity distribution of options compared to that of futures. In this respect, ESMA seeks stakeholders' feedback on the existence of such structural differences, and the underlying reasons behind them, which

could in turn justify setting ad-hoc parameters for options. For the purpose of this CP, ESMA suggests setting the same parameter for all contract types (including options) and may reconsider this proposal on the basis of the feedback received from stakeholders.

Proposal Commodity Derivatives 4: [ADNA] Replace the criterion “average daily notional amount” with the criterion “standard trade size” calculated as the most frequently traded size (mode) and set the parameter of the STS_mode at 5 lots for futures: any class for which the most frequently traded size is lower than or equal to 5 lots would be deemed liquid (provided the other quantitative liquidity criterion is also fulfilled).

Proposal Commodity Derivatives 5: [ADNA] Set the same parameter of the STS_mode for all contract types, including options (5 lots)

Stakeholders are invited to provide their views on the proposals in their answer to Question 30.

4.2.3 Calculation of LIS and SSTI thresholds for commodity derivatives, EA and DEA

298. Currently in RTS 2, the pre- and post-trade LIS and SSTI thresholds for liquid classes of commodity derivatives, EA and DEA are calculated as the maximum between (1) a given percentile of the trade size distribution, where trade size are expressed in EUR or tonnes of CO₂ (with parameters ranging from the 30th to the 90th percentile depending on the thresholds); and (2) a floor, which is the minimum value that the threshold can take (with parameters ranging from 250,000 EUR to 1,000,000 EUR depending on the thresholds). For EA and DEA classes the floors are set in tonnes of CO₂ equivalent rather than in EUR.

299. The four thresholds (pre- and post-trade LIS and SSTI) are based on the same methodology, but they differ on the parameters. The following analysis focuses on the pre-trade LIS threshold: having the most far-reaching policy implication (liquid instruments above the pre-trade LIS threshold may be waived from pre-trade transparency), it was the one most commented by stakeholders. Nonetheless, the proposals formulated below cover all four thresholds.

300. The LIS and SSTI calculations for non-equity instruments are published annually by ESMA by 30 April of each calendar year, on the basis of transactions executed in the previous calendar year. They apply from 1 June of each calendar year.

4.2.3.1 Issues with the current determination of LIS and SSTI thresholds

301. Stakeholders stressed in the past that the current methodology to calculate the LIS/SSTI thresholds (based on percentiles and floor) leads to a counter-intuitive effect, in the sense that it leads by construction to higher thresholds for the least liquid classes compared to the most liquid classes, which contradicts the original objective.

302. Following up on this idea, it should be stressed that the counter-intuitive effect of the percentile approach is partially linked to the use of the ADNA as a quantitative liquidity

criterion. As discussed in the previous section, the ADNA tends to determine as liquid some classes which are dominated by few trades of large sizes (and are in reality not very liquid). On the most liquid classes, the distribution of trade sizes is concentrated on small sizes. This translates into smaller values of any given percentile compared to the less liquid classes. Hence the elimination of those “less liquid classes” from the set of liquid classes (via the replacement of the ADNA with the STS) partially addresses the problem.

303. In addition, the percentile approach as currently set presents three other issues: (1) the volumes are converted to EUR (and thresholds are set in EUR); (2) the level of the floor is such that most liquid classes have an LIS equal to the floor; (3) the rounding rules in Article 13(12) of RTS 2 inflate the size of the thresholds.

304. The first issue can be illustrated as follows: one lot of a baseload monthly power contract represents 720 MWh which can be converted to 58,320 EUR (using an illustrative conversion price of 81EUR/MWh). Comparatively, one lot of a futures contract on wheat represents 50 tonnes which can be converted to 10,800 EUR (using an illustrative conversion price of 216EUR/tonnes). The values in EUR are fivefold yet, from a liquidity point of view, in both cases only one lot was traded. Besides, the EUR countervalue of a volume in lots varies in time with the price and possibly the FX rate, which arguably do not represent the liquidity of the underlying instrument.

305. Second issue: under the current approach the pre-trade LIS has a minimum value (the floor) which is set at 500,000 EUR for all classes (except freight 50,000 EUR; and EA and DEA 25,000t to 50,000t of CO₂ depending on the classes). In accordance with the transparency calculations published in 2021 (based on 2020 data) almost all liquid classes have a pre-trade LIS threshold equal to the floor, meaning that the 70th percentile is scarcely used. Instead, the floor is used, which would correspond to a much higher percentile.

306. Third issue: under the current approach, the LIS and SSTI thresholds are rounded in accordance with Article 13(12) of RTS 2 as follows: 100,000 EUR where the threshold is smaller than 1 million; 500,000 EUR where the threshold is between 1 and 10 million; 5 million EUR where the threshold is between 10 and 100 million; and 25 million EUR thereafter. Consequently, when reporting entities submit the quantitative data to ESMA IT systems (FITRS), the volumes (in EUR) and number of trades are reported in so-called “trade-size bins” which are defined in accordance with the rounding rule in Article 13(12) of RTS 2³³.

307. Hence the size of the first bin is 100,000 EUR: all transactions with a size of less than 100,000 EUR are reported in the same bin. Using the above example of the wheat contract, all transactions with a size between 1 and 10 lots are reported in the same bin. Supposing that 90% of the transactions have a trade size below 10 lots, the 70th percentile cannot be determined, the LIS will be rounded to 100,000 EUR, which in fact represents the 90th percentile (without considering the impact of the floor).

³³ See page 48 of “Reporting Instructions – FIRDS Transparency” (ESMA65-8-1776)

4.2.3.2 Other approaches to calculate the LIS/SSTI thresholds

308. Trying to address those issues, ESMA has tested a different approach to calculate the LIS and SSTI thresholds, where the LIS/SSTI thresholds are equal to a **set percentage of the average daily volumes in lots (ADVL)** rounded to the nearest 5 lots (**ADVL approach**). To calibrate the percentage, four parameters have been tested, corresponding to the four different thresholds (1% for pre-trade SSTI, 5% for pre-trade LIS, 10% for post-trade SSTI and 15% for post-trade LIS). In addition, under this new approach, the LIS/SSTI thresholds are bounded up and down in absolute terms with a floor (minimal value) and a cap (maximum value).
309. For comparison purposes, ESMA has also tested an alternative approach, where the LIS/SSTI thresholds are equal to a **set percentile of the trade size distribution (in lots)** rounded to the nearest 5 lots (**Percentile approach**). This alternative was tested with small trade size bins (1 lot until 20 lots, 5 lots until 100 lots and 50 lots thereafter). To calibrate the percentile, four parameters have been tested, corresponding to the four different thresholds (90th for pre-trade SSTI, 95th for pre-trade LIS, 97.5th for post-trade SSTI and 99th for post-trade LIS).
310. Under both approaches, the floors have been calibrated as follows: 5 lots for the pre-trade LIS and STI; and 10 lots for the post-trade LIS and SSTI. Under the ADVL approach, the caps have been calibrated as follows: 200 lots for the pre-trade LIS and SSTI; and 300 lots for the post-trade LIS and SSTI. There is no cap under the Percentile approach.

Similarities between the two approaches

311. Both approaches address Issue #1 described in the previous section: they rely on volumes (or trade sizes) denominated in lots, and the resulting thresholds are set in lots, thus eliminating the conversion and reliance on price, lot sizes and FX rates.
312. Both approaches address Issue #2 described in the previous section: the floors have been calibrated at a low level (5 lots for pre-trade thresholds and 10 lots for post-trade thresholds) to ensure a limited impact of the floor. They also both address Issue #3 described in the previous section: the rounding of the thresholds is done at the nearest 5 lots (up or down). Besides, under the Percentile approach, the trade size bins are made sufficiently small to allow a precise determination of the percentile.

Differences between the two approaches

313. The two approaches are built from the onset on different assumptions: the ADVL approach relies on average daily volumes (in lots) irrespective of their size. It translates the idea that **executing a volume (in lots) which represents more than X% of the total volumes normally executed on a given day, should be eligible to a pre-trade waiver**. The approach is similar to the one currently existing for equity derivatives, except that the ADVL is used instead of the ADNA, and that the LIS/SSTI are calculated with a linear

function instead of a discreet one³⁴. The Percentile approach relies on trade sizes (in lots). It translates the idea that a **transaction of a size which is “large” compared to the trade sizes normally executed on that class, should be eligible to a pre-trade waiver**.

314. In terms of outcome, the ADVL approach leads by construction to LIS/SSTI thresholds which increase in a linear way with the liquidity of the class, assuming that liquidity is appropriately measured by the average daily volumes in lots. The Percentile approach is an attempt to maintain the approach currently set in RTS 2 while addressing the issues #1 to #3 listed above. However, under the Percentile approach, the counter-intuitive effect remains, in the sense that two classes with very different ADVL and/or ADNT can have the same LIS/SSTI thresholds.

315. Another difference is the introduction of a cap (maximum value) in the case of the ADVL approach. Indeed, the plain calculation of the percentage of the ADVL in the case of very liquid classes would lead to disproportionately high thresholds, which could be detrimental to the functioning of the market. It is therefore necessary to introduce a cap when setting the LIS and SSTI thresholds under the ADVL approach.

Results

316. The LIS/SSTI thresholds under both approaches are shown per asset-class in Section 6.7.4 of Annex VII. For the purpose of the simulation, any transaction with a size strictly higher³⁵ than the simulated pre-trade LIS/SSTI thresholds would be eligible for a waiver. The conclusions can be summarised as follows.

317. For classes with relatively small ADVL, the thresholds calculated under the two approaches are not very different, but the ADVL approach tends to produce smaller thresholds compared to the Percentile approach; for classes with very high ADVL, the opposite outcome is observed: the ADVL approach leads to higher thresholds.

318. Compared to the Percentile approach, the ADVL approach is simpler, and it ensures by construction that the very liquid classes (in terms of the ADVL) have higher thresholds than the less liquid ones. The Percentile approach, while partially addressing the issues of the current methodology, tends to produce thresholds which seem appropriate for the least liquid classes but are possibly too low for the very liquid ones.

319. The impact of the floor and cap under the ADVL approach can be assessed as follows, using the example of the pre-trade LIS threshold (Table 8):

³⁴ For equity derivatives, the LIS/SSTI thresholds are set with a discreet function i.e. fixed thresholds are set for a given range of ADNA

³⁵ In Article 3 of RTS 2 an order is large in scale where its size is equal to or larger than the LIS threshold. In practice this means that the simulated LIS should be presented as e.g. 6 lots (instead of 5 lots), 11 lots (instead of 10 lots) etc. To facilitate reading, simulated LIS have been presented as multiples of 5 lots. However, in the amending RTS 2 (Annex VI) the values have been set consistently with Article 3 of RTS 2.

- For the classes with an ADVL greater than 4,000 lots (7 classes): the percentage of the ADVL is above the cap, hence the cap is used. For those classes, the pre-trade LIS corresponds to less than 5% of the ADVL (2% on average);
- For the classes with an ADVL below 100 lots (16 classes): the percentage of the ADVL is below the floor, hence the floor is used. For those classes, the pre-trade LIS corresponds to more than 5% of the ADVL (11% on average);
- For most classes (ADVL between 100 and 4,000 lots, 43 classes): the percentage of the ADVL is between the floor and the cap, hence the floor and cap are not used. For those classes, the pre-trade LIS corresponds to 5% of the ADVL;

320. Comparatively, on the classes with an ADVL greater than 4,000 lots, the pre-trade LIS thresholds calculated with the Percentile approach would correspond to only 0.2% of the ADVL (on average). On the classes with an ADVL lower than 100 lots, the pre-trade LIS thresholds calculated with the Percentile approach would correspond to 14.7% of the ADVL (on average). On the classes with an ADVL between 100 and 4,000 lots, the pre-trade LIS thresholds calculated with the Percentile approach would correspond to 6.1% of the ADVL (on average), which is close to the result of the ADVL approach.

FUTURES		ADVL approach - pre-trade LIS = 5% of ADVL		Percentile Approach - pre-trade LIS = 95th percentile of trade size	
Liquid classes broken down per range of average daily volumes in lots (excluding options)	Number of liquid class	Average of pre-trade LIS (#1)	Average of pre-trade LIS (#1) as % of ADVL	Average of pre-trade LIS (#2)	Average of pre-trade LIS (#2) as % of ADVL
ADVL above 4000 lots	7	200	2%	34	0.2%
ADVL]100 - 4000] lots	43	37	5%	19	6.1%
ADVL below 100 lots	16	5	11%	8	14.7%
Grand Total	66	46.52	6.0%	18.11	7.5%

options		ADVL approach - pre-trade LIS = 5% of ADVL		Percentile approach - pre-trade LIS = 95th percentile of trade size	
Liquid classes broken down per range of average daily volumes in lots (options)	Number of liquid class	Average of pre-trade LIS (#1)	Average of pre-trade LIS (#1) as % of ADVL	Average of pre-trade LIS (#2)	Average of pre-trade LIS (#2) as % of ADVL
GRIN	2	82.5	5%	500	30%
NGAS	1	200	2%	1000	8%
Grand Total	3	121.67	3.8%	666.67	22.5%

Table 8: pre-trade LIS under ADVL and Percentile approaches, for futures (top table) and options (bottom table)

Proposal

321. On the basis of the above analysis, ESMA sees merit in replacing the current methodology to calculate the LIS and SSTI threshold with the ADVL approach: LIS/SSTI are equal to a set percentage of the average daily volumes (in lots) of the sub-class. The percentages are set at: 1% for pre-trade SSTI, 5% for pre-trade LIS, 10% for post-trade SSTI and 15% for post-trade LIS. The LIS and SSTI thresholds are rounded (up or down) to the nearest 5 lots.
322. Minimum values (floors) are established to guarantee that the thresholds do not fall below certain levels. The floors are set at: 5 lots for the pre-trade LIS and pre-trade SSTI; and 10 lots for the post-trade LIS and post-trade SSTI.
323. Maximum values (caps) are established to guarantee that the thresholds do not exceed disproportionate levels. The caps are set at: 200 lots for the pre-trade LIS and pre-trade SSTI; and 300 lots for the post-trade LIS and post-trade SSTI.
324. The phase-in approach applicable to the pre-trade SSTI threshold is maintained (1% corresponds to Stage 4 and the following percentages are used for the other stages -- Stage 1: 0.7%; Stage 2: 0.8%; Stage 3: 0.9% and Stage 4: 1%).

Proposal Commodity Derivatives 6: [LIS/SSTI] LIS and SSTI thresholds are equal to a set percentage of the average daily volumes (in lots), rounded to the nearest 5 lots and bounded by a floor and a cap.

325. Stakeholders are invited to provide their views on this proposal in their answer to Question 30. In particular, ESMA seeks input on (1) the choice of the ADVL as a basis to determine the LIS (and SSTI) thresholds (and possible alternatives); (2) the calibration of the ADVL approach (percentage, floor, cap and rounding); (3) the use of a linear function of the ADVL to calculate the LIS/SSTI. ESMA remains open to consider alternative approaches to the determination of the LIS/SSTI thresholds and welcomes stakeholders' feedback in this respect.

4.2.4 General issues related to the liquidity determination and the calculation of LIS/SSTI thresholds for commodity derivatives, EA and DEA

4.2.4.1 Liquidity framework set in lots versus units

Analysis

326. The proposal related to the replacement of the ADNA with the STS, and the proposal related to the methodology for the LIS and SSTI thresholds, have been calibrated and formulated in lots. Lots can be converted to the underlying unit (MWh, tonnes etc) using the lot size.

327.* As a result, it is theoretically possible to set the parameters in RTS 2 in units instead of lots. As developed below, this would however greatly complicate both the reporting of transparency data (from reporting entities to ESMA) and the formulation of the liquidity framework in RTS 2.

328. The main concern with a liquidity framework set in lots is that lot sizes may change in time. While a change of the lot size would in all likelihood be driven by market developments (e.g. an increased demand from market participants for contracts with a smaller size), the mere fact of setting the liquidity framework in lots could open the way for avoidance practice. For example, if a contract currently falls in a liquid class and has an STS_mode equal to 5 lots (i.e. the most frequently traded size is 5 lots), dividing the lot size of this contract by 10 would lead to a change of the most frequently traded size from 5 to 50 lots (under the assumption that everything else remains equal).

329. In consequence, at the next transparency calculation, the contract would no longer meet the liquidity criterion based on STS and would be deemed illiquid, even when in practice the liquidity has not changed.

330. It is possible to address this risk by setting the liquidity framework in unit of underlying (tonnes, MWh etc) instead of lots, with the following consequences. First, instead of setting one parameter for the STS_mode (e.g. 5 lots), it would be necessary to include in RTS 2 one parameter for each combination of Unit x Lot size. As shown in Table 9 below, more than 50 such combinations were identified in the data collection. This is to a large extent due to electricity and natural gas contracts, where the lot size depends on (1) for electricity, the load type (baseload, peakload, off-peak, other); and (2) for both electricity and gas, the duration of the delivery period (from one day to one year).

331. Second, when reporting entities submit the transparency quantitative data to the ESMA IT system (FITRS) they report the volumes and number of trades in bins, based on which ESMA calculates the percentiles and determines the SSTI and LIS thresholds. If the proposal made in the CP to replace the ADNA with the STS is adopted, reporting entities would need to report the number of transactions per trade-size bin to determine the standard trade size (STS_mode).

332. Currently the trade-size bins are identical for all instruments and set in EUR (except EA and DEA, in tonnes of CO₂). If the liquidity framework is set in lots, the trade-size bins would continue to be identical for all instruments and would be formulated in lots (e.g. bin size 1 lot until 20 lots, 5 lots until 100 lots and 50 lots thereafter). Instead, if the liquidity framework is set in units, the trade-size bins would be different for each combination of Unit x Lot size. The corresponding STS_mode parameters and trade-size bins in unit are presented in Table 10 (42 combinations remain after normalising the lot sizes of electricity and natural gas to the extent possible³⁶).

³⁶ Standardisation is shown in the column "number of hours per day" and "number of days in the delivery period" for electricity and gas contracts in Table 10. Baseload contracts: 24 hours per day, 7 days per week. Peakload contracts: 12 hours per day, 5 days per week. Offpeak contracts: 12 hours per day 5 days per week and 24 hours per day per weekend (~15.4 hours per day).

333. Third, setting the liquidity framework in unit means that the following calculations would subsequently have to be made: (1) reporting entities convert the volumes from lots to units and report to ESMA (in units); (2) ESMA determines the liquid classes and publishes the thresholds (in unit); (3) reporting entities convert the thresholds published by ESMA once more, this time from units to lots. By comparison, if the liquidity framework is set in lots, no conversion is necessary.

Asset class	Units used	Lot sizes used	Total number of combination Unit x Lot sizes
Agriculture derivatives	tonnes	5, 25, 50 and 100	4
Electricity derivatives	MWh	Ranging from 12MWh to 8,760 MWh	22
Natural gas derivatives	MWh, MMBtu and Therms	10,000 MMBtu 4 different lot sizes in Therms 10 different lot sizes in MWh	20
Freight derivatives	Days and tonnes	1 day 1 tonne and 1,000 tonnes	3
EA and DEA	Tonnes	1,000	1
Total			52

Table 9: Lot sizes per asset class (as reported in the data collection)

#	Asset Class	Sub-Product	Further Sub-Product	Unit	Lot size (in unit)	STS_mode parameter (in lots)	STS_mode parameter (in unit)	Bucket 1	Bucket Size 1 (in unit)	Bucket 2	Bucket Size 2 (in unit)	Bucket 3	Bucket Size 3 (in unit)
1	Agriculture	DIRY	BUTT	tonnes	5	5	25	trade size <=100 tonnes	5	trade size]100 - 500] tonnes	25	trade size > 500 tonnes	250
2	Agriculture	DIRY	LQMK	tonnes	25	5	125	trade size <=500 tonnes	25	trade size]500 - 2,500] tonnes	125	trade size > 2,500 tonnes	1,250
3	Agriculture	DIRY	SKMK	tonnes	5	5	25	trade size <=100 tonnes	5	trade size]100 - 500] tonnes	25	trade size > 500 tonnes	250
4	Agriculture	DIRY	WHEY	tonnes	5	5	25	trade size <=100 tonnes	5	trade size]100 - 500] tonnes	25	trade size > 500 tonnes	250
5	Agriculture	FRST		tonnes	100	5	500	trade size <=2,000 tonnes	100	trade size]2,000 - 10,000] tonne	500	trade size > 10,000 tonnes	5,000
6	Agriculture	GRIN	MWHT	tonnes	50	5	250	trade size <=1,000 tonnes	50	trade size]1,000 - 5,000] tonnes	250	trade size > 5,000 tonnes	2,500
7	Agriculture	GROS	CORN	tonnes	50	5	250	trade size <=1,000 tonnes	50	trade size]1,000 - 5,000] tonnes	250	trade size > 5,000 tonnes	2,500
8	Agriculture	GROS	RPSD	tonnes	50	5	250	trade size <=1,000 tonnes	50	trade size]1,000 - 5,000] tonnes	250	trade size > 5,000 tonnes	2,500
9	Agriculture	POTA		tonnes	25	5	125	trade size <=500 tonnes	25	trade size]500 - 2,500] tonnes	125	trade size > 2,500 tonnes	1,250
10	EA			tonnes	1,000	5	5,000	trade size <=20,000 tonnes	1,000	trade size]20,000 - 100,000] tor	5,000	trade size > 100,000 tonnes	50,000
11	DEA			tonnes	1,000	5	5,000	trade size <=20,000 tonnes	1,000	trade size]20,000 - 100,000] tor	5,000	trade size > 100,000 tonnes	50,000

For Baseloid and Offpeak: one month equal 30 days, one quarter equals 90 days, one season equal 180 days, one year equals 365 days. For Peakload: one month equal 21.7 days (5 days per week * 52 weeks per year / 12 months), one quarter equals 65 days (5 days per week * 52 weeks per year / 4 months); one season equals 130 days (5 days per week * 52 weeks per year / 2), one year equals 260 days (5 days per week * 52 weeks).

#	Asset Class	Sub-Product	Further Sub-Product	Number of hours / day	Number of Days in delivery period	Unit	Lot size (in unit)	STS_mode parameter (in lots)	STS_mode parameter (in unit)	Bucket 1	Bucket Size 1 (in unit)	Bucket 2	Bucket Size 2 (in unit)	Bucket 3	Bucket Size 3 (in unit)
12	Electricity	ELEC	BSLD	24	1	MWh	24	5	120	trade size <=480 MWh	24	trade size]480 - 2,400] MWh	120	trade size > 2,400 MWh	1,200
13	Electricity	ELEC	BSLD	24	2	MWh	48	5	240	trade size <=960 MWh	48	trade size]960 - 4,800] MWh	240	trade size > 4,800 MWh	2,400
14	Electricity	ELEC	BSLD	24	7	MWh	168	5	840	trade size <=3,360 MWh	168	trade size]3,360 - 16,800] MWh	840	trade size > 16,800 MWh	8,400
15	Electricity	ELEC	BSLD	24	30	MWh	720	5	3,600	trade size <=14,400 MWh	720	trade size]14,400 - 72,000] MW	3,600	trade size > 72,000 MWh	36,000
16	Electricity	ELEC	BSLD	24	90	MWh	2,160	5	10,800	trade size <=43,200 MWh	2,160	trade size]43,200 - 216,000] MW	10,800	trade size > 216,000 MWh	108,000
17	Electricity	ELEC	BSLD	24	180	MWh	4,320	5	21,600	trade size <=86,400 MWh	4,320	trade size]86,400 - 432,000] MW	21,600	trade size > 432,000 MWh	216,000
18	Electricity	ELEC	BSLD	24	365	MWh	8,760	5	43,800	trade size <=175,200 MWh	8,760	trade size]175,200 - 876,000] MW	43,800	trade size > 876,000 MWh	438,000
19	Electricity	ELEC	PKLD	12	1.0	MWh	12	5	60	trade size <=240 MWh	12	trade size]240 - 1,200] MWh	60	trade size > 1,200 MWh	600
20	Electricity	ELEC	PKLD	12	5.0	MWh	60	5	300	trade size <=1,200 MWh	60	trade size]1,200 - 6,000] MWh	300	trade size > 6,000 MWh	3,000
21	Electricity	ELEC	PKLD	12	21.7	MWh	260	5	1,300	trade size <=5,200 MWh	260	trade size]5,200 - 26,000] MWh	1,300	trade size > 26,000 MWh	13,000
22	Electricity	ELEC	PKLD	12	65	MWh	780	5	3,900	trade size <=15,600 MWh	780	trade size]15,600 - 78,000] MW	3,900	trade size > 78,000 MWh	39,000
23	Electricity	ELEC	PKLD	12	130	MWh	1,560	5	7,800	trade size <=31,200 MWh	1,560	trade size]31,200 - 156,000] MW	7,800	trade size > 156,000 MWh	78,000
24	Electricity	ELEC	PKLD	12	260	MWh	3,120	5	15,600	trade size <=62,400 MWh	3,120	trade size]62,400 - 312,000] MW	15,600	trade size > 312,000 MWh	156,000
25	Electricity	ELEC	OFFP	15.43	30	MWh	463	5	2,315	trade size <=9,260 MWh	463	trade size]9,260 - 46,300] MWh	2,315	trade size > 46,300 MWh	23,150
26	Electricity	ELEC	OFFP	15.43	90	MWh	1,389	5	6,945	trade size <=27,780 MWh	1,389	trade size]27,780 - 138,900] MW	6,945	trade size > 138,900 MWh	69,450
27	Electricity	ELEC	OFFP	15.43	365	MWh	5,632	5	28,160	trade size <=112,640 MWh	5,632	trade size]112,640 - 563,200] MW	28,160	trade size > 563,200 MWh	281,600

#	Asset Class	Sub-Product	Number of hours / day	Number of Days in delivery period	Unit	Lot size (in unit)	STS_mode parameter (in lots)	STS_mode parameter (in unit)	Bucket 1	Bucket Size 1 (in unit)	Bucket 2	Bucket Size 2 (in unit)	Bucket 3	Bucket Size 3 (in unit)
28	Natural Gas	NGAS	24	1	MWh	24	5	120	trade size <=480 MWh	24	trade size]480 - 2,400] MWh	120	trade size > 2,400 MWh	1,200
29	Natural Gas	NGAS	24	2	MWh	48	5	240	trade size <=960 MWh	48	trade size]960 - 4,800] MWh	240	trade size > 4,800 MWh	2,400
30	Natural Gas	NGAS	24	7	MWh	168	5	840	trade size <=3,360 MWh	168	trade size]3,360 - 16,800] MWh	840	trade size > 16,800 MWh	8,400
31	Natural Gas	NGAS	24	30	MWh	720	5	3,600	trade size <=14,400 MWh	720	trade size]14,400 - 72,000] MW	3,600	trade size > 72,000 MWh	36,000
32	Natural Gas	NGAS	24	90	MWh	2,160	5	10,800	trade size <=43,200 MWh	2,160	trade size]43,200 - 216,000] MW	10,800	trade size > 216,000 MWh	108,000
33	Natural Gas	NGAS	24	180	MWh	4,320	5	21,600	trade size <=86,400 MWh	4,320	trade size]86,400 - 432,000] MW	21,600	trade size > 432,000 MWh	216,000
34	Natural Gas	NGAS	24	365	MWh	8,760	5	43,800	trade size <=175,200 MWh	8,760	trade size]175,200 - 876,000] MW	43,800	trade size > 876,000 MWh	438,000
35	Natural Gas	NGAS			MMBtu	10,000	5	50,000	trade size <=200,000 MMBtu	10,000	trade size]200,000 - 1,000,000]	50,000	trade size > 1,000,000 MMBtu	500,000
36	Natural Gas	NGAS			Therms	10,000	5	50,000	trade size <=200,000 Therms	10,000	trade size]200,000 - 1,000,000]	50,000	trade size > 1,000,000 Therms	500,000
37	Natural Gas	NGAS			Therms	20,000	5	100,000	trade size <=400,000 Therms	20,000	trade size]400,000 - 2,000,000]	100,000	trade size > 2,000,000 Therms	1,000,000
38	Natural Gas	NGAS			Therms	50,000	5	250,000	trade size <=1,000,000 Therms	50,000	trade size]1,000,000 - 5,000,000]	250,000	trade size > 5,000,000 Therms	2,500,000
39	Natural Gas	NGAS			Therms	300,000	5	1,500,000	trade size <=6,000,000 Therms	300,000	trade size]6,000,000 - 30,000,000]	1,500,000	trade size > 30,000,000 Therms	15,000,000

#	Asset Class	Sub-Product	Freight SC	Unit	Lot size (in unit)	STS_mode parameter (in lots)	STS_mode parameter (in unit)	Bucket 1	Bucket Size 1 (in unit)	Bucket 2	Bucket Size 2 (in unit)	Bucket 3	Bucket Size 3 (in unit)
40	Freight	DRYF	Capesize C3, C4, C5 or C7	tonnes	1,000	5	5,000	trade size <=20,000 tonnes	1,000	trade size]20,000 - 100,000] tonnes	5,000	trade size > 100,000 tonnes	50,000
41	Freight	DRYF	Not (Capesize C3, C4, C5 or C7)	tonnes	1	5	5	trade size <=20 tonnes	1	trade size]20 - 100] tonnes	5	trade size > 100 tonnes	50
42	Freight	DRYF	Not (Capesize C3, C4, C5 or C7)	days	1	5	5	trade size <=20 days	1	trade size]20 - 100] days	5	trade size > 100 days	50

Table 10: Conversion of parameters from lots to units

Proposal

334. As shown above, the costs of setting the liquidity framework in units versus lots are much higher. It adds complexity in the setup of RTS 2, and that complexity would remain along the chain (reporting to ESMA, calculation by ESMA, re-conversion of thresholds by reporting entities). From a proportionality perspective this complexity appears excessive compared to the risk that the approach seeks to address (i.e. a circumvention of the regime via artificial decrease of the lot sizes).

335. While this risk should not be underestimated, it may be addressed in a different, less complex, manner. For example, changes to the lot sizes could require the formal authorisation of the competent authorities and be subject to a yearly monitoring by ESMA.

336. To further elaborate this proposal, ESMA seeks stakeholders' feedback on the existing market practice regarding lot sizes in particular how they are currently set, under which circumstances and how often do they currently change. Please provide this feedback in your answer to Question 30.

Proposal Commodity Derivatives 7: [Units or Lots] Set the liquidity framework in lots (STS_mode parameter set in lots, volumes reported to ESMA in lots, LIS and SSTI thresholds published in lots) accompanied by Level 3 measures to address the risk of downward revisions of the lot sizes

4.2.4.2 Impact of the proposed changes to the liquidity determination and the calculation of LIS/SSTI thresholds on reporting to FITRS

337. To perform the liquidity determination, and the calculation of LIS/SSTI thresholds in accordance with the proposals set out in the CP, ESMA needs to introduce changes to the reporting of quantitative data to FITRS. Currently, the reporting of quantitative data to FITRS is defined in the FITRS reporting instructions, but it is not specified in RTS 2. To provide more legal certainty, ESMA is proposing in the CP (see section 4.3.4) to add a new Annex V to RTS 2 specifying the format and content of the data to be provided for the purpose of determining a liquid market, and the LIS and SSTI thresholds.

4.2.4.2.1 Quantitative data related to liquidity determination

338. In relation to the proposal #4 (Replace the criterion “average daily notional amount” with the criterion “standard trade size” calculated as the most frequently traded size) ESMA needs to collect data on the distributions of traded sizes in lots. To limit the complexity of the system, ESMA suggests setting trade-size bins which should: (1) have a narrow span for small trade sizes, to allow the precise determination of the most frequently traded size and (2) have a larger span for larger trade sizes.

339. Specifically, the proposal would be to collect the number of transactions in each of the following trade-size bins:

- Trade-size bin with a span of 1 lot for transactions of a size up to 20 lots (included);
- Trade-size bin with a span of 5 lots for transactions with a size between 21 and 100 lots (included);
- Trade-size bin with a span of 50 lots for transactions of a size strictly larger than 100 lots.

340. Trade-size bins have been defined accordingly in a new Table 4 in Annex V of RTS 2.

4.2.4.2.2 Quantitative data related to LIS/SSTI thresholds

341. In relation to the proposal #6 (LIS/SSTI calculated as a set percentage of the average daily volumes in lots, bounded by a floor and a cap), ESMA needs to collect the total volumes (in lots) executed on any given day. Under the current framework, total volumes are not reported, instead the volumes are reported under each trade-size bin, from which total volumes can be inferred. Besides, under the current framework, volumes are only reported in EUR.

342.* To allow the calculation of the LIS/SSTI thresholds under the proposed methodology, ESMA is adding the field “Total volume in lots” in Table 2 of the new Annex V of RTS 2. This field is applicable only to commodity derivatives, freight derivatives, emission allowances and derivatives thereof.

343. In addition, it is necessary that total volumes are also reported in the underlying unit (MWh, tonnes etc), for the purposes of the calculations supporting the exercise of the temporary suspension of transparency obligations as per Article 16 of RTS 2³⁷. This information is collected under the field “Total volume” in Table 2 of the new Annex V of RTS 2.

344. The unit in which volumes are expressed (MWh, tonnes etc) shall be reported under the field “notation of the volume” defined in Table 2 of the new Annex V. The format set to report the units has been chosen to respect ISO standards.

Proposal Commodity Derivatives 8: [Reporting to FITRS] number of transactions shall be reported to FITRS per trade-size bins which are defined in the new Annex V of RTS 2. Total volumes in lots and total volumes in underlying units shall also be reported to FITRS as specified in the new Annex V of RTS 2.

Stakeholders are invited to provide their views on this proposal in their answer to Question 30.

4.2.4.3 Underlying data: on-venue and OTC data

345. The calibration of the liquidity framework for commodity derivatives, EA and DEA developed in Section 4.2 was performed with data submitted by trading venues. It does not include OTC nor SI data. However, should this new framework be implemented without further changes to RTS 2, the liquidity determination and LIS/SSTI calculation would be performed with both data submitted by trading venues and data submitted by APAs.

346. The impact of this mismatch on the transparency calculations depends on the respective volumes of on-venue versus OTC/SI trading. For commodity derivatives, EA and DEA, very few OTC transactions are in the scope of MiFID because they do not meet the conditions of being “traded on a trading venue” (ToTV). On the basis of data reported to ESMA in 2020, the proportion of volumes executed OTC and on SI was negligible compared to the volumes executed on venue.

347. As a result, ESMA considers that for commodity derivatives, EA and DEA, it remains appropriate to perform transparency calculations on the basis of all data (status quo) even if the calibration was performed with on-venue data only.

³⁷ Temporary suspension of transparency obligations can be triggered when the total volume as defined in Table 4 of Annex II of RTS 2 calculated for the previous 30 calendar days represents less than 40 % (for liquid instruments) or 20% (for illiquid instruments) of the average monthly volume calculated for the 12 full calendar months preceding those 30 calendar days.

Proposal Commodity Derivatives 9: [data scope] The transparency calculations continue to be performed with all data (on-venue, SI and OTC)

348. Stakeholders are invited to provide their views in their answer to Question 30.

4.2.5 Summary of the proposals related to commodity derivatives, C10 derivatives, EA and DEA and questions to stakeholders

Proposal Commodity Derivatives 1: [Metals] Determine that all metal sub-asset classes do not have a liquid market

Proposal Commodity Derivatives 2: [ADNT] Maintain the criterion “average daily number of trades” (do not switch to “median daily number of trades”)

Proposal Commodity Derivatives 3: [ADNT] Increase the parameter of the ADNT to 50 trades per day for all commodity, C10, EA and DEA sub-classes.

Proposal Commodity Derivatives 4: [ADNA] Replace the criterion “average daily notional amount” with the criterion “standard trade size” calculated as the most frequently traded size (mode) and set the parameter of the STS_mode at 5 lots for futures: any class for which the most frequently traded size is lower than or equal to 5 lots would be deemed liquid (provided the other quantitative liquidity criterion is also fulfilled).

Proposal Commodity Derivatives 5: [ADNA] Set the same parameter of the STS_mode for all contract types, including options (5 lots)

Proposal Commodity Derivatives 6: [LIS/SSTI] LIS and SSTI thresholds are equal to a set percentage of the average daily volumes (in lots), rounded to the nearest 5 lots and bounded by a floor and a cap.

Proposal Commodity Derivatives 7: [Units or Lots] Set the liquidity framework in lots (STS_mode parameter set in lots, volumes reported to ESMA in lots, LIS and SSTI thresholds published in lots) accompanied by Level 3 measures to address the risk of downward revisions of the lot sizes

Proposal Commodity Derivatives 8: [Reporting to FITRS] number of transactions shall be reported to FITRS per trade-size bins which are defined in the new Annex V of RTS 2. Total volumes in lots and total volumes in underlying units shall also be reported to FITRS as specified in the new Annex V of RTS 2.

Proposal Commodity Derivatives 9: [data scope] The transparency calculations continue to be performed with all data (on-venue, SI and OTC)

349. Those proposals have an impact on (1) Article 13 or RTS 2; (2) the tables in Annex III referring to commodity derivatives (Tables 7.1, 7.2 and 7.3), C10 derivatives (Tables 10.1, 10.2 and 10.3), Emission Allowances (Tables 12.1, 12.2 and 12.3) and Derivatives on emission allowances (Tables 13.1, 13.2 and 13.3); and (3) the data to be submitted to FITRS (new Annex V of RTS 2).

350. Besides, definitions of ‘standard trade size’ and ‘average daily volumes in lots’ have been added to point 1 of Annex III. The need for such new definitions is justified by the fact that (1) the liquidity determination is based on a new quantitative liquidity criterion (the



standard trade size) and (2) the new methodology to calculate the LIS/SSTI thresholds relies on a new metric (the average daily volumes in lots). Those terms do not currently exist in RTS 2 and should therefore be defined. All those changes are visible in Annex VI of the CP.

Question 30: Please provide your comments on the analysis and proposals related to the liquidity framework applicable to commodity derivatives, EA and DEA detailed in Section 4.2 and summarised in Section 4.2.5. Please list the proposals with their ID (#1 to #9) for ease of reference.

4.3* Reporting fields (Tables 1, 2 and 4 of Annex II, Annex III and Tables 1 and 2 of Annex IV)

351. As for equity and equity-like instruments (RTS 1), the section on the reporting fields covers two dimensions: (i) the fields to be published for the purpose of post-trade transparency (section 4.3.1), and (ii) the reference data and the quantitative data to be provided for the performance of the transparency calculations for non-equity instruments under RTS 2 (section 4.3.2).

352. The changes performed aim at providing more clarity on what has to be reported both to the public and to FITRS with the ultimate goal to improve data quality and data aggregation.

4.3.1 Fields for the purpose of post-trade transparency (Tables 1 and 2 of Annex II)

353. Articles 10 and 21 of MiFIR provide for post-trade transparency requirements for trading venues and investment firms, including SIs, in respect of bonds, structured finance products, emission allowances and derivatives.

354. The details to be published for the purpose of post-trade transparency, by trading venues and APAs, on behalf of investment firms and SIs, are provided in Tables 1 and 2 of Annex II of RTS 2. By means of Article 15a of RTS 13, CTPs are also obliged to publish the same details.

355. ESMA does not propose changes to Table 1 (i.e. the table which defines the symbols used for the fields in Table 2). However, ESMA is considering the amendments in red to Table 2. Each field subject to a change is provided below. In Annex V – Draft RTS, the proposed new Table 2 with all the fields is also provided.

4.3.1.1 Field names and sequential order

356. ESMA makes the same proposal as in Section 3.3.1.1.

4.3.1.2 Field “Trading Date and Time”

357. ESMA makes the same proposal as in Section 3.3.1.2. However, a couple of corrections to referenced Articles are made. More specifically, Article 3 of Delegated Regulation (EU) 2017/574 is corrected with Article 2 and Article 5 of Delegated Regulation (EU) 2017/590 is corrected with Article 4 as provided in red in 5.6 Annex VI – Draft RTS amending RTS 2.

4.3.1.3 Field “Venue of execution” and “Third-country trading venue of execution”

358. ESMA makes the same proposal as in Section 3.3.1.4. The same new field “Third-country trading venue of execution” is added on top of minor adjustments aimed at clarifying the drafting as provided in red in 5.6 Annex VI – Draft RTS amending RTS 2.

4.3.1.4 Field “Instrument identification code type” and “Instrument identification code”

359. Feedback to the CfE indicated that the application of transparency parameters at sub-class level using the data published by ESMA in its Annual Transparency Register (SACID spreadsheet) is severely hindered by inaccuracies and the lack of standardisation in the values reported for underlying index name and underlying index code (applicable to equity derivatives). Inter alia, the following key issues were observed: 1) "dummy" (unofficial, invalid) ISIN codes being reported as the underlying; 2) truncated index name values due to the 25 alphanumeric character limit; and 3) multiple records in ESMA's spreadsheet for the same index due to inconsistent reporting conventions. In addition, in most cases there is no ISIN available to assist with unequivocal identification of the index in question.

360. In this respect ESMA has analysed the fields used for the segmentation and has made IT change requests where necessary in order to use the ISIN as first element for the segmentation and the name if the former is not available, namely for equity derivatives.

361. Furthermore, since each instrument subject to the transparency regime is required to be identified by an ISIN which is then reported to FIRDS, it is proposed to maintain only the ISIN as identifier in the post-trade transparency reports. ESMA reminds that any additional identifiers (e.g. CFI Code) can be provided to market participants in addition to the ISIN (see the drafting as provided in red in 5.6 Annex VI – Draft RTS amending RTS 2.)

4.3.1.5 Fields “Price” and “Price currency”

362. In the context of the CfE, stakeholders requested to further clarify the use of the fields “price”, “quantity” and “notional amount”. In particular, stakeholders raised concerns regarding the use of the value ‘PNDG’ (pending) to report the price.

363. ESMA is aware that those fields are relevant for the aggregation of the reports and might be subject to data quality issues. Therefore, a number of clarifications have been added to those and related fields.

364. More specifically, it is clarified when the price of the derivative contract has to be provided compared to other price-related information.

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.</p> <p>For credit default swaps (CDS) it shall be the coupon in basis points.</p> <p>In the case of spread bets it shall be the reference price of the underlying instrument.</p> <p>In the case of other derivative contracts and contracts for difference, it is the price of the derivative or contract for difference itself excluding, where applicable, commissions at which the contract is exchanged between the buyer and the seller.</p> <p>Where price is reported in monetary terms, it shall be provided in the major currency unit.</p> <p>Where price is currently not available but pending, the value should be 'PNDG'.</p> <p>Where price is not applicable the field shall not be populated, the value shall be 'NOAP'..</p> <p>The information reported in this field shall be consistent with the value provided in field Quantity.</p>	RM, MTF, OTF, APA, CTP	<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>'PNDG' in case the price is not available</p> <p>{DECIMAL-18/17} in case the price is expressed as basis points</p> <p>'NOAP' in case the price is not applicable</p>
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Price Currency	For all financial instruments	<p>Major cCurrency in which the price is expressed (applicable if the price is expressed as monetary value).</p>	RM, MTF, OTF, APA, CTP	{CURRENCYCO DE_3}
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4.3.1.6 New field “Strike price”

365. In the context of the CfE it was suggested to add the strike price of options, as the price field of the post-trade reporting fields is used for the option premium. ESMA acknowledges this request and suggests adding this field to Table 2 of Annex II, as well as, the strike price notation in order to have complete information on the price of options.

366. The definitions are aligned with those in Delegated Regulation (EU) No 148/2013 (i.e. the RTS supplementing Regulation (EU) No 648/2012 (EMIR)).

Strike price	For all financial instruments underlying an option contract	Strike price of the option expressed in the same currency as the price. Where the strike price is reported in percent values, it should be expressed as percentage where 100 % is represented as ‘100’.	RM, MTF, OTF APA, CTP	{DECIMAL-18/13} in case the price is expressed as monetary value {DECIMAL-11/10} in case the price is expressed as percentage or yield ‘PNDG’ in case the price is not available {DECIMAL-18/17} in case the price is expressed as basis points
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Strike price notation	For all financial instruments underlying an option contract	Indication as to whether the strike price is expressed in monetary value, in percentage or in yield	RM, MTF, OTF, APA, CTP	'MONE' Monetary value 'PERC' Percentage 'YIEL' Yield 'BAPO' Basis points
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4.3.1.7 Fields “Notional amount” and “Notional currency”

367. As mentioned above, the fields related to the reporting of the notional amount of the contract are of very high relevance for the aggregation of the post-trade reports, for instance under the supplementary deferrals. In this context, ESMA clarifies the value that is expected. The value corresponds to the extent possible to Field 20 “Notional” in the CDR (EU) No 148/2013 (RTS supplementing Regulation Delegated Regulation (EU) No 648/2012 (EMIR)).

368. Furthermore, as suggested in the context of the CfE the second currency for FX contracts or multi-currency swaps is added to the fields to report for the purpose of post-trade transparency.

Notional amount	For all financial instruments except in the cases described under Article 11(1) letters (a) and (b) of this Regulation.	<p>Nominal amount or notional amount</p> <p>Nominal amount</p> <p>This field shall be populated:</p> <p>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> <p>for ETCs and ETNs and securitised derivatives, with the number of instruments exchanged between the buyers and sellers multiplied by the price of the instrument exchanged for that specific transaction. Equivalently, the price field multiplied by the quantity field;</p> <p>for structured finance products (SFPs), with the nominal value per unit multiplied by the number of instruments at the time of the transaction;</p> <p>for swaps, futures and forwards whose underlying is not an emission allowance, as per Article 3a(1)(a) of Delegated Regulation (EU) No 148/2013 ⁽³⁾;</p> <p>for options whose underlying is not an emission allowance, as per Article 3a(1)(b) of Delegated Regulation (EU) No 148/2013 ⁽³⁾;</p> <p>for emission allowances, the resulting amount of the quantity at the relevant price set in the contract at the time of the trade</p>	RM, MTF, OTF APA, CTP	{DECIMAL-18/5}
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	<p>for emission allowance derivatives, contracts for difference related to commodities, commodity derivatives and C10 derivatives as per Article 3a(1)(c) of Delegated Regulation (EU) No 148/2013 ⁽³⁾;</p> <p>For in case of spread bets, the notional amount shall be the monetary value wagered per point movement in the underlying financial instrument at the time of the trade;</p> <p>For credit default swaps, it shall be the notional amount for which the protection is acquired or disposed of.</p> <p>in case of contracts for difference not related to commodities, number of instruments exchanged between the buyers and sellers multiplied by the price of the instrument exchanged for that specific transaction. Equivalently, the price field multiplied by the quantity field.</p> <p>The information reported in this field shall be consistent with the value provided in field Price.</p>		
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Notional currency	For all financial instruments except in the cases described under Article 11(1) letters (a) and (b) of the Regulation.	<p>Major currency in which the notional amount is de nominated.</p> <p>In the case of an FX derivative contract or a multi-currency swap or a swaptions where the underlying swap is multi-currency or a currency CFD or spread-betting contract, this will be the notional currency of leg 1.</p>	RM, MTF, OTF, APA, CTP	{CURRENCY_CODE_3}
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Notional currency 2	For derivative contracts, IR derivative contracts and CFD or spread betting contracts excepts in the cases described under Article 11(1) letters (a) and (b) of the Regulation.	FX Major currency in which the notional amount is de nominated. In the case of an FX derivative contract or a multi-currency swap or a swaptions where the underlying swap is multi-currency or a currency CFD or spread-betting contract, this will be the notional currency of leg 2.	RM, MTF, OTF APA, CTP	{CURRENCY CODE_3}
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4.3.1.8 Fields “Quantity” “Notation of the quantity in measurement unit“ and “Quantity in measurement unit”

369. The field “Quantity” is not modified. However, ESMA highlights that this field refers to the number of instruments which are exchanged in the transaction and never measured in terms of the underlying instruments.

370. The fields “Notation of the quantity in measurement unit“ and “Quantity in measurement unit” are related to the measure of the contract in terms of underlying when such underlying is expressed in measurement units, e.g. barrels, tons, etc.

Quantity in measurement unit	For contracts designated in units in commodity derivatives, C10 derivatives, contracts for difference , emission allowance derivatives and emission allowances except in the cases described under Article 11(1) letters (a) and (b) of this Regulation.	The equivalent amount of commodity or emission allowance traded expressed in measurement unit.	RM, MTF, OTF APA, CTP	{DECIMAL-18/17}
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Notation of the quantity in measurement unit	For contracts designated in units in commodity derivatives, C10 derivatives, contracts for difference, emission allowance derivatives and emission allowances except in the cases described under Article 11(1) letters (a) and (b) of this Regulation.	Indication of the notation measurement units in which the quantity in measurement unit is expressed.	RM, MTF, OTF APA CTP	'TOCD' — tonnes of carbon dioxide equivalent, for any contract related to emission allowances 'TONE' — metric tonnes 'MWHO' — megawatt hours 'MBTU' — one million British thermal unit 'THMS' — Therms 'DAYS'— days Or {ALPHANUM-4} otherwise
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4.3.1.9 Field "Type"

371. For consistency purposes, it is proposed to allow the value of "other" also for emission allowances and not only to derivatives on emission allowances as provided in red in Field 14 "Type" in 5.6 Annex VI – Draft RTS amending RTS 2

Question 31: Do you agree with the changes proposed to Table 2 of Annex II of RTS 2 (List of details for the purpose of post-trade transparency) presented above? If not, please explain and provide any alternative proposal you might have. Are there other issues to be addressed and how?

4.3.2 Measure of volume (Table 4 of Annex II)

372. Table 4 of Annex II of RTS 2 provides indication on the measure of volume that is relevant for:

- the determination of the LIS and SSTI thresholds as per Article 13;
- the determination of the ADT and the average daily notional amount (ADNA) as per Annex III;

- the volume measures to be reported to FITRS, which is further specified in the new Annex in Section 4.3.4;
- the calculations supporting the exercise of the temporary suspension of transparency obligations as per Article 16;
- to calculate the minimum size of orders held in an order management facility of a trading venue pending disclosure as per Article 4(2)(a) of RTS 2 as clarified by Q&A 12 of the pre-trade transparency waivers section³⁸ (except for emission allowances and emission allowance derivatives for which the notional amount of traded contracts should be used).

373. ESMA proposes to amend the table in order to provide further clarity on the values to be reported for the purposes mentioned above. The table is provided in 5.6 Annex VI – Draft RTS amending RTS 2, in red the changes with respect to the current version of the table.

Question 32: Do you agree with the changes proposed to Table 4 of Annex II of RTS 2 (Measure of volume) presented above? Do you think that it now provides more clarity? If not, please explain and provide any alternative proposal you might have.

4.3.3 Reference data to be provided for the purpose of the segmentation criteria necessary for the performance of the transparency calculations (Reporting to FITRS)

374. The transparency calculations on non-equity instruments depend on the choice of segmentation criteria (SC), which are different in number and nature for each sub-asset class. The segmentation criteria define the way in which the contracts are aggregated into smaller subsets called “sub-classes”. The liquidity determination is then performed at the sub-class level. All contracts in the same sub-class have the same liquidity determination (liquid or illiquid) and the same threshold values (pre- and post-trade LIS and SSTI).

375. ESMA sets out below some proposals related to the segmentation criteria of certain sub-asset classes, having in mind the following objectives: (1) ensuring homogeneity in the way the sub-classes are constructed, i.e. avoid the creation of sub-classes which are either too granular or not granular enough; (2) modify segmentation criteria to better define sub-classes; (3) increase data quality, by limiting free-text fields; (4) ensuring consistency with RTS 23 to the extent possible and; (5) proceeding with technical corrections of RTS 2 (which do not impact the calculations nor the reporting).

4.3.3.1 Sub-class identification in FITRS and classification of instruments with CFI code

376. As explained the identification of the sub-class is extremely relevant, especially considering that not all information necessary for their determination is published. Indeed,

³⁸ https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-35_gas_transparency_issues.pdf



in the context of the CfE it was suggested to ESMA to publish in the FIRDS and FITRS databases the asset class, sub-asset class and sub-class classifications at the ISIN level.

377. ESMA is working on this IT change and plans to include this information in the FITRS publications by the end of 2021 (i.e. the information to which sub-class the ISIN belongs at the time of the calculations). A few issues related to the CFI code reporting and their allocation by the National Numbering Agencies (NNA) were notified to ESMA. This was due to the knock-on effects of this reporting to FITRS calculations.

378. ESMA is constantly working with the NCAs and National Numbering Agencies (NNA) to ensure consistency in the allocation of the CFI code and is monitoring the CFI code – MiFIR identifier mapping table to provide further improvements in this regard. In particular, ESMA acknowledges that the definition of ETPs, ETCs, ETNs and ETFs are not sufficiently clear therefore, ESMA is considering a change to the CFI code – MiFIR identifier mapping.

4.3.3.2 Reference data to be provided for the purpose of transparency calculations (Tables 1 and 2 of Annex IV)

379. As mentioned above, not all information necessary for the determination of the sub-classes is published, i.e. all the transparency reference data fields in Tables 1 and 2 of Annex IV of RTS 2.

380. In the following sections, these tables are analysed based on the 5 criteria in paragraph 372, and modifications are highlighted in red.

4.3.3.2.1 Table 1 of Annex IV of RTS 2 (Symbols)

381. Table 1 of Annex IV of RTS 2 (Symbol) is modified to take into account the changes for commodity derivatives (addition of the EIC code as explained in Section 4.3.3.3.7.1) and the replacement of certain benchmarks, namely SONIA, SOFR, TONA and €STR, are added. The new version of Table 1 is in 5.6 Annex IV – Draft RTS amending RTS 2, changes are in red.

4.3.3.2.2 Table 2 of Annex IV of RTS 2 – General fields

382. Table 2 of Annex IV of RTS 2 is modified in order to allow the reporting of other C10 derivatives, which previously did not have a specific code, as well as, options on a swap, which, as Futures on a swap and Forwards on a swap, are aggregated with interest rate swaps of the same type. The changes can be seen in 5.6 Annex IV – Draft RTS amending RTS 2.

383. The proposal to add the contract type Option on a swap is made to ensure a consistent treatment in terms of transparency requirements with the futures/forwards on a swap. The proposal to delete the contract type “forward freight agreement” (FFA) is explained in Section 4.3.3.3.7.8.

384. Any changes to Fields 1 to 9 version of Table 2 are provided in red in 5.6 Annex IV – Draft RTS amending RTS 2.

4.3.3.2.3 Table 2 of Annex IV of RTS 2 – Emission allowances fields

385. Field 11 is modified in order to allow the reporting of other emission allowance in line with emission allowance derivatives. Amendments can be found in red in Field 11 of Table 2 Annex IV in 5.6 Annex VI – Draft RTS amending RTS 2.

4.3.3.2.4 Table 2 of Annex IV of RTS 2 – Commodity derivatives and C10 derivatives fields

386. The proposed changes to reference data related to commodity derivatives and C10 are explained in Section 4.3.3.3.7.

4.3.3.2.5 Table 2 of Annex IV of RTS 2 – Interest rate derivatives fields

387. Minor additions are made to fields 16, 18, 20 and 21 to ensure their clarity and which derivatives of derivatives are to be included in the sub-asset class. The changes can be seen in 5.6 Annex IV – Draft RTS amending RTS 2.

388. Concerning the population of field 25, ESMA considers that the field should be published as follows in the extraordinary case the term is a non-standard term: e.g. if the term is of 19 years 11 months = $19 \times 12 + 11$ months, the field shall be populated with 239 months.

389. Last but not least, modifications to field 22 are made to collect the ultimate underlying bond for bond options, options on bond options and option on bond futures, so that those contracts having the same ultimate underlying bond can be aggregated in the same sub-class.

4.3.3.2.6 Table 2 of Annex IV of RTS 2 – Emission allowances derivatives fields

390. A change of drafting nature was introduced to field 43, to correct an incorrect definition.

Question 33: Do you agree with ESMA's proposals on Table 1 (Symbol) and Table 2 of Annex IV of RTS 2? If not, please explain and provide any alternative proposal you might have.

4.3.3.3 Liquidity assessment, LIS and SSTI thresholds (Tables in Annex III of RTS 2)

391. In order to clarify the above reference data used for the segmentation of the asset classes, it is proposed to add to the tables for the purpose of the liquidity assessment of each asset class, the reference data fields in RTS 2 and RTS 23 used to segment the data into sub-asset or sub-classes.

392. In addition, other amendments explained in relation to each table are also provided in the following sub-sections.

4.3.3.3.1 Segmentation criteria for bonds – Table 2.2 of Annex III

393. As far as bonds are concerned, the segmentation criterion used for the liquidity assessment of new bonds and the determination of the LIS and SSTI thresholds is the bond type.

394. In this context, ESMA clarifies that in order to classify the bond, the bond characteristics are the first step to consider, i.e. convertible and covered bonds. Only bonds that are not classified on this basis, are then classified on the basis of their issuer, which can be a sovereign, a corporate or another public entity. Therefore, a bond with convertible characteristics cannot be classified as corporate.

4.3.3.3.2 Segmentation criteria for securitised derivatives – Table 4.1 of Annex III

395. As far as securitised derivatives are concerned, there are no segmentation criteria. However, ESMA has considered the request to remove negotiable rights and add warrants to the definition of securitised derivatives in the Annex. In this context, ESMA has further clarified the definition of negotiable rights to avoid confusion with subscription rights or similar instruments whose underlying are commonly shares and added warrants to the definition of securitised derivatives.

4.3.3.3.3 Segmentation criteria for interest rate derivatives – Table 5.1 of Annex III

396. As far as interest rate derivatives are concerned, in addition to the usual clarification of the fields used for the segmentation criteria, ESMA has made changes to table 5.1 also to take into account derivatives of derivatives contracts. More specifically, all contracts in the same sub-asset class sharing the same segmentation criteria, e.g. with the same underlying but not the same contract type, should be aggregated.

4.3.3.3.4 Segmentation criteria for equity derivatives – Table 6.1 of Annex III

397. As mentioned in section 4.3.1.4, ESMA has made IT change requests where necessary in order to use the ISIN as first element for the segmentation and the name if the former is not available. This should allow better data quality in the results of the transparency calculations.

4.3.3.3.5 Segmentation criteria for credit derivatives – Table 9.2 and 9.3 of Annex III

398. Bespoke basket credit default swaps (CDS) are removed from Tables 9.2 and 9.3 in order to be consistent with Table 9.1 and classify them as other credit derivatives considering their ad-hoc characteristics.

4.3.3.3.6 Segmentation criteria for emission allowances – Table 12.1 of Annex III

399. As mentioned in section 4.3.3.2.4, the reporting of other emission allowance in line with emission allowance derivatives is now allowed. Therefore, tables 12.1 and 12.3 are modified accordingly (addition of the value “OTHR”).

Question 34: Do you agree with ESMA’s proposals on the segmentation criteria for bonds (Table 2.2), securitised derivatives (Table 4.1), interest rate derivatives (Table 5.1), equity derivatives (Table 6.1), credit derivatives (Table 9.2 and 9.3) and emission allowances (Table 12.1) of Annex III of RTS 2? If not, please explain and provide any alternative proposal you might have.

4.3.3.3.7 Segmentation criteria for commodity derivatives

400. This section follows-up on the feedback provided by stakeholders in the context of the MiFID II/ MiFIR review report on the transparency regime for non-equity instruments. Additional background information related to segmentation criteria for commodity derivatives is available in section 4.2.1 of the consultation paper (ESMA70-156-2189) and in section 4.2.2 of the final report (ESMA70-156-3329).

4.3.3.3.7.1 Segmentation criterion “settlement location” for energy sub-asset classes

401. For the sub-asset classes “Energy commodity futures/forwards”, “Energy commodity options” and “Energy commodity swaps”, the segmentation criterion 5 (segmentation criterion 6 in the case of “Energy commodity swaps”) is defined in Table 7.1 of Annex III of RTS 2 as follows: “Segmentation criterion 5 [or 6] — delivery/cash settlement location applicable to energy types: oil, oil distillates, oil light ends, electricity, inter-energy.”

402. This segmentation criterion is based on the reference data field “Delivery/cash settlement location” (RTS2#14) specified in Annex IV of RTS 2 as follows: “To be populated when the base product specified in field 35 in Table 2 of [RTS 23] is equal to energy.” There is currently no mandatory format for the settlement location in RTS 2 (free-text field).

403. As explained in the context of the MiFID II/ MiFIR review report on the transparency regime for non-equity instruments, ESMA suggested that the settlement location should be a SC also for natural gas and that, for electricity and natural gas, the settlement location should be reported with a market standard (EIC code) instead of a free text. Those two proposals were broadly supported by stakeholders.

404. In addition, **ESMA suggests aligning the reporting of this field with EMIR reporting to trade repositories (TRs)**, both in terms of the denomination of the field, and its format. In the EMIR RTS which define the fields to be reported to TR (Regulation (EU) 2017/104³⁹), the settlement location is provided in field #67 of Table 2 and called “Delivery point or zone”.

405. Under EMIR, the value ‘XXXXXXXXXXXXXXXXXX’ is reported for delivery zones outside the EU. Using the same value ‘XXXXXXXXXXXXXXXXXX’ for contracts with delivery zones outside the EU would not be appropriate for RTS 2, because it would lead to bundling in the same sub-class contracts with a delivery period e.g. in the UK and in Japan (both contracts are available for trading on EU trading venues). Therefore, in the reference data

³⁹ Commission Delegated Regulation (EU) 2017/104 of 19 October 2016 amending Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories (OJ L 17, 21.1.2017, p. 1.).



table (Table 1 of Annex IV of RTS 2, section 4.3.3.2.1) it has been clarified that EIC codes should be used including for contracts with a delivery period outside the EU, even if it is not consistent with EMIR.

406. With respect to contracts different from electricity and natural gas, ESMA would suggest applying the settlement location as a segmentation criterion only if a standard is available and set out in RTS 2. Indeed, this attribute currently reported as a free-text field creates data quality issues. It leads to the existence of ad-hoc sub-classes, one for each variation of the way in which the settlement location is reported. To ESMA's knowledge, following the departure of the UK from the EU, there are no energy contracts other than electricity and gas available for trading on EU venues.

407. Stakeholders are invited to provide their view on whether the settlement location should be applicable to contracts different from electricity and natural gas and if so, to make proposals on the reporting standard in their answer to Question 35.

408. In summary, ESMA suggest modifying the segmentation criterion "settlement location" as follows:

Segmentation criterion 5 [or 6] — ~~delivery/cash settlement location delivery point or zone~~ applicable to energy types: ~~oil, oil distillates, oil light ends,~~ electricity and natural gas, ~~inter-energy.~~

409. The corresponding reference data field (field #14) in Table 2 of Annex IV of RTS 2 would then also be amended accordingly (see Annex VI of the CP).

4.3.3.3.7.2 New segmentation criteria "duration of the delivery period"

410. In the responses to the consultation paper on the MiFID II/ MiFIR review report on the transparency regime for non-equity instruments, stakeholders had indicated that electricity and natural gas contracts with different delivery periods (e.g. daily, weekly, monthly contracts) should not be aggregated in the same sub-class because they have different liquidity profiles. Currently, a yearly contract and a monthly contract could be allocated to the same sub-class for a certain period, when they have the same remaining time to maturity.

411. The delivery period is a specific feature of electricity and gas derivatives contracts because the underlying commodity is delivered at a constant output during a certain period of time, which is defined in the contract specification, as opposed to other types of commodity derivatives for which the delivery takes place at one unique point in time. Consequently, there is a relation between the duration of the delivery period and the volume of the contract. For example, baseload monthly contracts (irrespective of their maturity) provide for the delivery of electricity 24h per day for a period of 1 month (1 lot = 24 hours * 30 days * 1MW = 720MWh). Baseload annual contracts (irrespective of their maturity) provide for the delivery of electricity 24h per day for a period of 1 year (1 lot = 24 hours * 365 days * 1MW = 8,760MWh).

412.* As a result, ESMA suggests adding the duration of the delivery period as a new segmentation criterion for electricity and natural gas contracts. To capture this attribute, a new reference data field should be added to the reference data table (Table 2 of Annex IV of RTS 2, new field #15a).

413. In addition, ESMA suggests aligning the reporting of this field with EMIR reporting to TR, both in terms of denomination and format. In the EMIR RTS which define the fields to be reported to TR, it corresponds to field #73 of Table 2 of the Annex to Regulation (EU) 2017/104. Compared to the list of possible values to report this field under EMIR, ESMA suggests adding the possibility to report the value “weekend” under RTS 2. Indeed, contracts with a delivery period equal to one weekend are available for trading on EU venues⁴⁰.

414. In summary, a new segmentation criterion would be added to the three energy sub-asset classes (futures/forward, options and swaps) as follows:

Segmentation criterion [x] — Duration of the delivery period applicable to energy types: electricity and natural gas

415. The corresponding reference data field (new field #15a) to be added in Table 2 of Annex IV of RTS 2 is shown in Annex VI of the CP.

4.3.3.3.7.3 Segmentation criterion “energy type” for energy sub-asset classes

416. For the sub-asset classes “Energy commodity futures/forwards”, “Energy commodity options” and “Energy commodity swaps”, the segmentation criterion 1 is defined in Table 7.1 of Annex III of RTS 2 as follows: Segmentation criterion 1 - energy type: oil, oil distillates, coal, oil light ends, natural gas, electricity, inter-energy.

417. This segmentation criterion is based on the commodity sub-product in RTS 23 (RTS23#36). The list of energy types in RTS 2 does not include “Renewable energy”, although “Renewable energy” features on the list of commodity sub-products in RTS 23. “Renewable energy” would then fall under other commodity derivatives for the purpose of the transparency calculations. **ESMA is proposing to add renewable energy to the list of energy types in RTS 2** because there is no obvious reason why they should be treated differently from the other energy types. It would then be necessary to define the time to maturity buckets applicable to renewable energy in RTS 2. **ESMA suggests using the same maturity buckets as the ones applicable to Coal**, i.e. the first two maturity buckets have a span of 6 months, and the following ones have a span of one year.

⁴⁰ Under EMIR, the delivery period is specified in greater detail, not only with the generic reference to its duration (field “duration of the delivery period”) but also with the start/end date and time and with the days of the week included in the delivery period. Contracts with a delivery period of one weekend can hence be reported under EMIR with a combination of the fields “duration” and “days of the week”. Such granularity is not pertinent for the purpose of RTS 2 because the contract should be aggregated at the level of the “duration of the delivery period”, consistently with the contract specifications.

418. In addition, **ESMA proposes aligning the wording of RTS 2 with the one of RTS 23** to ensure consistency in the references made to the energy types. Overall, the modified segmentation criteria 1 for the three energy sub-asset classes would read as follows:

Segmentation criterion 1 - energy type: oil, ~~oil~~ distillates, coal, ~~oil~~ light ends, natural gas, electricity, inter energy, **renewable energy**.

4.3.3.3.7.4 Segmentation criterion “load type”

419. For the sub-asset classes “Energy commodity futures/forwards”, “Energy commodity options” and “Energy commodity swaps”, the segmentation criterion 4 is defined in Table 7.1 of Annex III of RTS 2 as follows: Segmentation criterion 4 – load type defined as baseload, peakload, off-peak or others, applicable to energy type: electricity.

420. There is a redundancy between two segmentation criteria concerning the load type for electricity contracts: load type is covered by segmentation criterion 4, but it is also covered by segmentation criteria 2. Indeed segmentation criterion 2 (underlying energy) is built on the basis of RTS23#37 (further sub-product), and further sub-products for electricity refer to load types.

421. Hence ESMA suggests deleting segmentation criterion 4 – load type.

4.3.3.3.7.5 Segmentation criterion “underlying energy” for electricity and natural gas

422. For the sub-asset classes “Energy commodity futures/forwards”, “Energy commodity options” and “Energy commodity swaps”, the segmentation criterion 2 is defined in Table 7.1 of Annex III of RTS 2 as follows: Segmentation criterion 2 – underlying energy. This segmentation criterion is based on the commodity further sub-product in RTS 23 (RTS23#37).

423. In the case of gas contracts, the further sub-products are defined in RTS 23 as follows: GASPOOL, LNG, NBP, NCG and TTF. This static list creates two issues. First, sub-products listed in RTS 23 under natural gas correspond to a mix of two different attributes: (1) the delivery zone (GASPOOL, NBP, NCG and TTF); and (2) the transportation type (LNG for liquefied natural gas). This might create conflicts for example in the case of LNG contracts delivered at NBP. Second, the RTS 23 list of sub-products is missing an important number of possible delivery zones.

424. Amendments to RTS 23 are not within the scope of this consultation. However, ESMA may consider this issue in the case of a review of RTS 23. Besides, the information related to the delivery zone is already captured by the segmentation criteria 6 (previously ‘settlement location’, now ‘delivery zone’), as explained in section 4.3.3.3.7.1. As a result, it is possible to solve this issue in RTS 2 by not applying the segmentation criterion ‘underlying energy’ to gas contracts.

425. Therefore, the proposed change to segmentation criterion 2 for the energy sub-classes would read as follows:

Segmentation criterion 2 — underlying energy **applicable to all energy types except natural gas.**

4.3.3.3.7.6 Segmentation criterion “settlement type” for commodity swaps

426. For the sub-asset classes “Metal commodity swaps”, “Energy commodity swaps” and “Agricultural commodity swaps”, the segmentation criterion 4 (segmentation criterion 3 in the case of agricultural swaps) is defined in Table 7.1 of Annex III of RTS 2 as follows: **“Segmentation criterion 3 [or 4] — settlement type defined as cash, physical or other”.** This segmentation criterion is based on the field “delivery type” in RTS 23 (RTS23#34).

427. There are two inconsistencies between RTS 2 and RTS 23 in this respect: the fields have different names even though they refer to the same notion; and the possible values that the fields can take are different in the two RTSs (“Other” in RTS 2 versus “Optional” in RTS 23). To ensure consistency, **ESMA suggests aligning the segmentation criterion with RTS 23 as follows:**

Segmentation criterion 3 [or 4] — settlement delivery type defined as cash, physical or other optional

4.3.3.3.7.7 Segmentation criterion “underlying agricultural commodity” for agricultural derivatives

428. For the sub-asset classes “Agricultural commodity futures/forwards”, “Agricultural commodity options” and “Agricultural commodity swaps”, the segmentation criterion 1 is defined in Table 7.1 of Annex III of RTS 2 as follows: “Segmentation criterion 1 - underlying agricultural commodity”. This segmentation criterion is based on the concatenation of the commodity sub-product and further sub-product in RTS 23 (RTS23#36 and RTS23#37).

429. Using a single segmentation criterion to concatenate two different attributes is not aligned with the display used for the other commodity derivatives sub asset-classes, where one segmentation criterion is used for each level (one for the commodity sub-product and one for the commodity further sub-product).

430. To ensure consistency within RTS 2, ESMA suggests splitting the segmentation criterion 1 in two as follows:

Segmentation criterion 1 — underlying agricultural commodity **sub-product**

Segmentation criterion **1a** — underlying agricultural commodity **further sub-product**

4.3.3.3.7.8 Segmentation criteria for freight derivatives (C10)

431. This section focuses on possible changes to the segmentation criteria for freight derivatives, which are defined in Table 10.1 of Annex III of RTS 2 as follows:

Segmentation criterion 1 — contract type: Forward Freight Agreements (FFAs) or options

Segmentation criterion 2 — freight type: wet freight, dry freight

Segmentation criterion 3 — freight sub-type: dry bulk carriers, tanker, containership

- Segmentation criterion 4 — specification of the size related to the freight sub-type
- Segmentation criterion 5 — specific route or time charter average
- Segmentation criterion 6 — time maturity bucket

Contract type

432. Currently under segmentation criterion 1, only the contract types “forward freight agreements” and “options” are included. However, ESMA notes that freight derivatives have also been reported to FITRS with a contract type (RTS2#5) equal to futures, and that those futures contracts represented a significant portion of the total freight derivatives in terms of volumes and number of transactions.

433. It appears that for freights, “FFA” and “Futures” have been used interchangeably but refer to the same contracts. As a result, ESMA suggests removing the contract type “FFAs” from the list of possible values defined in the corresponding field in Table 2 of Annex IV (Field #5 contract type) as shown in Section 4.3.3.2.4. FFAs should be reported with the contract type Futures. This would avoid breaking down identical contracts into different sub-classes.

434. As a result, ESMA suggests amending segmentation criterion 1 as follows:

Segmentation criterion 1 — contract type: ~~Forward Freight Agreements (FFAs)~~ **futures or options**

Inconsistency between RTS 2 and RTS 23 related to freight classification

435. In RTS 2, “container ships” are listed in the segmentation criteria 3, together with dry bulk carriers and tanker. This corresponds to the further sub-product level in the classification of commodity derivatives provided in Table 2 of the Annex of RTS 23. However, in RTS 23, “container ships” feature as a sub-product, not a further sub-product.

436. ESMA understands that freights should be divided in two broad categories: wet and dry. Below that level, dry freight can be further divided into dry bulk carriers and containerships.

437. As a result, it appears that the alignment between RTS 2 and RTS 23 should be achieved by amending the level of the value “Container Ship” in RTS 23 as follows:

Base Product	Sub Product	Further sub product
'FRGT' – 'Freight'	'WETF' – Wet	'TNKR' – Tankers
	'DRYF' – Dry	'DBCR' – Dry bulk carriers 'CSHP' – Containerships
	'CSHP' – Containerships	

438. Amendments to RTS 23 are not within the scope of this consultation. However, ESMA may consider this proposal in the case of a review of RTS 23.

Free-text fields for freight derivatives

439. Segmentation criterion 4 (specification of the size related to the freight sub-type) and 5 (specific route or time charter average) are specific to freight derivatives. Those segmentation criteria are based on the corresponding reference data fields defined in Table 2 of Annex IV of RTS 2 (RTS2#12 and RTS2#13). In the absence of reporting standards defined in the RTS, those fields are currently reported as free-text with the associated data quality issues.

440. To address this issue ESMA is proposing to establish a fixed list of possible values in each field. Stakeholders are invited to provide feedback on the accuracy and completeness of the lists suggested below. The amendments to the reference data fields #12 and #13 in Table 2 of Annex IV of RTS 2 are shown in Annex VI of the CP.

Values for RTS2#12 ‘Specification of the size related to the freight sub-type’:

- For dry freight: Capesize, Panamax, Supramax or Handysize
- For wet freight: Clean or Dirty⁴¹

Values for RTS2#13 ‘Specific route or time charter average’:

Field	Description
TD7	North Sea to Continent (Baltic)
TD8	Kuwait to Singapore (Baltic)
TD17	Baltic to UK-Continent (Baltic)
TD19	Cross Mediterranean (Baltic)
TD20	West Africa to Continent (Baltic)
BLPG1	Middle East Gulf to Japan (LPG) (Baltic)
TD3C	Middle East Gulf to China (Baltic)
TC2	CPP/UNL Continent to USAC (Baltic)
TC2_37	Continent to USAC (Baltic)
TD3	Middle East Gulf to Japan (crude oil) (Baltic)
TC5	Middle East Gulf to Japan (refined products) (Baltic)
TC6	Algeria to Euromed (Baltic)
TC7	CPP Singapore to EC Australia (Baltic)
TC9	CPP/UNL m/distillate Baltic to UK/Continent (Baltic)
TC12	Naptha Sikka (WCI) to Japan (Baltic)
TC14	US Gulf to Continent (Baltic)
TC15	Mediterranean to Far East (Baltic)

⁴¹ Dirty tankers are those carrying crude, fuel oil or other 'dirty' products such as vacuum gasoil or dirty condensate. Clean tankers carry light ends such as gasoline, middles distillates or naphtha. (source: Platts)

4.3.3.3.7.10 Summary of the proposals related to segmentation criteria for commodity derivatives and impact

ID	Section in the CP	Description	Objective	Impact reporting on
SC_Commo 1 (settlement location)	4.3.3.3.7.1	Settlement location should be a segmentation criterion for gas (in addition to electricity), and reported with an EIC code.	Increase homogeneity of sub-classes	Yes ⁴²
SC_Commo 2 (settlement location)	4.3.3.3.7.1	Settlement location should not be a segmentation criterion for energy other than gas and electricity (unless a standard is provided by stakeholders)	Increase homogeneity of sub-classes	Yes
SC_Commo 3 (delivery period)	4.3.3.3.7.2	Add the duration of the delivery period as a new segmentation criterion for electricity and natural gas contracts	Increase homogeneity of sub-classes	Yes
SC_Commo 4 (energy type)	4.3.3.3.7.3	Align wording of the list of energy types with RTS 23 (in particular add renewable energy)	Consistency with RTS 23	No
SC_Commo 5 (load type)	4.3.3.3.7.4	For energy sub-asset classes, delete the segmentation criterion "load type"	Remove redundancies	Yes
SC_Commo 6 (underlying energy for natural gas)	4.3.3.3.7.5	For energy sub asset-classes, the segmentation criterion "underlying energy" should not apply to natural gas	Remove redundancies	No
SC_Commo 7 (settlement type)	4.3.3.3.7.6	For commodity swaps, align the segmentation criterion "settlement type" with RTS 23	Consistency with RTS 23	No
SC_Commo 8 (underlying agricultural commodity)	4.3.3.3.7.7	For agricultural sub asset-classes, split the segmentation criterion "underlying agricultural commodity" in two	Consistency within RTS 2	No

⁴² In practice the impact would be limited because many reporting entities are already using the EIC to report the settlement location, following an informal guidance provided by ESMA.

SC_Commo 9 (freight derivatives)	4.3.3. 3.7.8	For freight derivatives, amend the values listed after segmentation criterion “contract type” and delete the contract type FFA from the reference data table.	Data quality in RTS 2	Yes
SC_Commo 10 (freight derivatives)	4.3.3. 3.7.8	Define reporting standards for RTS2#12 “specification of the size related to the freight sub-type” and RTS2#13 “specific route or time charter average”.	Data quality in RTS 2	Yes

Table 11: Summary of the proposals on segmentation criteria for commodity derivatives and C10 derivatives

Question 35: Please provide your comments in relation to the proposals related to the segmentation criteria applicable to commodity derivatives summarised in Table 11. Please list the proposals with their ID for ease of reference. Do you have other proposals related to the segmentation criteria applicable to commodity derivatives and C10 derivatives?

4.3.4 Quantitative data to be provided for the purpose of transparency calculations (Reporting to FITRS)

441. The new Annex V of RTS 2 aims at clarifying the quantitative data to be collected for the purpose of the transparency calculations for non-equity instruments.
442. The new table to report quantitative data for the purpose of the transparency calculations (Reporting to FITRS) are in 5.6 Annex VI – Draft RTS amending RTS 2, changes with respect to the table in the reporting instructions are highlighted in red. See section 4.1.3.2 for the necessary amendment of Article 13(5) of RTS 2 to reflect this additional table.

Question 36: Do you agree with ESMA’s proposal on the new Table of Annex V of RTS 2 (Details of the data to be provided for the purpose of determining a liquid market, the LIS and SSTI thresholds for non-equity financial instruments)? If not, please explain and provide any alternative proposal you might have.

4.4 Flags (Table 3 of Annex II of RTS 2)

443. Table 2 of Annex II of RTS 2 specifies flags for identifying different types of transactions, thereby aiming at informing market participants and regulators of specific characteristics of transactions. According to Articles 11(4)(a) and 21(5)(a) of MiFIR the flags aim at ‘distinguishing between those [transactions] determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors’. Furthermore, according to Article 21(5)(b), ESMA may specify the application of post-trade transparency obligations ‘to transactions involving the use of those financial instruments for collateral

lending or other purposes where the exchange of financial instruments is determined by factors other than the current market valuation of the financial instrument.’

444. In particular, Table 2 of Annex II of RTS 2 specifies the name of the flag and its description, including the circumstances when the flag should be used, the symbol to be used and the type of execution venue (RM, MTF, OTF) or publication venue (APA, CTP) to which the obligation for flagging a type of transactions, where the transaction meets the circumstances described, apply.

445. Broadly speaking, RTS 2 currently provides for 5 types of flags:

- Flags used to signal that a transaction has been amended or cancelled ('CANC', 'AMND');
- Flags to identify transactions that are non-price forming and/or where the price has been determined based on factors other than the market price ('BENC', 'NPFT');
- Flags linked deferred publication of transactions ('LRGS', 'SIZE', 'ILQD');
- Other flags introduced either due to regulatory requirements ('ALGO'), or to identify transactions with multiple components ('XFPH', 'TPAC') or for other purposes ('ACTX'); and
- Flags for the supplementary deferrals under Article 11(3) of MiFIR as further specified in Article 11 of RTS 2 (e.g. 'LMTF', 'FULF').

446. ESMA issued guidance in its Q&As on the application of flags⁴³, explaining in particular that flags should only be applied in case the circumstances described and that, where none of the specified circumstances apply, the transaction should be published without a flag. Moreover, ESMA provided guidance on which flags are mutually exclusive and which flags can be combined with other flags as well as on the use of the supplementary deferral flag.

447. Nevertheless, ESMA noted since the application of MiFID II that a number of issues with flags persist, thereby undermining the quality and usability of transactions published, in particular for OTC-transactions. In particular ESMA observed or has been made aware of the following:

- Inconsistent use of flags, in particular for the 'NPFT' as well as the 'AMND' and 'CANC' flags, but also for 'LRGS' or 'ILQD' which is often used to flag that the transaction benefitted from a waiver;
- Different approaches for the cumulative use of flags, for instance for the various flags or non-price forming transactions;

⁴³ See Q&A 2a of section 2 of the Q&As on MiFID II transparency topics.
https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-35_qas_transparency_issues.pdf



- Inconsistent and wrong use of the supplementary deferral flags; and
- Publication of flags in different order, thereby making it difficult for users to quickly read the information and making it more challenging to consolidate the information in real time.

448. Since ESMA understands that the Commission is likely to propose amendments to the (supplementary) deferral regime, ESMA suggests keeping for the time being the supplementary flags and only review those once there is certainty on the future (supplementary) deferral regime.

449. In view of these observations, ESMA has reviewed the complete set of flags with the objective of ensuring that flags are applied in a consistent manner across the Union by all market participants, thereby delivering meaningful and accurate information of important characteristics of different types of transactions to market participants and regulators. Based on this review, ESMA suggests deleting one flag, amending a number of flags and introducing very few additional flags. Finally, ESMA is suggesting requiring the publication of flags in a prescribed order.

4.4.1 Deletion of ACTX flag

450. RTS 2 provides for an agency cross transaction flag (ACTX) to be used for OTC-transactions where an investment firm has brought together clients' orders with the purchase and the sale conducted as one transaction and involving the same volume and price.

451. Agency-cross transactions were a practice frequently used by UK investment firms, in particular pre-MiFID II where the activity of broker-crossing networks was not regulated. However, given that under MiFID II SIs are not allowed to perform matched principal trading on a regular basis, the use of the flag is limited to pure OTC-trading. Moreover, since Article 23(2) of MiFIR requires firms that operate an internal matching system to be authorised as an MTF, the practical use case of the ACTX flag appears limited. ESMA therefore suggests deleting the ACTX flag.

Question 37: Do you agree with ESMA's proposal to delete the ACTX flag? Please explain

4.4.2 Amendment of existing flags

Deferral flags

452. In view of ESMA's general approach to limit the number of flags in order to streamline the use of flags across market participants and improve the quality of pre-and post-trade transparency data, ESMA is considering to merge the current non-equity deferral flags, i.e.

the LIS deferral, the illiquid deferral and the SSTI deferral, into one general deferral flag ('DEFR').

453. ESMA believes it would not be necessary to distinguish between the three types of deferrals, as mainly the information that it concerns a deferral is of importance. Moreover, ESMA has observed that these deferral flags are used inconsistently and are often used to flag that a transaction has benefitted from a waiver. Merging the flags into one clear deferral flag might alleviate such issues.
454. ESMA would like to hear from stakeholders whether or not they consider it necessary to have the separate deferral flags.

Question 38: Do you agree with ESMA's proposal to merge the current non-equity deferral flags into one general flag?

Non-price forming transactions

455. The flagging regime of non-price forming transaction with respect to non-equity financial instruments appears more streamlined, in particular when compared to the regime applicable to equity instruments (see section 3.4.1). ESMA therefore does not consider necessary to structurally change the requirements here.
456. There is currently one general flag (i.e. 'NPFT') that can be used for non-price forming transactions. ESMA proposed to maintain this flag which will therefore be used to flag for all transactions exempted from post-trade transparency when executed OTC (article 12 of RTS 2). While ESMA has been able to carve out the application of post-trade transparency for those transactions, ESMA does not have a mandate allowing to exclude those transactions from the scope of post-trade transparency when executed on-venue. Those are therefore reportable under the current rules but appropriately flagged.
457. ESMA proposes to simplify the drafting of Article 12 of RTS 2 (see section 4.1.4.2). So, in practice and based on the new wording of Article 12 of RTS 2, this means that all transactions excluded from transaction reporting under Article 2(5) of RTS 22 and executed on trading venue should be flagged as 'NPFT'.
458. As described under section 3.4.1 for equity financial instruments, there are other transactions which can be considered "non-price forming". This is typically the case of benchmarks transactions which already benefit from a dedicated flag. This is also, to a certain extent, the case of transactions executed as part of a package transaction and where the price of each individual transactions composing the package might be representative of the market price. Those transactions also currently benefit from a dedicated flag (i.e. 'TPAC').
459. Considering all this, and as far as non-price forming transactions are concerned, ESMA would not recommend any change to the current flags (neither deletion nor addition of flags).

Question 39: Do you agree with ESMA’s proposal not to change the existing flags regarding non-price forming transactions in non-equity financial instruments? If not, please explain.

4.4.3 Addition of new flags

Pre-trade waiver flags

460. Currently, there are no transparency flags in the non-equity sphere to indicate that a transaction benefitted from a LIS, SSTI or illiquid waiver. Nevertheless, at the same time ESMA has also observed while reviewing waiver opinions that the ‘LRGS’ or ‘ILQD’ deferral flags are often used to indicate that the transaction benefitted from a waiver. In order to solve for this inconsistency, ESMA hence proposes to fill the current existing gap by introducing a dedicated waiver flag.

461. ESMA would propose not to introduce specific flags for LIS, SSTI and illiquid waivers, but rather one general waiver flag (‘WAIV’) that can be used across non-equity transactions benefiting from these waivers. As was mentioned in relation to the proposal for the equity pre-trade LIS flag, there may be some information leakage for partially filled LIS orders. While it concerns the introduction of a more general pre-trade waiver flag encompassing LIS, SSTI and illiquid waivers, the combination of certain information (waiver for a liquid instrument with an order size above LIS on an order book) may still lead to such information leakage. Hence, it may be considered to limit the flag to only completely filled LIS orders in addition to orders benefitting from an SSTI or illiquid waiver.

Question 40: Do stakeholders agree with ESMA’s proposal to introduce a general waiver flag for non-equity transactions benefitting from a waiver? For LIS, should it be limited to completely filled LIS orders?

Pre-arranged transactions flag

462. While there are limited changes mentioned above to the flagging system for non-price forming transactions in the non-equity sphere, ESMA would still suggest introducing a specific flag for the subset of pre-arranged transactions

463. While MiFIR does not have specific provisions for negotiated or pre-arranged transactions for non-equity instruments, ESMA considers it nevertheless possible to formalise negotiated or pre-arranged transactions on a trading venue subject to meeting the conditions for the respective waivers from pre-trade transparency set out in Article 9(1) of MiFIR. This is further clarified by Q&A 11 on negotiated trades in the ESMA Q&A on transparency issues.⁴⁴

464. A flag for pre-arranged transactions that are formalised on trading venues (‘NTTR’) would allow to identify the use of these types of transactions, for both NCAs and market

⁴⁴ https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-35_gas_transparency_issues.pdf



participants. ESMA would invite stakeholders to comment on whether they also consider that adding such a new flag in RTS 2 would add value.

Question 41: Do you agree with ESMA’s proposal to introduce a flag for pre-arranged non-equity transactions?

4.4.4 Order of flags

465. Table 12 below provides an overview of the proposed list of flags for the purpose of post-trade transparency.

466. Similar to the proposal in section 3.4.4 for RTS 1, ESMA suggests also to prescribe a similar reporting logic for the population of flags in RTS 2. Also in this case, the proposal is largely based on the current approach in the FIX MMT standard. However, since ESMA proposes to delete and add certain flags, the proposal below cannot fully match the current FIX MMT approach. Also, it should be noted that the FIX MMT standard includes further elements going beyond the list of flags for the purpose of post-trade transparency. This information is not included in the table below. Finally, the proposal does not cover the prescribed order for the supplementary deferral flags, which are not covered in this CP. Nevertheless, ESMA recommends populating those flags using the FIX MMT standard.

467. ESMA suggests to add the same instructions on the publication of flags to the Annex of RTS 2 as for RTS 1 (see Table 5 in section 3.4.4. Also for non-equity instruments, ESMA intends to provide further guidance on the use of flags, in particular on the combinations of different flags and on different trade scenarios, once the amendments to RTS 1 and 2 have been endorsed by the European Commission.

468. ESMA proposes to add Table 5 in section 3.4.4 to Annex II of RTS 2 (as table 3) and to replace the current table 3 of Annex II of RTS 2 by the table below.

Table 12 List of flags for the purpose of post-trade transparency

Level	Sublevel	Flag	Name	Type of execution or publication venue	Description
1	1.1	'TPAC'	Package transaction flag	RM, MTF, OTF APA CTP	Package transactions which are not exchange for physicals as defined in Article 1.
	1.2	'XFPH'	Exchange for physicals transaction flag	RM, MTF, OTF APA CTP	Exchange for physicals as defined in Article 1.

2		'NTR'	Prearranged transaction flag	RM, MTF, OTF CTP	Prearranged transactions that are formalised on trading venues.
3	3.1	'CANC'	Cancellation flag	RM, MTF APA CTP	When a previously published transaction is cancelled.
	3.2	'AMND'	Amendment flag	RM, MTF APA CTP	When a previously published transaction is amended.
4	4.1	'BENC'	Benchmark transaction flag	RM, MTF, OTF APA CTP	Transactions executed in reference to a price that is calculated over multiple time instances according to a given benchmark, such as volume-weighted average price or time-weighted average price.
	4.2	'NPFT'	Non-price forming transaction flag	RM, MTF, OTF CTP	All types of transactions listed under Article 12 of this Regulation and which do not contribute to the price formation and which are executed on a trading venue.
5		'WAIV'	Pre-trade waiver transaction flag	RM, MTF, OTF CTP	Transactions executed on venue where at least one order benefitted from (i) the large in scale waiver, (ii) the SSTI waiver, or (iii) the illiquid waiver under Article 9(1) (a)-(c) of Regulation (EU) No 600/2014.
6		'DEFR'	Post-trade deferral transaction flag	RM, MTF, OTF APA CTP	Transactions executed under (i) the post trade large in scale deferral (ii) the deferral for instruments for which there is not a liquid market, (iii) the post trade size specific to the instrument deferral.

5 Implementation and timing issues (RTS1 & RTS2)

469. Some of the proposals made in the CP significantly depart from the current requirements under RTS 1 and 2. If adopted, those changes would require that reporting entities modify their current reporting to FITRS. ESMA would need to adapt its systems accordingly, and also implement the new methodologies to determine liquid instruments and calculate the LIS and SSTI thresholds for commodity derivatives, C10 derivatives, EA and DEA.
470. ESMA suggests that a minimum implementation period of 6 months should be provided, between the publication in the Official Journal of the European Union (OJ) of the amending RTS 1 and 2, and the date of application, concerning the following changes:
- New requirements concerning the reporting of quantitative data to FITRS: new Annex IV or RTS 1 and new Annex V of RTS 2);
 - Amendments concerning the reporting of reference data to FITRS: amended Annex IV of RTS 2;
 - Amendments concerning the liquidity assessment, LIS and SSTI thresholds for commodity derivatives, C10 derivatives, EA and DEA: the relevant sections of amended Article 13 of RTS 2, and the relevant amended tables in Annex III of RTS 2.
471. In addition, given that the transparency calculations are performed with data covering one full calendar year, it would be beneficial that reporting entities start reporting under the new format on 1 January of a given year. Doing otherwise would create a situation in which reporting entities would report (1) under the old format until a certain day of the year; (2) under the new formats from another day of the same calendar year. In that scenario, it would not be possible for ESMA to make the transparency calculations with a uniform set of data for the full year.
472. ESMA is aware that this solution may create an important delay in the application of the new regime, which may be detrimental to the objectives pursued. The impact on the delay would depend on the time in the year when the amended RTS is published in the OJ. If the amended RTS is published in the OJ in the first half 2022, the date of application would be 1 January 2023 and the first publication by ESMA of the transparency calculations under the new regime would take place in 2024, based on 2023 data.
473. But if the amended RTS is published in the OJ in the second half of 2022, the date of application would be 1 January 2024 (to respect the minimum 6 months implementation period) delaying the above calendar by one year.
474. Other solutions could be envisaged to minimise this delay and stakeholders are invited to provide their feedback in this respect.



Question 42: Do you agree with the proposal on the delayed implementation of certain provisions of the amended RTS 1 & 2? Do you have proposals to minimise the delay?

6 Annexes

6.1 Annex I - Summary of questions

Question 1: Do you agree with the proposed amendment to Article 7(2) of RTS 1? If not, please explain your concerns about the proposed increase of the threshold. 19

Question 2: Do you agree with the proposed amendment to Table 5 of Annex II of RTS 1? If not, please explain why you are concerned about the proposed increase of the thresholds. 20

Question 3: Do you agree with ESMA's amendments to Articles 2, 6 and 13 of RTS 1 described above? If not, please explain why. 37

Question 4: Do you agree with the proposed description of FBA trading systems and the updated description of periodic auction trading systems? If not, please explain why and which elements should be added to the description and/or removed. 41

Question 5: Which of the two options for the pre-trade transparency requirements for FBA trading systems do you prefer? Please explain in case you are supportive of a different approach than the two options presented. 41

Question 6: Do you agree with ESMA's proposals for 'hybrid systems'? If not, please explain why and which elements should be added and/or removed. 43

Question 7: Do you agree with aligning both Table 1, Annex I of RTS 1 and Table describing the type of system and the related information to be made public in accordance with Article 2, of Annex I of RTS 2, to describe the same systems (with the exception of voice trading systems) and pre-trade transparency requirements? If not, please explain why. 43

Question 8: Do you agree with ESMA's proposals to require a specific format and standardise further the pre-trade information to be disclosed? If not, please explain why. If yes, please clarify which elements should be amended, added and/or removed, if any. 48

Question 9: Do you agree with the changes proposed by ESMA to amend Article 15 (3) of RTS 1? If not, please explain your rationale. 49

Question 10: Do you agree with the proposed amendments to Article 17? If not, please explain. 52

Question 11: Do you agree with the proposed amendment of Article 11(3)(c) of RTS 1? Please explain. 53

Question 12: Do you agree with the changes proposed to Table 3 of Annex I of RTS 1 (List of details for the purpose of post-trade transparency) presented above? If not, please explain and provide any alternative proposal you might have. Are there other issues to be addressed and how? 59

Question 13: Do you agree with ESMA's proposal not to change Tables 1 and 2 of Annex III of RTS 1? If not, and you consider that certain modifications shall be made, please explain. 61

Question 14: Do you agree with ESMA's proposal on the new Tables 1 and 2 of Annex IV of RTS 1? If not, please explain and provide any alternative proposal you might have. 68

- Question 15: Please provide concrete examples or scenarios when the price cannot be determined as described or cases of the need to set a zero price for the different types of instruments: shares, ETFs, depositary receipts, certificates, other equity-like financial instruments. 69
- Question 16: Do you agree with the deletion of the SI flags 'SIZE', 'ILQD' and 'RPRI'? If not, please explain what you consider to be their added value. 72
- Question 17: Do you agree with the deletion of the ACTX flag? If not, please explain what you consider to be its added value. 72
- Question 18: Do you agree with the approach suggested for non-price forming transactions? If not, please explain. 75
- Question 19: Do you agree with ESMA's proposal to introduce a pre-trade LIS waiver flag for on-book transactions? If not, please explain. Should it be limited to completely filled LIS orders? 76
- Question 20: Do you agree with ESMA's proposal to introduce a pre-trade LIS waiver for off-book transactions? If not, please explain 76
- Question 21: Do you agree with the proposal not to add such additional flags? If not, please explain why those flags are needed in your view. 77
- Question 22: Do you recommend adding/deleting/amending any other flags? If yes, please explain. 77
- Question 23: Do you agree with the proposal to prescribe the order of the population of flags? If not, please explain and provide an alternative proposal. 82
- Question 24: Do you agree with the proposed amendments above? If not, please do not reiterate the arguments made under the previous question asked for equity instruments and please rather explain why those amendments are not suitable for non-equity financial instruments. 85
- Question 25: Do you agree with the proposal to specify the fields to be populated for pre-trade transparency purposes? If not, please explain. In case you support the proposal, please comment on the fields proposed, in particular whether you would consider them necessary and/or whether additional information is required. 92
- Question 26: Please indicate, if applicable, which medium-term targeted improvements you would like to see to the threshold calibrations in RTS 2. 93
- Question 27: Do you agree with the proposed changes to Article 13? If not, please explain 95
- Question 28: Do you agree with the proposed changes to Article 4? If not, please explain 96
- Question 29: Do you agree with the proposed changes to Article 12? If not, please explain. Please do not reiterate the general comments made in the equity section and try to focus on arguments that are specific to non-equity financial instruments. 97
- Question 30: Please provide your comments on the analysis and proposals related to the liquidity framework applicable to commodity derivatives, EA and DEA detailed in Section 4.2 and summarised in Section 4.2.5. Please list the proposals with their ID (#1 to #9) for ease of reference. 116

Question 31: Do you agree with the changes proposed to Table 2 of Annex II of RTS 2 (List of details for the purpose of post-trade transparency) presented above? If not, please explain and provide any alternative proposal you might have. Are there other issues to be addressed and how? 125

Question 32: Do you agree with the changes proposed to Table 4 of Annex II of RTS 2 (Measure of volume) presented above? Do you think that it now provides more clarity? If not, please explain and provide any alternative proposal you might have. 126

Question 33: Do you agree with ESMA's proposals on Table 1 (Symbol) and Table 2 of Annex IV of RTS 2? If not, please explain and provide any alternative proposal you might have. 128

Question 34: Do you agree with ESMA's proposals on the segmentation criteria for bonds (Table 2.2), securitised derivatives (Table 4.1), interest rate derivatives (Table 5.1), equity derivatives (Table 6.1), credit derivatives (Table 9.2 and 9.3) and emission allowances (Table 12.1) of Annex III of RTS 2? If not, please explain and provide any alternative proposal you might have. 130

Question 35: Please provide your comments in relation to the proposals related to the segmentation criteria applicable to commodity derivatives summarised in Table 11. Please list the proposals with their ID for ease of reference. Do you have other proposals related to the segmentation criteria applicable to commodity derivatives and C10 derivatives? 138

Question 36: Do you agree with ESMA's proposal on the new Table of Annex V of RTS 2 (Details of the data to be provided for the purpose of determining a liquid market, the LIS and SSTI thresholds for non-equity financial instruments)? If not, please explain and provide any alternative proposal you might have. 138

Question 37: Do you agree with ESMA's proposal to delete the ACTX flag? Please explain 140

Question 38: Do you agree with ESMA's proposal to merge the current non-equity deferral flags into one general flag? 141

Question 39: Do you agree with ESMA's proposal not to change the existing flags regarding non-price forming transactions in non-equity financial instruments? If not, please explain. 142

Question 40: Do stakeholders agree with ESMA's proposal to introduce a general waiver flag for non-equity transactions benefitting from a waiver? For LIS, should it be limited to completely filled LIS orders? 142

Question 41: Do you agree with ESMA's proposal to introduce a flag for pre-arranged non-equity transactions? 143

Question 42: Do you agree with the proposal on the delayed implementation of certain provisions of the amended RTS 1 & 2? Do you have proposals to minimise the delay? 146

Question 43 (CBA): Can you identify any other costs and benefits not covered in the CBA below? Please elaborate. 156



6.2 Annex II Legislative mandate to develop technical standards

6.2.1 RTS 1

Article 4(6) of MiFIR

6. ESMA shall develop draft regulatory technical standards to specify the following:

- (a) the range of bid and offer prices or designated market-maker quotes, and the depth of trading interest at those prices, to be made public for each class of financial instrument concerned in accordance with Article 3(1), taking into account the necessary calibration for different types of trading systems as referred to in Article 3(2);
- (b) the most relevant market in terms of liquidity of a financial instrument in accordance with paragraph 1(a);
- (c) the specific characteristics of a negotiated transaction in relation to the different ways the member or participant of a trading venue can execute such a transaction;
- (d) the negotiated transactions that do not contribute to price formation which avail of the waiver provided for under paragraph 1(b)(iii);
- (e) the size of orders that are large in scale and the type and the minimum size of orders held in an order management facility of a trading venue pending disclosure for which pre-trade disclosure may be waived under paragraph 1 for each class of financial instrument concerned;

ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 7(2) of MiFIR

2. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under Article 64 of Directive 2014/65/EU:

- (a) the details of transactions that investment firms, including systematic internalisers and market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 6(1), including identifiers for the different types of transactions published under Article 6(1) and Article 20, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;



(b) the time limit that would be deemed in compliance with the obligation to publish as close to real time as possible including when trades are executed outside ordinary trading hours.

(c) the conditions for authorising investment firms, including systematic internalisers and market operators and investment firms operating a trading venue to provide for deferred publication of the details of transactions for each class of financial instruments concerned in accordance with paragraph 1 of this Article and with Article 20(1);

(d) the criteria to be applied when deciding the transactions for which, due to their size or the type, including liquidity profile of the share, depositary receipt, ETF, certificate or other similar financial instrument involved, deferred publication is allowed for each class of financial instrument concerned.

ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 14(7) of MiFIR

7. In order to ensure the efficient valuation of shares, depositary receipts, ETFs, certificates and other similar financial instruments and maximise the possibility of investment firms to obtain the best deal for their clients, ESMA shall develop draft regulatory technical standards to specify further the arrangements for the publication of a firm quote as referred to in paragraph 1, the determination of whether prices reflect prevailing market conditions as referred to in paragraph 3, and of the standard market size as referred to in paragraphs 2 and 4.

ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance

Article 20(3) of MiFIR

3. ESMA shall develop draft regulatory technical standards to specify the following:

(a) identifiers for the different types of transactions published under this Article, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;

(b) the application of the obligation under paragraph 1 to transactions involving the use of those financial instruments for collateral, lending or other purposes where the exchange of financial instruments is determined by factors other than the current market valuation of the financial instrument;

(c) the party to a transaction that has to make the transaction public in accordance with paragraph 1 if both parties to the transaction are investment firms.



ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.



Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 22(4) of MiFIR

4. ESMA shall develop draft regulatory technical standards to specify the content and frequency of data requests and the formats and the timeframe in which trading venues, APAs and CTPs must respond to such requests in accordance with paragraph 1, the type of data that must be stored, and the minimum period of time for which trading venues, APAs and CTPs must store data in order to be able to respond to such requests in accordance with paragraph 2.

Article 23(3) of MiFIR

3. ESMA shall develop draft regulatory technical standards to specify the particular characteristics of those transactions in shares that do not contribute to the price discovery process as referred to in paragraph 1, taking into consideration cases such as:

(a) non-addressable liquidity trades; or

(b) where the exchange of such financial instruments is determined by factors other than the current market valuation of the financial instrument.

ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

6.2.2 RTS 2

Article 9(5) of MiFIR

5. ESMA shall develop draft regulatory technical standards to specify the following:

(a) the parameters and methods for calculating the threshold of liquidity referred to in paragraph 4 in relation to the financial instrument. The parameters and methods for Member States to calculate the threshold shall be set in such a way that when the threshold is reached, it represents a significant decline in liquidity across all venues within the Union for the financial instrument concerned based on the criteria used under Article 2(1)(17);

(b) the range of bid and offer prices or quotes and the depth of trading interests at those prices, or indicative pre-trade bid and offer prices which are close to the price of the trading interest, to be made public for each class of financial



instrument concerned in accordance with Article 8(1) and (4), taking into account the necessary calibration for different types of trading systems as referred to in Article 8(2);

(c) the size of orders that are large in scale and the type and the minimum size of orders held in an order management facility pending disclosure for which pre-trade disclosure may be waived under paragraph 1 for each class of financial instrument concerned;

(d) the size specific to the financial instrument referred to in paragraph 1(b) and the definition of request-for-quote and voice trading systems for which pre-trade disclosure may be waived under paragraph 1;

When determining the size specific to the financial instrument that would expose liquidity providers to undue risk and takes into account whether the relevant market participants are retail or wholesale investors, in accordance with paragraph 1(b), ESMA shall take the following factors into account:

(i) whether, at such sizes, liquidity providers would be able to hedge their risks;

(ii) where a market in the financial instrument, or a class of financial instruments, consists in part of retail investors, the average value of transactions undertaken by those investors;

(e) the financial instruments or the classes of financial instruments for which there is not a liquid market where pre-trade disclosure may be waived under paragraph 1.

ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 11(4) of MiFIR

4. ESMA shall develop draft regulatory technical standards to specify the following in such a way as to enable the publication of information required under Article 64 of Directive 2014/65/EU:

(a) the details of transactions that investment firms, including systematic internalisers, and market operators and investment firms operating a trading venue shall make available to the public for each class of financial instrument concerned in accordance with Article 10(1), including identifiers for the different types of transactions published under Article 10(1) and Article 21(1), distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;

(b) the time limit that would be deemed in compliance with the obligation to publish as close to real time as possible including when trades are executed outside ordinary trading hours;

(c) the conditions for authorising investment firms, including systematic internalisers, and market operators and investment firms operating a trading venue, to provide for deferred publication of the details of transactions for each class of financial instrument concerned in accordance with paragraph 1 of this Article and with Article 21(4);

(d) the criteria to be applied when determining the size or type of a transaction for which deferred publication and publication of limited details of a transaction, or publication of details of several transactions in an aggregated form, or



omission of the publication of the volume of a transaction with particular reference to allowing an extended length of time of deferral for certain financial instruments depending on their liquidity, is allowed under paragraph 3.

ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 21(5) of MiFIR

5. ESMA shall develop draft regulatory technical standards in such a way as to enable the publication of information required under Article 64 of Directive 2014/65/EU to specify the following:

- (a) the identifiers for the different types of transactions published in accordance with this Article, distinguishing between those determined by factors linked primarily to the valuation of the financial instruments and those determined by other factors;
- (b) the application of the obligation under paragraph 1 to transactions involving the use of those financial instruments for collateral, lending or other purposes where the exchange of financial instruments is determined by factors other than the current market valuation of the financial instrument;
- (c) the party to a transaction that has to make the transaction public in accordance with paragraph 1 if both parties to the transaction are investment firms.

ESMA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 22(4) of MiFIR

4. ESMA shall develop draft regulatory technical standards to specify the content and frequency of data requests and the formats and the timeframe in which trading venues, APAs and CTPs must respond to such requests in accordance with paragraph 1, the type of data that must be stored, and the minimum period of time for which trading venues, APAs and CTPs must store data in order to be able to respond to such requests in accordance with paragraph 2.

6.3 Annex III Cost-benefit analysis

Introduction



This section provides a high-level cost-benefit analysis (CBA) of the draft amendments to the RTS 1 and RTS 2. Where the amendments cover both RTS 1 and 2 (e.g. flags, reporting fields) the CBA covers the amendments for both RTS 1 and 2 at the same time. A more detailed CBA will be published together with the ESMA Final Report.

The final CBA will include the feedback received from stakeholders to provide a more refined assessment of the impact of the ESMA proposal on market participants. To that end market participants are invited to respond to the question below.

Question 43 (CBA): Can you identify any other costs and benefits not covered in the CBA below? Please elaborate.

I. Increased LIS threshold for waivers and deferrals for ETFs – RTS 1

Policy Objective	The increase of the LIS threshold for waivers and deferrals for ETFs aims at increasing real-time pre- and post-trade transparency in the ETF market. The new LIS-threshold has been calibrated to increase real time transparent whilst at the same time being mindful of the need to provide the necessary protection to large orders.
Technical Proposal	The proposal is to increase the pre-trade LIS threshold for ETFs from EUR 1,000,000 to EUR 3,000,000. Such proposal requires an amendment to Article 7(2) of RTS 1. Furthermore, ESMA also proposes to amend Table 5 of Annex II of RTS 1 in order to increase the post-trade transparency threshold for ETFs from EUR 10,000,000 to EUR 15,000,000.
<i>Benefits</i>	Provides market participants in the ETF market with more real-time pre- and post-trade transparency. Transparent markets further contribute for the price formation process and investor protection.
<i>Cost to regulator:</i> - <i>One-off</i> - <i>On-going</i>	IT costs to change the threshold field for pre- and post-trade transparency calculations.
<i>Compliance cost:</i> - <i>One-off</i> - <i>On-going</i>	Reporting entities may incur in one-off IT compliance costs to adjust the new calculations and cater for the new updated thresholds. The changes could affect firms' internal systems and, particularly for trading venues, communicate the new arrangements to members and participants.

<i>Cost to other stakeholders</i>	None identified
<i>Indirect costs</i>	None identified

II. Non-addressable liquidity and non-price forming trades – RTS 1 and RTS 2

Policy Objective	To provide a simplification and harmonisation of the legal text, providing more clarity and consistency on non-price forming transactions, including removing existing overlapping of concepts.
Technical Proposal	<p>To streamline the lists of non-price forming transactions in RTS 1 and 2, namely by: (i) using more consistently Article 2(5) of RTS 22 as a central point of reference and (ii) removing existing overlaps.</p> <p>For RTS 1:</p> <p>To delete Article 2 (d) to (i), Article 6 (d) to (j), and Article 13 (b) to (c) of RTS 1, and add a new reference in Articles 2 and 6 to Article 2(5) of RTS 22 to avoid overlaps and ensure consistency.</p> <p>For RTS 2:</p> <p>The proposal mirrors the approach Article 13 of RTS 1 by deleting letters (b)-(d) of Article 12 of RTS 2.</p> <p>The proposal is also reflected in changes to the flagging of non-price forming transactions (see under VII).</p>
<i>Benefits</i>	This proposal will ensure more consistency regarding the overall treatment of non-price forming transactions, remove possible usage of different terminology to refer to the same type of non-price forming transaction and, hence, contribute to higher quality post-trade data.
<i>Cost to regulator:</i> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	None identified

<p><i>Compliance cost:</i></p> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	<p>Market participants (investment firms, APAs, trading venues) will have some one-off cost for adjusting the reporting of non-price forming transactions in light of the amendments in RTS 1 and 2.</p>
<p><i>Cost to other stakeholders</i></p>	<p>None identified</p>
<p><i>Indirect costs</i></p>	<p>None identified</p>

III. Pre-trade transparency requirements for trading systems – RTS 1 and RTS 2

<p>Policy Objective</p>	<p>Further harmonisation on the application of the pre-trade transparency by further developing the catalogue of trading systems in table 1 of Annex 1 of RTS 1 and Annex 1 of RTS 2. Improve consistency for disclosing pre-trade information and usability of such information disclosed by requiring the population of a minimum number of fields.</p>
<p>Technical Proposal</p>	<p>The proposal covers three parts: (i) adding Frequent Batch Auction (FBA) systems as a new type of trading system with tailored pre-trade transparency requirements; (ii) to further specify the pre-trade transparency requirements applicable to hybrid systems and any other trading system and; (iii) harmonisation of the format and fields of the pre-trade transparency information.</p> <p>With reference to (i), the proposal is to add the FBA category to Table 1, Annex I of RTS 1 and in Annex 1 of RTS 2.</p> <p>With reference to (ii), the proposal is to differentiate the definition of ‘hybrid system’ from ‘any other trading system’, by adding a separate row for ‘hybrid systems’ classification in Table 1, Annex I of RTS 1 and mirroring this in Annex I of RTS 2.</p> <p>With reference to (iii), the proposal is to amend Article 3, Article 9 and Annex I of RTS 1, to add a new table to further specify the format of the information to be provided as required under Table 1, Annex I of RTS 1. Similarly, Article 2 of RTS 2 is amended.</p>
<p><i>Benefits</i></p>	<p>Provides clarity and harmonization of the categorisation of trading systems both for RTS 1 and RTS 2.</p> <p>Regarding the harmonisation of the format of the pre-trade transparency information, the benefit is to ensure consistent practices thereby making it</p>

	easier to read and use the information by receiving entities and its aggregation with information from other sources
<p><i>Cost to regulator:</i></p> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	NCA's may incur one-off costs to adjust to the new catalogue of trading systems.
<p><i>Compliance cost:</i></p> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	<p>Trading venues operating FBAs or hybrid systems would incur one-off costs to adjust their systems to the change pre-trade transparency information to be disclosed.</p> <p>Trading venues, SIs and APAs would incur one-off costs for adjusting their systems to ensure publication of pre-trade information under the new format. Moreover, for some market participants currently providing less information, this could also result in slightly higher on-going costs.</p>
<i>Cost to other stakeholders</i>	<p>Entities receiving pre-trade data may incur one-off costs to adjust to the new catalogue of trading systems and the format for providing pre-trade information.</p> <p>Market participants may adjust their trading behaviour in view of the changes pre-trade transparency requirements for FBA and hybrid systems.</p>
<i>Indirect costs</i>	None identified

IV. Deferred Publication of Transactions (Article 15 of RTS 1) – RTS 1

Policy Objective	Improve the level of timely disclosure of post-trade transparency information by shortening the deferral period for certain transactions in view of changes in trading practices and technological developments.
Technical Proposal	To amend Article 15(3) (b) of RTS 1 to limit the deadline of the deferred publication of transactions to a maximum of the next opening trading day for transactions executed less than two hours before the end of the trading day.
<i>Benefits</i>	The current deferral period is considered as unnecessarily long and shortening it would improve the level of timely post-trade transparency which will provide market participants with a more timely view of transactions executed less than two hours before the trading day and after the end of the trading day.

<i>Cost to regulator:</i> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	None identified
<i>Compliance cost:</i> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	Trading venues and investment firms will incur one-off costs to implement the shortened deferral period.
<i>Cost to other stakeholders</i>	None identified
<i>Indirect costs</i>	None identified

V. Date of application of transparency calculations (Article 17 of RTS 1 and Article 13 of RTS 2) – RTS 1 and RTS 2

Policy Objective	<p>To ensure further harmonisation on the application of the transparency calculations and to limit the operational impact for all market participants involved. The aim is to agree on a process that runs as smoothly as possible whilst maintaining relatively unchanged the timelines envisage in RTS 1.</p> <p>The same change should be done on Article 13 of RTS 2, so that the approach is aligned for the application of all transparency calculations.</p>
Technical Proposal	<p>For RTS 1:</p> <p>The proposal is that the transparency calculations start to apply from the first Monday of April following the publication of the calculations. The application period should last until the day before the first Monday of April of the subsequent year.</p> <p>For RTS 2:</p> <p>The proposal for Article 13 of RTS 2 mirrors the approach suggested for RTS 1 while taking into account the different timeline for the publication and application of the results.</p>

	<p>Therefore, the application of transparency calculations for non-equity instruments should start on the first Monday of June until the day before the first Monday of June of the subsequent year.</p> <p>For the liquidity determination of bond instruments, ESMA proposes to require competent authorities to ensure the publication of the calculations on a quarterly basis, on the first Monday of February, May, August and November. Furthermore, ESMA proposes that that the date of application should start on the third Monday of the month until the next period applies.</p>
<i>Benefits</i>	These amendments provide further standardisation on the date of the application of transparency calculations and the process is operationally easier to implement for all market participants by ensuring that the calculations start applying at the beginning of the week.
<i>Cost to regulator:</i> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	<p>This will require a change in the ESMA IT system, with respect to the computation of date of application, and maybe to the automatic scheduling of the calculations.</p> <p>It will also require updates to the download instructions, which means an impact on the users of the data.</p>
<i>Compliance cost:</i> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	This will require a change in the IT system, with respect to the computation of date of application (one-off costs)
<i>Cost to other stakeholders</i>	The change will require updates to the download instructions, which means an impact on the users of the data (one-off costs).
<i>Indirect costs</i>	None identified

VI. Reporting fields – RTS 1 and RTS 2

Policy Objective	Providing more clarity on the trading information to be reported both to the public and to FITRS, with the ultimate goal of improving data quality and data aggregation.
Technical Proposal	It covers two dimensions: (i) the fields to be populated for the purpose of post-trade transparency by trading venues and APAs, (ii) the reference data and

	<p>the quantitative data to be provided for the performance of the transparency calculations.</p> <p>For RTS 1:</p> <p>With reference to (i), the proposals are to clarify some of the fields to be used in the publication of the post-trade reports as per Table 3 in Annex I of the draft amending RTS 1 provided in Annex VI, to clarify the order and the name of the fields and to add a few additional of fields.</p> <p>With reference to (ii), the proposal is to align the structure of RTS 1 and CDR 2017/567 and include in the former a new annex with the details of the relevant quantitative data, complementing the reference data necessary for the performance of the calculations as per CDR 567/2017.</p> <p>For RTS 2:</p> <p>With reference to (i), the proposal is to amend the details to be published as provided in Table 1 and 2 of Annex II of RTS 2 as well as impose the order and the name of the fields to be used in the publication of the post-trade reports.</p> <p>With reference to (ii), the proposal is to clarify the quantitative data to be collected for the purpose of the transparency calculations for non-equity instruments.</p>
<i>Benefits</i>	The proposals provide clarity and harmonization on the information to be reported according to different legal texts for the purpose of post-trade transparency and for the performance of the transparency calculations.
<i>Cost to regulator:</i> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	NCAs may incur one-off IT costs to adjust to the amendments to the reference data fields and the new reporting of quantitative data.
<i>Compliance cost:</i> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	Reporting entities may incur one-off IT compliance costs to adjust the reporting fields.

<i>Cost to stakeholders</i>	<i>other</i>	None identified
<i>Indirect costs</i>		None identified

VII. Flags – RTS 1 and RTS 2

Policy Objective	Ensuring that flags are applied in a consistent manner across the Union by all market participants, thereby delivering meaningful and accurate information of important characteristics of different types of transactions to market participants and regulators.
Technical Proposal	<p>For RTS 1:</p> <p>It includes (i) the deletion of the flags ‘SIZE’, ‘ILQD’ and ‘RPRI’ as specified in Table 4 of Annex I of RTS 1; and of the ‘ACTX’ flag; (ii) the amendment of certain flags related to non-price forming trades by deleting the flags ‘TNCP’ and ‘PRIC’, adding the flags ‘PORT’ and ‘CONT’, and by changing the definition of the ‘NPFT’ flag; (iii) the addition of a limited number of new flags (i.e. ‘WAIV’ and ‘NTLS’) and (iv) prescribing the order for using flags.</p> <p>For RTS 2:</p> <p>It includes (i) deletion of the ‘ACTX’ flag, (ii) the amendment of the existing deferral flags, i.e. the LIS deferral, the illiquid deferral and the SSTI deferral, by merging them into one general deferral flag (‘DEFER’); (iii) the addition of new flags, i.e. a general waiver flag (‘WAIV’) and a flag for pre-arranged transactions that are formalised on trading venues (‘NTTR’) and (iv) the provision of the order for using flags.</p>
<i>Benefits</i>	Limiting the number of flags and better clarifying how flags should be used and combined would simplify the application of the provisions by market participants, and hence streamline the use of flags and improve the quality of pre-and post-trade transparency data. This in turn would ultimately improve the quality and facilitate aggregation of published information.
<i>Cost to regulator:</i>	None identified
- <i>One-off</i>	
- <i>On-going</i>	

Compliance cost: <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	Reporting entities may incur one-off IT compliance costs to adjust for the usage of the newly amended flags.
Cost to other stakeholders	None identified
Indirect costs	None identified

VIII. Commodity Derivatives – RTS 2

Policy Objective	Better tailor the calibration of the various transparency calculations for commodity derivatives, freight derivatives, EA and DEA based on the specificities of such markets including that (1) trading takes place in lots corresponding to a given quantity of the underlying commodity; (2) numerous transactions are pre-negotiated outside the order book and registered on-venue; (3) the liquidity profile depends on numerous characteristics of the underlying contracts.
Technical Proposal	It includes: (i) revisions of the segmentation criteria for identifying classes of commodity derivatives (additions of missing characteristics, deletion of duplicative characteristics, definition of reporting standards); (ii) the increase of the parameter of the ADNT to 50 trades per day for all commodity/freight/EA/DEA sub-classes; (iii) the replacement of the criterion “average daily notional amount” with the criterion “standard trade size” calculated as the most frequently traded size; (iv) the adjustment of the LIS and SSTI thresholds
Benefits	Reshaping the methodology to determine liquid instruments as well as the methodology to set the LIS and SSTI thresholds in accordance with the specificities of commodity derivatives would lead to (1) a better identification of liquid contracts; (2) the determination of LIS and SSTI thresholds which are coherent with the liquidity profiles (higher thresholds for the most liquid ones).
Cost to regulator: <ul style="list-style-type: none"> - <i>One-off</i> 	ESMA would incur one-off IT costs to adjust its systems to the amendments to the liquidity determination and transparency calculations, as well as to the changes to data reporting deriving from those amendments.

<ul style="list-style-type: none"> - <i>On-going</i> 	
<p><i>Compliance cost:</i></p> <ul style="list-style-type: none"> - <i>One-off</i> - <i>On-going</i> 	<p>Reporting entities (venues, APAs, and counterparties reporting to APAs) would incur one-off IT compliance costs to adjust their systems to the changes to data reporting deriving from the amendments to the liquidity determination and transparency calculations.</p>
<p><i>Cost to other stakeholders</i></p>	<p>None identified</p>
<p><i>Indirect costs</i></p>	<p>None identified</p>



6.4 Annex IV - Feedback on the call for evidence

475. On 1 September 2020 ESMA published a Call for Evidence (CfE) in the context of the review of transparency requirements for equity and non-equity instruments.
476. The purpose of the CfE was to gather input and views on practical and technical issues related to the application of RTS 1 and RTS 2 identified by the market participants since the application of MiFID II/ MiFIR. Through the CfE, ESMA intended to retrieve feedback on any technical subject, policy gap and unclear provisions that market participants have encountered at implementation level. Stakeholders were invited to provide comments by 31st October 2020.
477. ESMA received a total of 26 responses, covering both trading venues, associations representing the buy and sell sides and banks.
478. Overall, ESMA received valuable feedback to the CfE. On some topics there was broad agreement between stakeholders (e.g. on the clarification and simplification of the reporting process and on the commodity derivatives threshold calculation), whereas on other topics there were more heterogeneous views (e.g. on the need of having a separate category for FBAs). Many of the topics raised by the market participants in the CfE are addressed in the CP. Where feedback received to the CfE covered the need for changes to the L1 text (e.g. on amending the methodology for determining the Standard Market Size (SMS), or to expand the scope of the definition of trading venues to systematic internalisers), either to fully address the issue or as a precondition for amending the L2 text, ESMA could not take the feedback into account.
479. Regarding RTS 1, one of the most frequently raised points highlighted by the participants was regarding the topic of non-addressable liquidity and non-price forming trades, mostly to amend concepts and definitions in order to develop a harmonized approach across the Union and improve reporting quality.
480. Several participants also raised concerns regarding the pre-trade transparency requirements for trading systems, namely about some new categories that have been created due to technical improvements on the market, such as the Frequent Batch Auction (FBA), that are born from the conventional periodic auction trading systems but with some differences.
481. Furthermore, a few respondents suggested further amendments, notably the clarification of the exchange rate of the Article 7 of RTS 1, the deferred publication of transactions subject to Article 15 of the same RTS and the change on the date of application of transparency calculations of Article 17 of RTS 1 and Article 13 of RTS 2. Also, on the reporting fields and flags, several participants recommended some amendments to further clarify and harmonize both topics. ESMA covers these topics in the CP.
482. Several participants raised recommendations regarding Article 12 of RTS 1 further specifying the post-trade transparency requirement, more specifically to further explain and clarify some concepts, such as the timeline limit within which investment firms are required to make amendments / cancellations to previously published trades. These suggestions were not included in the CP since ESMA considers it more appropriate to address such issues in Level 3 guidance which ESMA intends to issue on post-trade



transparency issues. Similarly, ESMA also intends to address in such guidance further clarification on the population of reporting fields in RTS 1 and 2.

483. Regarding RTS 2, the vast majority of the amends and suggestions raised by the participants on the CfE were either covered on the CP or matched the ones raised on RTS 1, such as the topics regarding the trading systems or reporting fields and flags. In fact, several responses regarding the reporting fields mentioned the same issues, either for RTS 1 and RTS 2, suggesting an interest of most of the participants of a higher level of harmonization on the definitions, concepts, and tables of RTS 1 and 2, when possible.
484. Regarding the commodity derivatives, the vast majority of the respondents did agree that the calculations on the thresholds should be better calibrated, particularly for LIS threshold. Most respondents agreed that calculations based on insufficiently granular sub-asset classes, besides arbitrarily selected and inappropriately calibrated parameters, may result in disproportionately low thresholds for highly liquid products and overly high thresholds for developing markets.
485. Taking the above into consideration, and the feedback collected from the CfE, the vast majority of the participants' opinions and recommendations were duly noted by ESMA and incorporated in the CP on the RTS 1 and 2 review.



6.5 Annex V – Draft RTS amending RTS1

COMMISSION DELEGATED REGULATION (EU) .../...

of []

amending Commission Delegated Regulation (EU) 2017/587 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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) No 648/2012⁴⁵, and in particular Article 4(6), Article 7(2), Article 14(7), Article 20(3), Article 22(4) and Article 23(3) thereof,

Whereas:

- (1) Delegated Regulation (EU) 2017/587⁴⁶ sets out transparency requirements for trading venues and systematic internalisers in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments.
- (2) Delegated Regulation (EU) 2017/587 has been applied for more than three years and taking into consideration the experiences acquired with its application, the identification of inconsistent application of some provisions and the changes in trading practices due to technological developments and adaptations of behaviour of market participants, it appears necessary to amend certain provisions of Delegated Regulation (EU) 2017/587. Such amendments will contribute to the convergent application of the Regulation as well as provide market participants with legal certainty.
- (3) It has emerged from the current application of Delegated Regulation (EU) 2017/587 that there have been different interpretations of the concept of non-price forming transactions which has led to inconsistent publication of post-trade transparency information and flagging of transactions and eventually resulting in an unsatisfactory quality of data reported. In order to improve transparency, data quality and ultimately

⁴⁵ OJ L 173, 12.6.2014, p. 84

⁴⁶ Commission Delegated Regulation (EU) 2017/587 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments and on transaction execution obligations in respect of certain shares on a trading venue or by a systematic internaliser (OJ L 87, 31.3.2017, p.387).

to facilitate data aggregation, it is therefore necessary to simplify and clarifying the existing reporting regime by amending some provisions in Delegated Regulation (EU) 2017/587 and by introducing adequate cross-references in particular in Articles listing, for various purposes, transactions that are considered to be non-price forming.

- (4) Although pre-trade transparency in equity and equity-like instruments increased following the application of the Regulation, the level of real time pre-trade transparency remains low for ETFs and a significant percentage of ETF transactions, both in terms of the number of trades and volume traded, currently benefit from a waiver, in particular the large in scale waiver. Therefore, the objective of Regulation 600/2014 of increasing the transparency available in the ETF market has not been fully achieved. In view of increasing real-time pre-trade transparency in ETF, it is therefore necessary to revisit the pre-trade large in scale transparency threshold applicable to ETFs in Delegated Regulation (EU) 2017/587. An increase in the threshold will ensure that more transactions in ETFs are subject to real-time pre-trade transparency requirements in line with the objectives of Regulation 600/2014. The increase in the threshold should reflect the right balance between increasing real-time transparency whilst ensuring the right level of protection for large orders.
- (5) Similarly, while in general the objective of Regulation 600/2014 of protecting large trades whilst maintaining a high level of real-time post-trade transparency has been achieved for most equity and equity-like instruments, the level of post-trade transparency for ETFs remains low, with the proportion of deferred publication of transactions in ETF remaining significantly higher than for shares and other equity instruments. In view of ensuring that more transactions in ETFs are subject to real-time post trade transparency requirement in line with the objectives of Regulation 600/2014, it is necessary to increase the minimum qualifying size of transaction for permitted delay of 60 minutes for ETFs. The increase in the threshold should reflect the right balance between increasing real-time transparency whilst ensuring the right level of protection for large orders.
- (6) While pre-trade transparency requirements should remain calibrated for the different type of trading systems, it is important to ensure more consistency regarding the content and format of the disclosed information which will facilitate the use of the information by receiving entities and its aggregation with data from other sources.
- (7) New trading systems have emerged over the last years. In particular, the emergence of frequent batch auction systems was not reflected in the specification of pre-trade transparency requirements applicable to different types of trading systems leading to a situation where those systems provided only very limited pre-trade transparency. Moreover, different interpretations of market participants on the applicable pre-trade transparency requirements for hybrid trading systems, resulted in inconsistent pre-trade transparency disclosed by such systems. Therefore, Delegated Regulation (EU) 2017/587 should be amended to introduce tailored pre-trade transparency requirements for frequent batch auction systems and hybrid systems to ensure that such systems disclose appropriate pre-trade transparency information in a consistent manner across the Union. Finally, the specification of a list of details for the purpose of pre-trade transparency should contribute to the consistent application of pre-trade transparency requirements across the Union.



- (8) Post-trade information is required to be made available as close to real time as technically possible. Recent technological and market developments allow market participants to provide information on transactions at an earlier point in time. Taking this into account, the possibility to publish the post-trade information no later than noon of the following trading day for transactions executed less than two hours before the end of the trading day is deemed as unnecessarily long. Therefore, it is necessary to reduce the period to no less than an hour since the opening of the relevant market of the following trading day.
- (9) The requirements on the disclosure of post-trade transparency information to the public and the information to be provided to competent authorities and ESMA for the purpose of the transparency calculations are not interpreted consistently by trading venues, APAs and investment firms, resulting in a situation where such information is incomplete, lacking accuracy or inconsistent. This situation undermines the usability of such information and the quality and accuracy of the transparency calculations based on the data submitted. It is therefore necessary to provide further specification in this Regulation on the details to be disclosed by trading venues, APAs and CTPs and for the reporting of reference data and quantitative data to competent authorities and ESMA. More clarity in the reporting framework is essential to promote the consistent application of the post-trade transparency requirements across the Union.
- (10) Some of provisions of Delegated Regulation (EU) 2017/587 contain incorrect references [or clerical errors] that affect the substance of those provisions. Therefore, such provisions should be amended to insert the correct references.
- (11) This Regulation requires market participants and ESMA to adjust their systems in order to ensure frictionless and correct reporting. In order to give all stakeholders sufficient time for making these adjustments, the application of these requirements should be deferred
- (12) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.
- (13) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁴⁷,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/587

- (1) Article 1 is replaced by the following:

⁴⁷ 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 (OJ L 331, 15.12.2010, p. 84).



‘Article 1

Definitions

‘For the purposes of this Regulation, the following definitions apply:

- (1) ‘portfolio trade’ means transactions in five or more different financial instruments where those transactions are traded at the same time by the same client and as a single lot against a specific reference price;
- (2) ‘systematic internaliser’ means an investment firm as defined in Article 4(1)(20) of Directive 2014/65/EU of the European Parliament and of the Council’.
- (2) Article 2 is amended as follows
 - (c) letters (d) to (i) are deleted;
 - (d) a new letter (j) is inserted;

‘(j) it is an excluded transaction listed under Article 2(5) of Commission Delegated Regulation (EU) 2017/590 where applicable.’
- (3) Paragraph 1 of Article 3 is amended as follows:

‘The information is to be made public in accordance with the type of trading systems they operate as set out in ~~Table 1~~ **Tables 1, 1a and 1b** of Annex I’
- (4) Article 6 is amended as follows
 - (e) letters (d) to (j) are deleted;
 - (f) a new letter (k) is inserted;

‘(k) it is an excluded transaction listed under Article 2(5) of Commission Delegated Regulation (EU) 2017/590 where applicable.’
- (5) Paragraph 2 of Article 7 is amended as follows:

‘2. An order in respect of an ETF shall be considered to be large in scale where the order is equal to or larger than EUR ~~1 000 000~~ **3 000 000**’
- (6) Article 9 is amended as follows:
 - (g) letter (b) is replaced by the following:

‘(b) the arrangement complies with technical arrangements equivalent to those specified for approved publication arrangements (APAs) in Article ~~15~~ **14** of Delegated Regulation (EU) 2017/571 that facilitate the consolidation of the data with similar data from other sources;’



(h) A new letter (e) is inserted:

‘(e) the arrangement complies with the formats as set out in Tables 1a and 1b of Annex I.’

(7) Letters (b) to (d) of Article 13 are deleted:

(8) Paragraph 2, point (b) of Article 15 is amended as follows:

‘(b) no later than ~~noon local time~~ **the opening of the trading day of the most relevant market in terms of liquidity** on the next trading day for transactions not covered in point (a).’

(9) Article 17 is amended as follows:

(a) Paragraph 2 is replaced by the following:

‘2. Competent authorities, market operators and investment firms including investment firms operating a trading venue shall use the information published in accordance with paragraph 1 for the purposes of points (a) and (c) of Article 4(1) and paragraphs 2 and 4 of Article 14 of Regulation (EU) No 600/2014, for ~~a the~~ **the period of 12 months from 1 between the first Monday of April of the year in which the information is published and the day before the first Monday of April of the subsequent year.**’

(b) a new paragraph 6 is inserted:

‘6. Where ESMA or competent authorities require information in accordance with Article 22 of Regulation (EU) No 600/2014 trading venues, APAs and CTPs shall provide such data as per Annex IV of this Regulation’

(c) a new paragraph 7 is inserted:

‘7. Where the trade size defined for the purpose of paragraph 1 and 2 of Article 7, paragraph 2(a) of Article 8, paragraph 1 of Article 11 and paragraph 1 of Article 15 is expressed in monetary value and the financial instrument is not denominated in Euros, the trade size shall be converted to the currency in which the financial instrument is denominated by applying the European Central Bank euro foreign exchange reference rate as of 31 December of the preceding year.’

(10) Article 18 is amended as follows

The competent authority for a specific financial instrument responsible for performing the calculations and ensuring the publication of the information referred to in Articles 4, 7, 11 and 17 shall be the competent authority of the most relevant market in terms of liquidity in Article 26 of Regulation (EU) No 600/2014 and specified in Article 16 of Delegated Regulation (EU) 2017/**590**

(11) Annex I is amended as follows:

(a) Table 1 is replaced by the following:

Table 1

Description of the type of trading systems and the related information to be made public in accordance with
Article 3

Row	Type of trading system	Description of the trading system	Information to be made public
1	Continuous auction order book trading system	A system that by means of an order book and a trading algorithm operated without human intervention matches sell orders with buy orders on the basis of the best available price on a continuous basis.	The aggregate number of orders and the shares, depositary receipts, ETFs, certificates and other similar financial instruments that they represent at each price level for at least the five best bid and offer price levels.
2	Quote-driven trading system	A system where transactions are concluded on the basis of firm quotes that are continuously made available to participants, which requires the market makers to maintain quotes in a size that balances the needs of members and participants to deal in a commercial size and the risk to which the market maker exposes itself.	The best bid and offer by price of each market maker in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system, together with the volumes attaching to those prices. The quotes made public shall be those that represent binding commitments to buy and sell the financial instruments and which indicate the price and volume of financial instruments in which the registered market makers are prepared to buy or sell. In exceptional market conditions, however, indicative or one-way prices may be allowed for a limited time.
3	Periodic auction trading system	A system that matches orders on the basis of an auction schedule and/or following a volatility interruption using a trading algorithm operated without human intervention. The start of an auction is determined by the trading venue. Periodic auction trading systems include opening auctions, closing auctions and auctions following a volatility interruption, but not frequent batch auctions (row 4)	The price at which the auction trading system would best satisfy its trading algorithm in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system and the volume that would potentially be executable at that price by participants in that system.

4	Frequent auction systems batch trading	A system that matches orders periodically during continuous trading hours, using a trading algorithm. FBA system are not based on scheduled auctions, and the start of an auction is determined by the submission of orders by members or participants or by the identification of two potentially matching orders	<p>The price at which the system would best satisfy its trading algorithm in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system and the volume that would potentially be executable at that price by participants in that system as well as the side and size of any order imbalance.</p> <p>Pending the identification of two matching orders the best price and the aggregated volume on both sides at that price shall be made public.</p>
5	Request for quote trading system	A system where a quote or quotes are provided in response to a request for quote submitted by one or more members or participants. The quote is executable exclusively by the requesting member or participant. The requesting member or participant may conclude a transaction by accepting the quote or quotes provided to it on request.	The quotes and the attached volumes from any member or participant which, if accepted, would lead to a transaction under the system's rules. All submitted quotes in response to a request for quote may be published at the same time but not later than when they become executable.
6	Hybrid system	A system falling into two or more of the types of trading systems referred to in rows 1 to 5 of this table.	<p>For hybrid systems that combine different trading systems at the same time, the requirements correspond to the pre-trade trade transparency requirements applicable to each type of trading system that forms the hybrid system.</p> <p>For hybrid systems that combine two or more trading systems subsequently, the requirements correspond to the pre-trade transparency requirements applicable to the respective trading system operated at a particular point in time</p>
7	Any other trading system	Any other type of trading system not covered by rows 1 to 6.	Adequate information as to the level of orders or quotes and of trading interest in respect of shares, depositary receipts, ETFs, certificates and other similar

			financial instruments traded on the trading system; in particular, the five best bid and offer price levels and/or two-way quotes of each market maker in that instrument, if the characteristics of the price discovery mechanism so permit.
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(b) A new table 1a is inserted:

Table 1a

Symbol table for table 1b

Symbol	Data type	Definition
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{CURRENCYCODE_3}	3 alphanumerical characters	3-letter currency code, as defined by ISO 4217 currency codes
{DATE_TIME_FORMAT}	ISO 8601 date and time format	Date and time in the following format: YYYY-MM-DDThh:mm:ss.dzzzzZ. <ul style="list-style-type: none"> – ‘YYYY’ is the year; – ‘MM’ is the month; – ‘DD’ is the day; – ‘T’ — means that the letter ‘T’ shall be used – ‘hh’ is the hour;
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. <ul style="list-style-type: none"> – decimal separator is ‘.’ (full stop); – negative numbers are prefixed with ‘-’ (minus);
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383

(c) A new table 1b is inserted:

Table 1b

List of details for the purpose of pre-trade transparency

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
1	Submission date and time	<p>For trading venues, where the orders and quotes do not have to be published on an aggregated basis, the date and time when the order or quote was introduced for execution into the trading system.</p> <p>For trading venues the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.</p>	Regulated Market (RM), Multilateral Trading Facility (MTF)	{DATE_TIME_FORMAT}
2	Instrument identification code	Code used to identify the financial instrument	RM, MTF, systematic internaliser (SI)	{ISIN}
3	Side	Side of the order or quote	RM, MTF, SI	'BID' or 'ASK'
4	Price	<p>The price of orders and quotes as required under Table 1 and excluding, where applicable, commission and accrued interest.</p> <p>Where price is reported in monetary terms, it shall be provided in the major currency unit.</p>	RM, MTF, SI	<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>

5	Price currency	Major currency unit in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF, SI	{CURRENCYCODE_3}
6	Price notation	Indication as to whether the price is expressed in monetary value, in percentage or in yield.	RM, MTF, SI	<p>'MONE' — Monetary value in the case of equity and equity-like financial instruments</p> <p>'PERC' — Percentage in the case of certificates and other equity-like financial instruments</p> <p>'YIEL' — Yield in the case of certificates and other equity-like financial instruments</p> <p>'BAPO' — Basis points in the case of certificates and other equity-like financial instruments</p>
7	Quantity	<p>Number of units of the financial instruments.</p> <p>The nominal or monetary value of the financial instrument.</p>	RM, MTF, SI	<p>{DECIMAL-18/17} in case the quantity is expressed as number of units</p> <p>{DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value</p>
8	Venue	<p>Identification of the trading venue through the system of which orders and quotes are advertised or the systematic internaliser providing a quote.</p> <p>Use the ISO 10383 segment MIC for or, where the segment MIC does not exist, use the operating MIC.</p>	RM, MTF, SI	{MIC}

9	Number of orders and quotes	The number of aggregated orders or quotes from different members or participants (where aggregated information is required under Table 1 of Annex I).	RM, MTF	{DECIMAL-18/0}
10	Trading system	Type of trading system where the order or quote is advertised	RM, MTF, SI	<p>Trading venues: 'CLOB' for continuous auction order book trading systems, 'QDTS' for quote driven trading systems, 'PATS' for periodic auction trading systems, 'RFQT' for request for quote trading systems, 'FBAS' for Frequent Batch Auction trading systems, 'HYBR' for hybrid trading systems, 'XXXX' for any other trading system</p> <p>Systematic internalisers: 'SINT'</p>
11	Publication date and time	<p>Date and time when the information was published. For trading venues, and APAs the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.</p> <p>For systematic internalisers, the time reported shall be granular to at least the nearest second.</p>	RM, MTF, SI	{DATE_TIME_FORMAT}

12	Orders and quotes identification code	<p>Alphanumerical code assigned by trading venues and systematic internalisers.</p> <p>The identification code shall be unique, consistent and persistent per ISO 10383 segment MIC and per trading day. Where the trading venue or the systematic internaliser does not use segment MICs, the identification code shall be unique, consistent and persistent per operating MIC per trading day.</p> <p>The components of the identification code shall not disclose the identity of the members or participants which have submitted the orders or quotes.</p>	RM, MTF, SI	{ALPHANUM-52}
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(d) Table 3 is replaced by the following:

Table 3
List of details for the purpose of post-trade transparency

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
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1	Trading date and time	<p>Date and time when the transaction was executed.</p> <p>For transactions executed on a trading venue, the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.</p> <p>For transactions not executed on a trading venue, the date and time when the parties agree the content of the following fields: quantity, price, currencies in fields 31, 34 and 44 as specified in Table 2 of Annex 1 of Delegated Regulation (EU) 2017/590, instrument identification code, instrument classification and underlying instrument code, where applicable. For transactions not executed on a trading venue the time reported shall be granular to at least the nearest second.</p> <p>Where the transaction results from an order transmitted by the executing firm on behalf of a client to a third party where the conditions for transmission set out in Article 4 of Delegated Regulation (EU) 2017/590 were not satisfied, this shall be the date and time of the transaction rather than the time of the order transmission.</p>	<p>Regulated Market (RM), Multilateral Trading Facility (MTF), Organised Trading Facility (OTF)</p> <p>Approved Publication Arrangement (APA)</p> <p>Consolidated tape provider (CTP)</p>	{DATE_TIME_FO RMAT}
2	Instrument identification code	Code used to identify the financial instrument	RM, MTF, APA, CTP	{ISIN}

3	Price	<p>Traded price of the transaction excluding, where applicable, commission and accrued interest.</p> <p>Where price is reported in monetary terms, it shall be provided in the major currency unit.</p> <p>Where price is currently not available but pending, the value should be 'PNDG'.</p> <p>Where price is not applicable the field shall not be populated, the value shall be 'NOAP'.</p> <p>The information reported in this field shall be consistent with the values provided in field Quantity</p>	RM, MTF, APA, CTP	<p>{DECIMAL-18/13} when the price is expressed as monetary value in the case of shares, ETFs, depositary receipts and other equity-like financial instruments</p> <p>{DECIMAL-11/10} when the price is expressed as percentage or yield in the case of certificates and other equity-like financial instruments</p> <p>'PNDG' in case the price is not available</p> <p>'NOAP' in case the price is not applicable</p>
4	Price currency	Major € currency unit in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF APA, CTP	{CURRENCYCOD E_3}

5	Price notation	Indication as to whether the price is expressed in monetary value, in percentage or in yield	RM, MTF APA, CTP	<p>MONE' — Monetary value</p> <p>in the case of equity and equity-like financial instruments</p> <p>'PERC' — Percentage</p> <p>in the case of certificates and other equity-like financial instruments</p> <p>'YIEL' — Yield</p> <p>in the case of certificates and other equity-like financial instruments</p> <p>'BAPO' — Basis points</p> <p>in the case of certificates and other equity-like financial instruments</p>
6	Quantity	<p>Number of units of the financial instruments.</p> <p>The nominal or monetary value of the financial instrument.</p> <p>The information reported in this field shall be consistent with the values provided in field Price</p>	RM, MTF, APA, CTP	<p>{DECIMAL-18/17} in case the quantity is expressed as number of units</p> <p>{DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value</p>

7	Venue of execution	<p>Identification of the venue where the transaction was executed.</p> <p>Use the ISO 10383 segment MIC for transactions executed on an EU trading venue in the Union. Where the segment MIC does not exist, use the operating MIC.</p> <p>Use 'SINT' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is executed on a Systematic Internaliser.</p> <p>Use MIC code 'XOFF' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is either (1) not executed on an EU trading venue or in the Union, and not executed by a systematic internaliser or (2) executed on an organised trading platform outside of the EU (the latter requires also the population of the field "Third-country trading venue of execution").</p>	RM, MTF, APA, CTP	<p>{MIC} – EU trading venues or</p> <p>'SINT' — systematic internaliser</p> <p>'XOFF' - otherwise</p>
8	Third-country trading venue of execution	<p>Identification of the third-country trading venue where the transaction was executed.</p> <p>Where the transaction is not executed on a third-country trading venue, the field shall not be populated.</p>	APA, CTP	<p>{MIC} where MIC is available</p> <p>or</p> <p>{ALPHANUM-25} otherwise</p>

9	Publication date and time	<p>Date and time when the transaction was published by a trading venue or APA.</p> <p>For transactions executed on a trading venue, the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.</p> <p>For transactions not executed on a trading venue, the date and time shall be granular to at least the nearest second.</p>	RM, MTF, APA, CTP	{DATE_TIME_FOR MAT}
10	Venue of Publication	Code used to identify the trading venue or APA publishing the transaction.	CTP	<p>trading venue: {MIC}</p> <p>APA: ISO 10383 segment MIC (4 characters) where available.</p> <p>Otherwise, 4-character code as published in the list of data reporting services providers on ESMA's website.</p>

11	Transaction identification code	<p>Alphanumeric code assigned by trading venues (pursuant to Article 12 of Commission Delegated Regulation (EU) 2017/580 ⁽¹⁾) and APAs and used in any subsequent reference to the specific trade.</p> <p>The transaction identification code shall be unique, consistent and persistent per ISO 10383 segment MIC and per trading day. Where the trading venue does not use segment MICs, the transaction identification code shall be unique, consistent and persistent per operating MIC per trading day.</p> <p>Where the APA does not use MICs, it should be unique, consistent and persistent per 4-character code used to identify the APA per trading day.</p> <p>The components of the transaction identification code shall not disclose the identity of the counter- parties to the transaction for which the code is maintained</p>	RM, MTF, APA, CTP	{ALPHANUM-52}
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(1) Commission Delegated Regulation (EU) 2017/580 of 24 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the maintenance of relevant data relating to orders in financial instruments (see page 193 of this Official Journal).

(e) Table 4 is replaced by the following:

Table 4

List of flags for the purpose of post-trade transparency

Level	Sublevel	Flag	Name	Type of execution or publication venue	Description
1	1.1	'NLIQ'	Negotiated transaction in liquid financial	RM, MTF CTP	Transactions executed in accordance with Article 4(1)(b)(i) of Regulation (EU) No 600/2014.

			instruments flag		
1.2	‘OILQ’	Negotiated transaction in illiquid financial instruments flag	RM, MTF CTP	Transactions executed in accordance with Article 4(1)(b)(ii) of Regulation (EU) No 600/2014.	
1.3	‘NPFT’	Non-price forming transaction flag	RM, MTF CTP	Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590	
1.4	‘BENC’	Benchmark transactions flag	RM, MTF APA CTP	Transactions executed in reference to a price that is calculated over multiple time instances according to a given benchmark, such as volume-weighted average price or time-weighted average price.	
1.5	‘PORT’	Portfolio transactions flag	RM, MTF APA CTP	Transactions in five or more different financial instruments where those transactions are traded at the same time by the same client and as a single lot against a specific reference price.	
1.6	‘CONT’	Contingent transactions flag	RM, MTF APA CTP	Transactions that are contingent on the purchase, sale, creation or redemption of a derivative contract or other financial instrument where all the components of the trade are meant to be executed as a single lot.	

2	2.1	‘CANC’	Cancellation flag	RM, MTF APA CTP	When a previously published transaction is cancelled
	2.2	‘AMND’	Amendment flag	RM, MTF APA CTP	When a previously published transaction is cancelled
3	3.1	‘RFPT’	Reference price transaction flag	RM, MTF CTP	Transactions which are executed under systems operating in accordance with Article 4(1)(a) of Regulation (EU) No 600/2014.
	3.2	‘WAIV’	Pre-trade LIS order flag for on-book transactions	RM, MTF CTP	Transactions executed on a trading venue (on-book) where at least one order benefitted from the large in scale waiver in accordance with Article 4(1)(c) of Regulation (EU) No 600/2014
	3.3	‘NTLS’	Pre-trade LIS transaction flag for off-book transactions	RM, MTF CTP	Off-book transactions that benefit from a large in scale waiver in accordance with Article 4(1)(c) of Regulation (EU) No 600/2014
4		‘SDIV’	Special dividend transaction flag	RM, MTF APA CTP	Transactions that are either: executed during the ex-dividend period where the dividend or other form of distribution accrues to the buyer instead of the seller; or executed during the cum-dividend period where the dividend or other form of

					distribution accrues to the seller instead of the buyer.
5		‘ALGO’	Algorithmic transaction flag	RM, MTF CTP	Transactions executed as a result of an investment firm engaging in algorithmic trading as defined in Article 4(1)(39) of Directive 2014/65/EU.
6		‘LRGS’	Post-trade large in scale transaction flag	RM, MTF APA CTP	Transactions that are large in scale compared with normal market size for which deferred publication is permitted under Article 15.
7		‘DUPL’	Duplicative trade reports flag	APA	When a transaction is reported to more than one APA in accordance with Article 16(1) of Delegated Regulation (EU) 2017/571.

(f) A new table 4a is inserted:

Table 4a

Definition	Population of Flags
Level (i.e. 1, 2, 3,...)	Flags shall be populated in the order of levels in table 2 and be separated by commas (,). One flag may be used per level. Where a transaction does not meet the description of a flag in a particular level, no flag should be used and/or the transaction should be encoded with ‘-’.
Sub-levels (i.e. 1.1, 1.2, 1.3,...)	Flags on sublevels are mutually exclusive and only one flag per level shall be used.
Type of Execution or publication venue	Execution (RM, MTF) or publication venues (APA, CTP) should only populate fields applicable to that type of execution or publication venue. Where a flag is not applicable to a publication or execution venue, no flag should be used and/or the transaction should be encoded with ‘-’.

(12) Table 5 of Annex II is amended as follows:

Minimum qualifying size of transaction for permitted delay in EUR	Timing of publication after the transaction
40 000 000	60 minutes
15 000 000	
50 000 000	End of the trading day

(13) A new Annex IV is added:

Annex IV

Data to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT and the AVT

**Table 1
Symbol table**

Symbol	Data Type	Definition
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383
{DATEFORMAT}	ISO 8601 date format	Dates should be formatted by the following format: YYYY-MM-DD.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values. decimal separator is '.' (full stop); negative numbers are prefixed with '-' (minus); values are rounded and not truncated.
{INTEGER-n}	Integer number of up to n digits	Numerical field for both positive and negative integer values.

Table 2

Details to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT and the AVT (based on the current reporting instructions)

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 1
1	Instrument identification code	Code used to identify the financial instrument	Regulated Market (RM) Multilateral Trading Facility (MTF) Approved Publication Arrangement (APA) Consolidated tape provider (CTP)	{ISIN}
2	Reporting Execution date	Date for which the data is provided and on which the trades are executed.	RM, MTF, APA, CTP	{DATEFORMAT}
3	Trading Execution venue	Segment MIC for the trading venue, where available, otherwise operating MIC.	RM, MTF, APA, CTP	{MIC} – of the trading venue or systematic internaliser or {MIC}- XOFF'
4	Suspended instrument flag	Indicator of whether the instrument was suspended for the whole trading on the respective TV/APA on the reporting execution day te. The suspension flag shall be populated with Y if the instrument is suspended during the whole trading day. As a consequence, Fields 5 to 20 shall be reported with a value of zero.	RM, MTF, CTP	{TRUE} - if the instrument was suspended for the whole trading day or {FALSE} – if the instrument was not suspended for the whole trading day

5	Total number of transactions	The total number of transactions executed on the reporting execution date. (**)	RM, MTF, APA, CTP	{INTEGER-18}
6	Total turnover	The total turnover executed on the reporting execution date, expressed in EUR. (*) (**)	RM, MTF, APA, CTP	{DECIMAL-18/5}
7	Total number of transactions executed under a waiver in accordance with Article 4(1)(a) of reference price waiver	The total number of transactions executed under a waiver in accordance with Article 4(1)(a) of Regulation (EU) No 600/2014 (reference price waiver) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
8	Total turnover of transactions executed under a reference price waiver	The turnover executed under a waiver in accordance with Article 4(1)(a) of Regulation (EU) No 600/2014 (reference price waiver) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
9	Total number of transactions executed under negotiated transaction waiver of type 1	The total number of transactions executed under a waiver in accordance with Article 4(1)(b)(i) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 1) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
10	Total turnover of transactions executed under negotiated transaction waiver of type 1	The turnover executed under a waiver in accordance with Article 4(1)(b)(i) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 1) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}

11	Total number of transactions executed under negotiated transaction waiver of type 2	The total number of transactions executed under a waiver in accordance with Article 4(1)(b)(ii) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 2) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
12	Total turnover of transactions executed under negotiated transaction waiver of type 2	The turnover executed under a waiver in accordance with Article 4(1)(b)(ii) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 2) on the execution date, expressed in EUR. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
13	Total number of transactions executed under negotiated transaction waiver of type 3	The total number of transactions executed under a waiver in accordance with Article 4(1)(b)(iii) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 3) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
14	Total turnover of transactions executed under negotiated transaction waiver of type 3	The turnover executed under a waiver in accordance with Article 4(1)(b)(iii) of Regulation (EU) No 600/2014 (negotiated transactions waiver of type 3) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
15	Total number of transactions executed under large in scale waiver	The total number of transactions executed under a waiver in accordance with Article 4(1)(c) of Regulation (EU) No 600/2014 (large in scale waiver) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}

16	Total turnover of transactions executed under large in scale waiver	The turnover executed under a waiver in accordance with Article 4(1)(c) of Regulation (EU) No 600/2014 (large in scale waiver) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
17	Total number of transactions executed under order management facility waiver	The total number of transactions executed under a waiver in accordance with Article 4(1)(d) of Regulation (EU) No 600/2014 (order management facility waiver) on the execution date. (**)	RM, MTF, CTP	{INTEGER-18}
18	Total turnover of transactions executed under order management facility waiver	The turnover executed under a waiver in accordance with Article 4(1)(d) of Regulation (EU) No 600/2014 (order management facility waiver) on the execution date. (*) (**)	RM, MTF, CTP	{DECIMAL-18/5}
19	Total number of transactions excluding those executed under large-in-scale waiver the post-trade LIS deferral.	Total number of transactions executed on the reporting day, excluding those transactions executed under Large-In-Scale waiver (post-trade) The total number of transactions executed under a waiver in accordance with Article 11(3) of this Regulation (post-trade LIS deferral) on the execution date. (***)	RM, MTF, APA, CTP	{INTEGER-18}

20	Total turnover excluding transactions executed under large-in-scale waiver the post-trade LIS deferral.	Total volume of transactions executed on the reporting day, excluding those transactions executed under Large-In-Scale waiver (post-trade). The turnover executed under a waiver in accordance with Article 11(3) of this Regulation (post-trade LIS deferral) on the execution date. (* (***)	RM, MTF, APA, CTP	{DECIMAL-18/5}
21	Non-price forming transactions flag	Indicator of whether for off-venue transactions (XOFF), Field 5 and Field 6 for the instrument are related to one type of non-price forming transactions, excluding NPFT. Indicator of whether for transactions executed on a trading venue, Fields 9 and 10 or Fields 11 and 12 or Fields 13 and 14 or Fields 15 and 16 for the instrument are related to one type of non-price forming transactions.	RM, MTF, APA, CTP	In case of benchmark transactions BENC or, In case of contingent transactions CONT or, In case of other non-price forming transactions NPFT or, In case of portfolio transactions PORT or, empty otherwise

(*) The turnover shall be calculated as number of instruments exchanged between the buyers and sellers multiplied by the unit price of the instrument exchange for that specific transaction and shall be expressed in EUR.

(**) Transactions that have been cancelled should be excluded from the reported figures.
Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date.
In all cases, the field has to be populated with any value greater than or equal to zero up to 18 numeric characters including up to 5 decimal places.

(***) Transactions that have been cancelled should be excluded from the reported figures.
Transactions that benefit from a waiver publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date.
In all cases, the field has to be populated with any value greater than or equal to zero up to 18 numeric characters including up to 5 decimal places.

Article 2

Entry into force and application



This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Notwithstanding the first paragraph, Article 17(6) shall apply from 1 January 2023 [1 January 2024 where the Regulation is published in the Official Journal of the European Union after 30 June 2022]

Done at Brussels,

For the Commission

The President



6.6 Annex VI – Draft RTS amending RTS 2

COMMISSION DELEGATED REGULATION (EU) .../...

of []

amending Commission Delegated Regulation (EU) 2017/583 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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) No 648/2012, and in particular Article 9(5), Article 11(4), Article 14(7), Article 21(5) and Article 22(4) thereof,

Whereas:

- (1) Delegated Regulation (EU) 2017/583⁴⁸ sets out transparency requirements for trading venues and investment firms for bonds, structured finance products, emission allowances and derivatives.
- (2) Delegated Regulation (EU) 2017/583 has been applied for more than three years and taking into consideration the experience acquired with its application, the inconsistent application of some provisions and the changes in trading practices due to technological developments and adaptations of behaviour of market participants, it appears necessary to amend certain provisions of Commission Delegated Regulation (EU) 2017/583. Such amendments aim at ensuring the uniform application of the Regulation as well as provide market participants with legal certainty
- (3) It has emerged from the current application of Delegated Regulation (EU) 2017/583, that there are different interpretations on the concept of non-price forming transactions which led to inconsistent publication of post-trade transparency information and flagging of transactions and, eventually, resulted in unsatisfactory quality of the reported data. This undermines the completeness and accuracy of post-trade information. In order to improve transparency, data quality and ultimately to facilitate data aggregation, it is therefore necessary to simplify the existing reporting regime and to clarify certain provisions in Commission Delegated Regulation (EU) 2017/583.

⁴⁸ Commission Delegated Regulation (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (OJ L87, 31.3.2017, p.229).

- (4) While pre-trade transparency requirements should remain calibrated for the different type of trading systems, it is important to ensure more consistency regarding the content and format of the disclosed information which will facilitate the use of the information by receiving entities and its aggregation with data from other sources.
- (5) New trading systems have emerged over the last years. In particular, the emergence of frequent batch auction systems was not reflected in the specification of pre-trade transparency requirements applicable to different types of trading systems leading to a situation where those systems provided only very limited pre-trade transparency. Moreover, different interpretations of market participants on the applicable pre-trade transparency requirements for hybrid trading systems, resulted in inconsistent pre-trade transparency disclosed by such systems. Therefore, Commission Delegated Regulation (EU) 2017/583 should be amended to introduce tailored pre-trade transparency requirements for frequent batch auction systems and hybrid systems to ensure that such systems disclose appropriate pre-trade transparency information in a consistent manner across the Union. Finally, the specification of a list of details for the purpose of pre-trade transparency should contribute to the consistent application of pre-trade transparency requirements across the Union.
- (6) The requirements on the disclosure of post-trade transparency information to the public and the information to be provided to competent authorities and ESMA for the purpose of the transparency calculations are not interpreted consistently by trading venues, APAs and investment firms resulting in a situation where such information is incomplete, lacking accuracy or inconsistent. This situation undermines the usability of such information and the quality and accuracy of the transparency calculations based on the data submitted. It is therefore necessary to provide further specification in this Regulation on the details to be disclosed by trading venues, APAs and CTPs and for the reporting of reference data and quantitative data to competent authorities and ESMA. More clarity in the reporting framework is essential to promote the consistent application of the post-trade transparency requirements across the Union.
- (7) The liquidity of commodity derivatives varies significantly depending on the characteristics of the instruments. The characteristics currently set in Delegated Regulation (EU) 2017/583 for energy derivatives are not sufficiently granular, which results in some cases in aggregating contracts with different liquidity profiles in the same sub-class. It is therefore necessary to add more characteristics for the segmentation criteria of electricity and natural gas derivatives when determining whether those classes have a liquid market. In addition, the format under which certain characteristics of commodity and freight derivatives are reported is currently not sufficiently specified in Delegated Regulation (EU) 2017/583. To achieve a consistent reporting of those characteristics and enhance data quality, those formats should rely on existing market standards and should be specified.
- (8) Following the departure of the United Kingdom from the European Union, metal derivatives are no longer actively traded on EU trading venues and should therefore be deemed not having a liquid market.
- (9) The liquidity determination for commodity derivatives, freight derivatives, emission allowances and derivatives thereof set in Delegated Regulation (EU) 2017/583 does not allow to distinguish between instruments actively traded in small sizes and instruments less frequently traded in large sizes. This distinction is of relevance for commodity derivatives, freight derivatives, emission allowances and derivatives thereof because a significant share of traded volumes are executed outside the order book,

those transactions are typically larger in size and introduce biases to the liquidity determination. Therefore, it is appropriate to modify the methodology determining whether a class has a liquid market for commodity derivatives, freight derivatives, emission allowances and derivatives thereof.

- (10) The pre- and post-trade LIS and SSTI thresholds are calculated as the maximum between a floor and a set percentile of the trade size distribution. The liquidity of an instrument has an influence on the shape of the trade size distribution function. For very liquid instruments the distribution clusters around small trade sizes while for less liquid instruments the distribution is more dispersed. This may lead to determine smaller LIS and SSTI thresholds for very liquid contracts compared to less liquid ones, which contradicts the original policy objective. This unintended effect is more acute when the liquidity profiles of various classes within the same asset class are heterogeneous, which is the case of commodity derivatives, freight derivatives, emission allowances and derivatives thereof. Therefore, it is appropriate to modify the methodology determining the LIS and SSTI thresholds for commodity derivatives, freight derivatives, emission allowances and derivatives thereof. To that end, the pre- and post-trade LIS and SSTI thresholds should be calculated as a set percentage of the average daily volumes of the class bounded by a minimum and a maximum value (the threshold range).
- (11) Commodity derivatives and freight derivatives are traded in lots. The conversion of volumes from lots to monetary values is performed with the price and the foreign-exchange rate where relevant (which both vary in time) and with the lot size of a given instrument. Those factors are not directly related to the liquidity of the instrument and introduce random irregularities in the data on the basis of which the liquidity determination and the calculation of the LIS and SSTI thresholds is made, which in turn introduces unintended biases in those calculations. Therefore, it is appropriate to base the liquidity determination and thresholds calculation on volumes and trade sizes expressed in lots for commodity derivatives and freight derivatives.
- (12) The liquidity determination and thresholds calculation applicable to emission allowances and derivatives thereof are set in Delegated Regulation (EU) 2017/583 on the basis of volumes and trade sizes expressed in tonnes of CO₂. Emission allowances and derivatives thereof are also traded in lots. For consistency purposes, it is appropriate to align the framework for the liquidity determination and thresholds calculation applicable to emission allowances and derivatives thereof with the one applicable to commodity derivatives and freight derivatives, and therefore to also base that framework on volumes and trade sizes expressed in lots.
- (13) Some of provisions of Delegated Regulation (EU) 2017/587 contain incorrect references [or clerical errors] that affect the substance of those provisions. Therefore, such provisions should be amended to insert the correct references.
- (14) This Regulation requires market participants and ESMA to adjust their systems in order to ensure frictionless and correct reporting. In order to give all stakeholders sufficient time for making these adjustments, the application of these requirements should be deferred.
- (15) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.



(16) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁴⁹,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/583

(1) Article 2 is replaced by the following:

‘Article 2

Pre-trade transparency obligations

(Article 8(1) and (2) of Regulation (EU) No 600/2014)

Market operators and investment firms operating a trading venue shall make public the range of bid and offer prices and the depth of trading interest at those prices, in accordance with the type of trading system they operate and the information requirements set out in ~~Table 1~~ **Tables 1, 2 and 3 of Annex I**.

(2) The following paragraph 4 is added to Article 4:

‘For the purpose of letter (a) of paragraph 2, market operators and investment firms operating a trading venue shall calculate the minimum size of orders held in an order management facility:

(a) as set out in Table 4 of Annex II of RTS 2 for all financial instrument except for emission allowances, emission allowance derivatives and commodity derivatives;

(b) the notional amount of traded contracts shall be used for emission allowances, emission allowance derivatives and commodity derivatives.’

(3) Article 12 is replaced by the following:

‘Article 12

Application of post-trade transparency to certain transactions executed outside a trading venue

(Article 21(1) of Regulation (EU) No 600/2014)

⁴⁹ 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 (OJ L 331, 15.12.2010, p. 84).



The obligations ~~to make public the volume and price of transactions and the time at which they were concluded as set out~~ set out in Article 21(1) of Regulation (EU) No 600/2014 shall not apply to

(a) ~~excluded~~ transactions listed in Article 2(5) of Commission Delegated Regulation (EU) 2017/590;

(b) ~~transactions executed by a management company as defined in Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council (3) or an alternative investment fund manager as defined in Article 4(1)(b) of Directive 2011/61/EU of the European Parliament and of the Council (4) which transfer the beneficial ownership of financial instruments from one collective investment undertaking to another and where no investment firm is a party to the transaction;~~

(c) ~~‘give-up transaction’ or ‘give-in transaction’ which is a transaction where an investment firm passes a client trade to, or receives a client trade from, another investment firm for the purpose of post trade processing;~~

(d) ~~transfers of financial instruments such as collateral in bilateral transactions or in the context of a central counterparty (CCP) margin or collateral requirements or as part of the default management process of a CCP.’~~

(4) Article 13 is amended as follows:

(i) in paragraph 1, point (a)(iv) is replaced by the following:

‘(iv) the sub-asset classes of other interest rate derivatives, **metal derivatives**, other commodity derivatives, other credit derivatives, other C10 derivatives, other contracts for difference (CFDs), other emission allowances and other emission allowance derivatives as defined in Tables 5.1, 7.1, 9.1, 10.1, 11.1, 12.1 and 13.1 of Annex III.’

(j) in paragraph 1, point (b)(v) is replaced by the following:

‘(v) the asset-class of commodity derivatives except the sub-asset classes of **metal derivatives and** other commodity derivatives as defined in Table 7.1 of Annex III;’

(k) in paragraph 2, point (b)(ii) is replaced by the following:

‘(ii) each sub-class having a liquid market for the asset classes of interest rate derivatives, **commodity derivatives**, credit derivatives, **C10 derivatives** and CFDs as defined in Tables 5.2, **7.2**, 9.2, **10.2** and 11.2 of Annex III;’

(l) in paragraph 2, point (b)(iii) is deleted

(m) in paragraph 2, the following subparagraph (c) is added:

‘(c) the percentage of the daily average volumes in lots within the threshold range as further specified in Annex I for:

- (i) each sub-class having a liquid market for the asset class of commodity derivatives as defined in Table 7.2 of Annex III;
- (ii) each sub-class having a liquid market for the asset class of C10 derivatives as defined in Table 10.2 of Annex III;
- (iii) each sub-asset class having a liquid market for the asset classes of emission allowances and emission allowance derivatives as defined in Tables 12.2 and 13.2 of Annex III.’
- (n) in paragraph 3, point (c) is replaced by the following:
- ‘(c) the greatest of the trade size below which lies the percentage of the transactions corresponding to the trade percentile, the trade size below which lies the percentage of volume corresponding to the volume percentile and the threshold floor for each sub-class considered to have a liquid market for the asset classes of interest rate derivatives, ~~commodity derivatives~~, credit derivatives, ~~C10 derivatives~~ and CFDs as provided in Tables 5.2, ~~7.2~~, 9.2, ~~10.2~~ and 11.2 of Annex III;
- (o) in paragraph 3, point (d) is replaced by the following:
- ‘(d) the greater of the trade size below which lies the percentage of the transactions corresponding to the trade percentile and the threshold floor for ~~(i) each sub-asset class considered to have a liquid market for the asset classes of emission allowances and emission allowance derivatives as provided in Tables 12.2 and 13.2 of Annex III;~~ (ii) each structured finance product considered to have a liquid market where the Test-1 and Test-2 under paragraph 1(d) are passed as defined in Table 3.3 of Annex III.’
- (p) in paragraph 3, the following subparagraph is added:
- ‘(e) the percentage of the daily average volumes in lots within the threshold range as further specified in Annex I for:
- (i) each sub-class having a liquid market for the asset class of commodity derivatives as defined in Table 7.2 of Annex III;
- (ii) each sub-class having a liquid market for the asset class of C10 derivatives as defined in Table 10.2 of Annex III;
- (iii) each sub-asset class having a liquid market for the asset classes of emission allowances and emission allowance derivatives as defined in Tables 12.2 and 13.2 of Annex III.’
- (q) in paragraph 5, the following subparagraph is added:
- ‘The data referred to in the first paragraph shall be collected as per Annex V.’
- (r) paragraph 12 is replaced by the following:
- ‘12. ~~Except when they refer to emission allowances or derivatives thereof,~~ The calculations referred to in paragraph 2(b) and paragraph 3(b), (c) and (d) shall be rounded up to the next:

- (a) 100 000 where the threshold value is smaller than 1 million;
 - (b) 500 000 where the threshold value is equal to or greater than 1 million but smaller than 10 million;
 - (c) 5 million where the threshold value is equal to or greater than 10 million but smaller than 100 million;
 - (d) 25 million where the threshold value is equal to or greater than 100 million.’
- (s) A new paragraph 12a is added:
- ‘12a. The calculations referred to in paragraph 2(c) and paragraph 3(e) shall be rounded to the nearest 5 lots.’
- (t) paragraph 17 is replaced by the following:
- ‘17. Competent authorities shall ensure the publication of the results of the calculations referred to under paragraph 5 for each financial instrument and class of financial instrument by 30 April of the year following the date of application of Regulation (EU) No 600/2014 and by 30 April of each year thereafter. The results of the calculations shall apply from ~~+~~ **the first Monday of June** each year following publication **until the day before the first Monday of June of the subsequent year.**’
- (u) paragraph 18 is replaced by the following:
- ‘18. For the purposes of the calculations in paragraph 1(b)(i) and by way of derogation from paragraphs 7, 15 and 17, competent authorities shall, in respect of bonds except ETCs and ETNs, ensure the publication of the calculations referred to under paragraph 5(a) on a quarterly basis, on the first ~~day~~ **Monday** of February, May, August and November following the date of application of Regulation (EU) No 600/2014 and on the first ~~Monday day~~ **Monday** of February, May, August and November each year thereafter. The calculations shall include transactions executed in the Union during the preceding calendar quarter and shall apply ~~for the 3 month period beginning on from the third Monday of~~ February, May, August and November each year **until the calculations of the subsequent quarterly period apply.**’.

6.6.1 ANNEX I of RTS 2

(5) Annex I is amended as follows:

(a) Table 1 is replaced by the following:

Type of system	Description of system	Information to be made public
Continuous auction order book trading system	A system that by means of an order book and a trading algorithm operated without human intervention matches sell orders with buy orders on the basis of the best available price on a continuous basis.	For each financial instrument, the aggregate number of orders and the volume they represent at each price level, for at least the five best bid and offer price levels.

<p>Quote-driven trading system</p>	<p>A system where transactions are concluded on the basis of firm quotes that are continuously made available to participants, which requires the market makers to maintain quotes in a size that balances the needs of members and participants to deal in a commercial size and the risk to which the market maker exposes itself.</p>	<p>For each financial instrument, the best bid and offer by price of each market maker in that instrument, together with the volumes attaching to those prices.</p> <p>The quotes made public shall be those that represent binding commitments to buy and sell the financial instruments and which indicate the price and volume of financial instruments in which the registered market makers are prepared to buy or sell. In exceptional market conditions, however, indicative or one-way prices may be allowed for a limited time.</p>
<p>Periodic auction trading system</p>	<p>A system that matches orders on the basis of a scheduled auction or following a volatility interruption using a trading algorithm operated without human intervention. The start of an auction is determined by the trading venue. Periodic auction trading systems include opening auctions, closing auctions and auctions following a volatility interruption, but not frequent batch auctions (row 4)</p>	<p>For each financial instrument, the price at which the auction trading system would best satisfy its trading algorithm and the volume that would potentially be executable at that price by participants in that system.</p>
<p>Frequent batch auction trading systems</p>	<p>A system that matches orders periodically during continuous trading hours, using a trading algorithm. Frequent batch auction trading systems are not based on scheduled auctions, and the start of an auction is determined by the submission of orders by members or participants or by the identification of two potentially matching orders</p>	<p>The price at which the system would best satisfy its trading algorithm in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on the trading system and the volume that would potentially be executable at that price by participants in that system as well as the side and size of any order imbalance. Pending the identification of two matching orders the best price and the aggregated volume on both sides at the best price shall be made public.</p>
<p>Request-for-quote trading system</p>	<p>A trading system where a quote or quotes are provided in response to a request for a quote submitted by one or more other members or participants. The quote is executable exclusively by the requesting member or market participant. The requesting member or participant may conclude a transaction by accepting the quote or quotes provided to it on request.</p>	<p>The quotes and the attaching volumes from any member or participant which, if accepted, would lead to a transaction under the system's rules. All submitted quotes in response to a request for quote may be published at the same time but not later than when they become executable.</p>
<p>Voice trading system</p>	<p>A trading system where transactions between members are arranged through voice negotiation.</p>	<p>The bids and offers and the attaching volumes from any member or participant which, if accepted, would lead to a transaction under the system's rules</p>

Hybrid trading system	A system falling into two or more of the types of trading systems referred to in rows 1 to 6 of this table.	<p>For hybrid trading systems that combine different trading systems at the same time, the requirements correspond to the pre-trade transparency requirements applicable to each type of trading system that forms the hybrid system.</p> <p>For hybrid trading systems that combine two or more trading systems subsequently, the requirements correspond to the pre-trade transparency requirements applicable to the respective trading system operated at a particular point in time</p>
Trading system not covered by first 7 rows	A system falling into two or more of the first seven rows or a system where the price determination process is of a different nature than that applicable to the types of system covered by first seven rows.	Adequate information as to the level of orders or quotes and of trading interest; in particular, the five best bid and offer price levels and/or two-way quotes of each market maker in the instrument, if the characteristics of the price discovery mechanism so permit.

(b) The following table is added as table 2

Table 2

Symbol table for table 3

SYMBOL	DATA TYPE	DEFINITION
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{CURRENCYCODE_3}	3 alphanumerical characters	3 letter currency code, as defined by ISO 4217 currency codes
{DATE_TIME_FORMAT}	ISO 8601 date and time format	<p>Date and time in the following format: YYYY-MM-DDThh:mm:ss.dzzzzzzZ. Where:</p> <p>'YYYY' is the year;</p> <p>'MM' is the month;</p> <p>'DD' is the day;</p> <p>'T' — means that the letter 'T' shall be used</p> <p>'hh' is the hour;</p> <p>'mm' is the minute;</p> <p>'ss.dzzzzzz' is the second and its fraction of a second;</p> <p>Z is UTC time.</p> <p>Dates and times shall be reported in UTC.</p>
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	<p>Numerical field for both positive and negative values:</p> <p>decimal separator is '.' (full stop);</p> <p>negative numbers are prefixed with '-' (minus).</p> <p>Where applicable, values shall be rounded and not truncated.</p>



{ISIN}	12 alphanumeric characters	SIN code, as defined in ISO 6166
{MIC}	4 alphanumeric characters	Market identifier as defined in ISO 10383

(c) The following table is added as Table 3:

Table 3

List of details for the purpose of pre-trade transparency

#	Field identifier	Financial instruments	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 1
1	Submission date and time	For all financial instruments	<p>For trading venues, where the orders and quotes do not have to be published on an aggregated basis, the date and time when the order or quote was introduced for execution into the trading system.</p> <p>For trading venues, the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.</p>	Regulated Market (RM), Multilateral Trading Facility (MTF), Organised Trading Facility (OTF)	{DATE_TIME_FORMAT}
2	Instrument identification code	For all financial instruments	Code used to identify the financial instrument	RM, MTF, OTF	{ISIN}
3	Side	For all financial instruments	Side of the order or quote	RM, MTF, OTF	'BID' or 'ASK'
4	Price	For all financial instruments	<p>The price of orders and quotes as required under Table 1 and 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.</p> <p>For credit default swaps (CDS) it shall be the coupon in basis points.</p> <p>In the case of spread bets it shall be the reference price of the underlying instrument.</p> <p>In the case of other derivative contracts and contracts for difference, it is the price of the derivative or contract for difference itself excluding, where</p>	RM, MTF, 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>'PNDG' in case the price is not available</p> <p>{DECIMAL-18/17} in case the price is expressed as basis points</p>

			<p>applicable, commissions at which the contract is exchanged between the buyer and the seller.</p> <p>Where price is reported in monetary terms, it shall be provided in the major currency unit.</p> <p>Where price is currently not available but pending, the value should be 'PNDG'.</p> <p>Where price is not applicable the field shall not be populated.</p>		
5	Price Currency	For all financial instruments	Major currency in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF, OTF	{CURRENCYCODE_3}
6	Price notation	For all financial instruments	Indication as to whether the price is expressed in monetary value, in per centage or in yield	RM, MTF, OTF	<p>'MONE' — Monetary value</p> <p>'PERC' — Percentage</p> <p>'YIEL' — Yield</p> <p>'BAPO' — Basis points</p>
7	Strike price	For all financial instruments underlying an option contract	<p>Strike price of the option expressed in the same currency as the price.</p> <p>Where the strike price is reported in percent values, it should be expressed as percentage where 100 % is represented as '100'.</p>	RM, MTF, 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>'PNDG' in case the price is not available</p> <p>{DECIMAL-18/17} in case the price is expressed as basis points</p>

8	Strike price notation	For all financial instruments underlying an option contract	Indication as to whether the strike price is expressed in monetary value, in percentage or in yield	RM, MTF, OTF	'MONE' — Monetary value 'PERC' — Percentage 'YIEL' — Yield 'BAPO' — Basis points
9	Quantity	For all financial instruments	The number of units of the financial instrument, or the number of derivative contracts in the transaction.	RM, MTF, OTF	{DECIMAL-18/17}
10	Quantity in measurement unit	For contracts designated in units in commodity derivatives, C10 derivatives, contracts for difference, emission allowance derivatives and emission allowances	The equivalent amount of commodity or emission allowance traded expressed in measurement unit.	RM, MTF, OTF	{DECIMAL-18/17}
11	Notation of the quantity in measurement unit	For contracts designated in units in commodity derivatives, C10 derivatives, contracts for difference, emission allowance derivatives and emission allowances	Indication of the notation in which the quantity in measurement unit is expressed.	RM, MTF, OTF	'TOCD' — tonnes of carbon dioxide equivalent, for any contract related to emission allowances 'TONE' — metric tonnes 'MWHO' — megawatt hours 'MBTU' — one million British thermal unit 'THMS' — Therms 'DAYS' — days Or {ALPHANUM-4} otherwise
12	Notional amount	For all financial instruments	This field shall be populated: for bonds (excluding ETCs and ETNs), the nominal value per unit multiplied by the number of instruments at the time of the	RM, MTF, OTF	{DECIMAL-18/5}

		<p>submission of the order or quote;</p> <p>for ETCs, ETNs and securitised derivatives, number of instruments to be exchanged between the buyers and sellers multiplied by the price of the instrument to be exchanged. Equivalently, the price field multiplied by the quantity field;</p> <p>for structured finance products (SFPs), with the nominal value per unit multiplied by the number of instruments at the time of the transaction;</p> <p>for swaps, futures and forwards as per Article 3(a)(1)(a) of Commission Delegated Regulation (EU) No 148/2013;</p> <p>for options, as per Article 3(a)(1)(b) of Commission Delegated Regulation (EU) No 148/2013;</p> <p>for emission allowances, designated in units such as barrels or tonnes, the resulting amount of the quantity at the relevant price set in the contract;</p> <p>for emission allowance derivatives, contracts for difference related to commodities, commodity derivatives and C10 derivatives as per Article 3(a)(1)(c) of Commission Delegated Regulation (EU) No 148/2013;</p> <p>For spread bets, the monetary value wagered per point movement in the underlying financial instrument.</p> <p>In case of contracts for difference not related to commodities, number of instruments to be exchanged between the buyers</p>		
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			and sellers multiplied by the price of the instrument to be exchanged. Equivalently, the price field multiplied by the quantity field.		
13	Notional currency	For all financial instruments	Major currency in which the notional amount is de nominated. In the case of an FX derivative contract, this will be the notional currency of leg 1.	RM, MTF, OTF	{CURRENCYCODE_3}
14	Notional currency 2	For FX derivative contracts	Major currency in which the notional amount is de nominated. In the case of an FX derivative contract, this will be the notional currency of leg 2.	RM, MTF, OTF	{CURRENCYCODE_3}
15	Type	For emission allowances and emission allowance derivatives only	This field is only applicable for emission allowances and emission allowance derivatives.	RM, MTF, OTF	'EUA' — EUA 'CER' — CER 'ERU' — ERU 'EUAA' — EUAA 'OTHR' — Other
16	Venue	For all financial instruments	Identification of the venue through the system of which orders and quotes are advertised. Use the ISO 10383 segment MIC for transactions executed on a trading venue in the EU and with an EU SI. Where the segment MIC does not exist, use the operating MIC.	RM, MTF, OTF	{MIC}
17	Number of orders and quotes	For all financial instruments	The number of aggregated orders or quotes from different members or participants (where aggregated information is required under Table 1 of Annex I).	RM, MTF, OTF	{DECIMAL-18/0}
18	Trading system	For all financial instruments	Type of trading system on which the order or quote was published	RM, MTF, OTF	Trading venue: 'CLOB' for continuous auction order book trading systems, 'QDTS' for quote driven trading systems, 'PATS' for periodic auction trading systems, 'RFQT' for request for quote trading systems, 'FBAS' for Frequent

					Batch Auction trading systems, 'VOIC' for voice trading systems, 'HYBR' for hybrid trading systems, 'XXXX' for any other trading system Systematic internalisers: 'SINT'
19	Publication date and time	For all financial instruments	Date and time when the information was published. For trading venues, APAs and CTPs, the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574. For systematic internalisers, the time reported shall be granular to at least the nearest second.	RM, MTF, OTF	{DATE_TIME_FORMAT}
20	Publication identification code	For all financial instruments	Alphanumerical code assigned by trading venues, SI. The identification code shall be unique, consistent and persistent per ISO 10383 segment MIC and per trading day. Where the trading venue or the SI does not use segment MICs, the identification code shall be unique, consistent and persistent per operating MIC per trading day. The components of the identification code shall not disclose the identity of the members or participants which have submitted the orders or quotes.	RM, MTF, OTF	{ALPHANUM-52}

6.6.2 ANNEX II of RTS 2

(6) Annex II is amended as follows:

(a) Table 2 is replaced by the following:

Annex II

Table 2

List of details for the purpose of post-trade transparency

#	Field identifier	Financial instruments	Description and details to be published	Type of execution or publication	Format to be populated as defined in Table 1
1	Trading date and time	For all financial instruments	<p>Date and time when the transaction was executed.</p> <p>For transactions executed on a trading venue, the level of granularity shall be in accordance with the requirements set out in Article 23 of Commission Delegated Regulation (EU) 2017/574⁽¹⁾.</p> <p>For transactions not executed on a trading venue, the date and time shall be when the parties agree the content of the following fields: quantity, price, currencies (in fields 31, 34 and 40 as specified in Table 2 of Annex I of Delegated Regulation (EU) 2017/590, instrument identification code, instrument classification and underlying instrument code, where applicable. For transactions not executed on a trading venue the time reported shall be granular to at least the nearest second.</p> <p>Where the transaction results from an order transmitted by the executing firm on behalf of a client to a third party where the conditions for transmission set out in Article 45 of Delegated Regulation (EU) 2017/590 were not satisfied, this shall be the date and time of the transaction rather than the time of the order transmission.</p>	<p>Regulated Market (RM),</p> <p>Multilateral Trading Facility (MTF),</p> <p>Organised Trading Facility (OTF)</p> <p>Approved Publication Arrangement (APA)</p> <p>Consolidated tape provider (CTP)</p>	{DATE_TIME_FORMAT}
	Instrument identification code type	For all financial instruments	Code type used to identify the financial instrument	RM, MTF, OTF, APA, CTP	'ISIN' = ISIN code, where ISIN is available 'OTHR' = other identifier

2	Instrument identification code	For all financial instruments	Code used to identify the financial instrument	RM, MTF, OTF APA, CTP	<p>{ISIN}.</p> <p>Where Instrument identification code is not an ISIN, an identifier that identifies the derivative instrument based on the fields 3 to 5, 7 and 8 and 12 to 42 as specified in Annex IV and fields 13 and 24 to 48 as specified in the Annex of Delegated Regulation (EU) 2017/585 and the grouping of derivative instruments as set out in Annex III</p>
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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.</p> <p>For credit default swaps (CDS) it shall be the coupon in basis points.</p> <p>In the case of spread bets it shall be the reference price of the underlying instrument.</p> <p>In the case of other derivative contracts and contracts for difference, it is the price of the derivative or contract for difference itself excluding, where applicable, commissions at which the contract is exchanged between the buyer and the seller.</p> <p>Where price is reported in monetary terms, it shall be provided in the major currency unit.</p> <p>Where price is currently not available but pending, the value should be 'PNDG'..</p> <p>Where price is not applicable the field shall not be populated.</p> <p>The information reported in this field shall be consistent with the value provided in field Quantity.</p>	RM, MTF, OTF, APA, CTP	<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>'PNDG' in case the price is not available</p> <p>{DECIMAL-18/17} in case the price is expressed as basis points</p>
4	Price currency	For all financial instruments	Major currency in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF, OTF, APA, CTP	{CURRENCYCOD E_3}
5	Price notation	For all financial instruments	Indication as to whether the price is expressed in monetary value, in percentage or in yield	RM, MTF, OTF, APA, CTP	<p>'MONE' — Monetary value</p> <p>'PERC' — Percentage</p> <p>'YIEL' — Yield</p>

6	Strike price	For all financial instruments underlying an option contract	Strike price of the option expressed in the same currency as the price. Where the strike price is reported in percentage values, it should be expressed as percentage where 100 % is represented as '100'.	RM, MTF, OTF, APA, CTP	{DECIMAL-18/13} in case the price is expressed as monetary value {DECIMAL-11/10} in case the price is expressed as percentage or yield 'PNDG' in case the price is not available {DECIMAL-18/17} in case the price is expressed as basis points
7	Strike price notation	For all financial instruments underlying an option contract	Indication as to whether the strike price is expressed in monetary value, in percentage or in yield	RM, MTF, OTF, APA, CTP	'MONE' — Monetary value 'PERC' — Percentage 'YIEL' — Yield ' 'BAPO' — Basis points
8	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}

9	Quantity in measurement unit	For contracts designated in units commodity derivatives, C10 derivatives, contracts for difference, emission allowance derivatives and emission allowances except in the cases described under Article 11(1) letters (a) and (b) of this Regulation.	The equivalent amount of commodity or emission allowance traded expressed in measurement unit.	RM, MTF, OTF APA, CTP	{DECIMAL-18/17}
10	Notation of the quantity in measurement unit	For contracts designated in units commodity derivatives, C10 derivatives, contracts for difference, emission allowance derivatives and emission allowances except in the cases described under Article 11(1) letters (a) and (b) of this Regulation.	Indication of measurement units in which the notation in which the quantity in measurement unit is expressed.	RM, MTF, OTF APA CTP	'TOCD' — tonnes of carbon dioxide equivalent, for any contract related to emission allowances 'TONE' — metric tonnes 'MWHO' — megawatt hours 'MBTU' — one million British thermal unit 'THMS' — Therms 'DAYS' — days Or {ALPHANUM-4} otherwise

11 *	Notional amount	For all financial instruments except in the cases described under Article 11(1) letters (a) and (b) of this Regulation.	<p>Nominal amount or notional amount</p> <p>This field shall be populated:</p> <p>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> <p>for ETCs and ETNs and securitised derivatives, with the number of instruments exchanged between the buyers and sellers multiplied by the price of the instrument exchanged for that specific transaction. Equivalently, the price field multiplied by the quantity field;</p> <p>for structured finance products (SFPs), with the nominal value per unit multiplied by the number of instruments at the time of the transaction;</p> <p>for swaps, futures and forwards whose underlying is not an emission allowance, as per Article 3a(1)(a) of Delegated Regulation (EU) No 148/2013 (3);</p> <p>for options whose underlying is not an emission allowance, as per Article 3a(1)(b) of Delegated Regulation (EU) No 148/2013 (3);</p> <p>for emission allowances the resulting amount of the quantity at the relevant price set in the contract at the time of the trade</p> <p>for emission allowance derivatives, contracts for difference related to commodities, commodity derivatives and C10 derivatives as per Article 3a(1)(c) of Delegated Regulation (EU) No 148/2013 (3);</p> <p>For in case of spread bets, the notional amount shall be the monetary value wagered per point movement in the underlying financial instrument at the time of the trade.</p>	RM, MTF, OTF, APA, CTP	{DECIMAL-18/5}
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			<p>For credit default swaps, it shall be the notional amount for which the protection is acquired or disposed of.</p> <p>In case of contracts for difference not related to commodities, number of instruments exchanged between the buyers and sellers multiplied by the price of the instrument exchanged for that specific transaction. Equivalently, the price field multiplied by the quantity field.</p> <p>The information reported in this field shall be consistent with the value provided in field Price.</p>		
12	Notional currency	For all financial instruments except in the cases described under Article 11(1) letters (a) and (b) of the Regulation.	<p>Major currency in which the notional amount is denominated.</p> <p>In the case of an FX derivative contract or a multi-currency swap or a swaptions where the underlying swap is multi-currency or a currency CFD or spread-betting contract, this will be the notional currency of leg 1.</p>	RM, OTF, CTP	MTF, APA, {CURRENCY_CODE_3}
13	Notional currency 2	For derivative contracts, IR derivative contracts and CFD or spread betting contracts excepts in the cases described under Article 11(1) letters (a) and (b) of the Regulation.	<p>Major currency in which the notional amount is de nominated.</p> <p>In the case of an FX derivative contract or a multi-currency swap, or a swaptions where the underlying swap is multi-currency or a currency CFD or spread-betting contract, this will be the notional currency of leg 2.</p>	RM, MTF, OTF, APA, CTP	{CURRENCY_CODE_3}

14	Type	For emission allowances and emission allowance derivatives only	This field is only applicable for emission allowances and emission allowance derivatives.	RM, MTF, OTF APA CTP	'EUAE' — EUA — 'CERE' — CER — 'ERUE' — ERU — 'EUAA' — EUAA — 'OTHR' — Other (for derivatives only)
15	Venue of execution	For all financial instruments	<p>Identification of the venue where the transaction was executed.</p> <p>Use the ISO 10383 segment MIC for transactions executed on an EU trading venue in the Union. Where the segment MIC does not exist, use the operating MIC.</p> <p>Use 'SINT' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is executed on a Systematic Internaliser.</p> <p>Use MIC code 'XOFF' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is either (1) not executed on an EU trading venue or in the Union, and not executed on a systematic internaliser or (2) executed on an organised trading platform outside of the EU (the latter requires also the population of the field "Third-country trading venue of execution").</p>	RM, MTF, OTF APA, CTP	{MIC} – EU trading venues or 'SINT' — systematic internaliser 'XOFF' — otherwise
16	Third-country trading venue of execution	For all financial instruments	<p>Identification of the third-country trading venue where the transaction was executed.</p> <p>Where the transaction is not executed on a third-country trading venue, the field shall not be populated.</p>	APA, CTP	{MIC} where MIC is available or {ALPHANUM-25} otherwise

17	Publication Date and Time	For all financial instruments	<p>Date and time when the transaction was published by a trading venue or APA.</p> <p>For transactions executed on a trading venue, the level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.</p> <p>For transactions not executed on a trading venue, the time reported shall be granular to at least the nearest second.</p>	RM, MTF, OTF APA, CTP	{DATE_TIME_FORMAT}
18	Venue of publication	For all financial instruments	Code used to identify the trading venue and APA publishing the transaction.	CTP	<p>Trading venue: {MIC}</p> <p>APA: {MIC} where available. Otherwise, 4 character code as published in the list of data reporting services providers on ESMA's website.</p>

19	Transaction Identification Code	For all financial instruments	<p>Alphanumeric code assigned by trading venues (pursuant to Article 12 of Commission Delegated Regulation (EU) 2017/580 ⁽²⁾ and APAs and used in any subsequent reference to the specific trade.</p> <p>The transaction identification code shall be unique, consistent and persistent per ISO 10383 segment MIC and per trading day. Where the trading venue does not use segment MICs, the transaction identification code shall be unique, consistent and persistent per operating MIC per trading day.</p> <p>Where the APA does not use MICs, it should be unique, consistent and persistent per 4-character code used to identify the APA per trading day.</p> <p>The components of the transaction identification code shall not disclose the identity of the counterparties to the transaction for which the code is maintained</p>	RM, MTF, OTF APA CTP	{ALPHANUMERICAL-52}
20	Transaction to be cleared	For derivatives	Code to identify whether the transaction will be cleared.	RM, MTF, OTF APA CTP	'true' — transaction to be cleared 'false' — transaction not to be cleared

(1) Commission Delegated Regulation (EU) 2017/574 of 7 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the level of accuracy of business clocks (see page 148 of this Official Journal).

(2) Commission Delegated Regulation (EU) 2017/580 of 24 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the maintenance of relevant data relating to orders in financial instruments (see page 193 of this Official Journal).

(3) Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories

(b) Table 3 is replaced by the following:

List of flags for the purpose of post-trade transparency

Level	Sub-level	Flag	Name	Type of execution or publication venue	Description
1	1.1	'TPAC'	Package transaction flag	RM, MTF, OTF APA CTP	Package transactions which are not exchange for physicals as defined in Article 1.
	1.2	'XFPH'	Exchange for physicals transaction flag	RM, MTF, OTF APA CTP	Exchange for physicals as defined in Article 1.
2		'NTTR'	Prearranged transaction flag	RM, MTF, OTF CTP	Prearranged transactions that are formalised on trading venues.
3	3.1	'CANC'	Cancellation flag	RM, MTF APA CTP	When a previously published transaction is cancelled.
	3.2	'AMND'	Amendment flag	RM, MTF APA CTP	When a previously published transaction is amended.
4	4.1	'BENC'	Benchmark transaction flag	RM, MTF, OTF APA CTP	Transactions executed in reference to a price that is calculated over multiple time instances according to a given benchmark, such as volume-weighted average price or time-weighted average price.
	4.2	'NPFT'	Non-price forming transaction flag	RM, MTF, OTF CTP	Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590.
5		'WAIV'	Pre-trade waiver transaction flag	RM, MTF, OTF CTP	Transactions executed on venue where at least one order benefitted from (i) the large in scale waiver, (ii) the SSTI waiver, or (iii) the illiquid waiver under Article 9(1) (a)-(c) of Regulation (EU) No 600/2014.
6		'DEFR'	Post-trade deferral transaction flag	RM, MTF, OTF APA CTP	Transactions executed under (i) the post trade large in scale deferral (ii) the deferral for instruments for which there is not a liquid market, (iii) the post trade size specific to the instrument deferral.

SUPPLEMENTARY DEFERRAL FLAGS

Article 11(1)(a)(i).	'LMTF'	Limited details flag	RM, MTF, OTF APA CTP	First report with publication of limited details in accordance with Article 11(1)(a)(i).
	'FULF'	Full details flag		Transaction for which limited details have been previously published in accordance with Article 11(1)(a)(i).
Article 11(1)(a)(ii).	'DATF'	Daily aggregated transaction flag	RM, MTF, OTF APA CTP	Publication of daily aggregated transaction in accordance with Article 11(1)(a)(ii).
	'FULA'	Full details flag	RM, MTF, OTF APA CTP	Individual transactions for which aggregated details have been previously published in accordance with Article 11(1)(a)(ii).
Article 11(1)(b)	'VOLO'	Volume omission flag	RM, MTF, OTF APA CTP	Transaction for which limited details are published in accordance with Article 11(1)(b).
	'FULV'	Full details flag	RM, MTF, OTF APA CTP	Transaction for which limited details have been previously published in accordance with Article 11(1)(b)
Article 11(1)(c)	'FWAF'	Four weeks aggregation flag	RM, MTF, OTF APA CTP	Publication of aggregated transactions in accordance with Article 11(1)(c).
	'FULJ'	Full details flag	RM, MTF, OTF APA CTP	Individual transactions which have previously benefited from aggregated publication in accordance with Article 11(1)(c).
Article 11(1)(d)	'IDAF'	Indefinite aggregation flag	RM, MTF, OTF APA CTP	Transactions for which the publication of several transactions in aggregated form for an indefinite period of time has been allowed in accordance with Article 11(1)(d).
Consecutive use of Article 11(1)(b) and Article 11(2)(c) for sovereign debt instruments	'VOLW'	Volume omission flag	RM, MTF, OTF APA CTP	Transaction for which limited are published in accordance with Article 11(1)(b) and for which the publication of several transactions in aggregated form for an indefinite period of time will be consecutively allowed in accordance with Article 11(2)(c).

'COAF'	Consecutive aggregation flag (post volume omission for sovereign debt instruments)	RM, MTF, OTF APA CTP	Transactions for which limited details have been previously published in accordance with Article 11(1)(b) and for which the publication of several transactions in aggregated form for an indefinite period of time has consecutively been allowed in accordance with Article 11(2)(c).
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(c) Table 4 is replaced by the following:

Measure of volume

Type of instrument	Volume
All bonds except ETCs and ETNs and structured finance products	Total nominal value of debt instruments traded —"Notional amount" of the traded contract as per field 11 of Table 2 of Annex II of this Regulation.
ETCs and ETNs bond types	Number of units traded ⁽⁴⁾ "Notional amount" of the traded contract as per field 11 of Table 2 of Annex II of this Regulation.
Securitised derivatives	Number of units traded ⁽⁴⁾ "Notional amount" of the traded contract as per field 11 of Table 2 of Annex II of this Regulation.
Interest rate derivatives	Notional amount of traded contracts "Notional amount" of the traded contract as per field 11 of Table 2 of Annex II of this Regulation.
Foreign Exchange Derivatives	Notional amount of traded contracts "Notional amount" of the traded contract as per field 11 of Table 2 of Annex II of this Regulation.
Equity derivatives	Notional amount of traded contracts "Notional amount" of the traded contract as per field 11 of Table 2 of Annex II of this Regulation.
Commodity derivatives	Notional amount of traded contracts "Quantity in measurement unit" as per field 9 of Table 2 of Annex II of this Regulation.

Credit derivatives	<p>Notional amount of traded contracts</p> <p>“Notional amount” of the traded contract as per field 11 of Table 2 of Annex II of this Regulation.</p>
Contract for differences	<p>Notional amount of traded contracts</p> <p>If not related to commodity derivatives, the “Notional amount” of the traded contract as per field 11 of Table 2 of Annex II of this Regulation.</p> <p>If related to commodity derivatives, the “Quantity in measurement unit” as per field 9 of Table 2 of Annex II of this Regulation.</p>
C10 derivatives	<p>Notional amount of traded contracts</p> <p>“Quantity in measurement unit” as per field 9 of Table 2 of Annex II of this Regulation.</p>
Emission allowance derivatives	<p>Tonnes of Carbon Dioxide equivalent</p> <p>“Quantity in measurement unit” as per field 9 of Table 2 of Annex II of this Regulation.</p>
Emission allowances	<p>Tonnes of Carbon Dioxide equivalent</p> <p>“Quantity in measurement unit” as per field 9 of Table 2 of Annex II of this Regulation.</p>

~~Price per unit.~~

(7) Annex III is amended as follows:

(a) The following points are added to the Instructions for the purpose of Annex III:

16. ‘Option on a swap’ means an option contract that gives the owner the right, but not the obligation, to enter a swap at or up to a certain future date.

17. ‘Standard trade size (STS)’ means the most frequently traded size in lots for a particular financial instrument executed in the period set out in Article 13(7) for all commodity derivatives, freight derivatives, emission allowances and derivatives thereof

18. ‘Average daily volume in lots (ADVL)’ means the total volume expressed in lots for a particular financial instrument executed in the period set out in Article 13(7) for all commodity derivatives, freight derivatives, emission allowances and derivatives thereof, divided by the number of trading days in that period or, where applicable, that part of the year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

(b) Table 2.2 of Annex III is replaced by the following:

Bonds (all bond types except ETCs and ETNs) – classes not having a liquid market

Asset class — Bonds (all bond types except ETCs and ETNs)	
Each individual bond shall be determined not to have a liquid market as per Article 13(18) if it is characterised by a specific combination of bond type and issuance size as specified in each row of the table.	
Bond Type	Issuance size RTS23#14



<p>Sovereign Bond</p> <p>RTS2#3 = BOND and RTS2#9 = EUSB</p>	<p>means a bond which is neither a convertible nor a covered bond and is issued by a sovereign issuer which is either:</p> <p>(a) the Union;</p> <p>(b) a Member State including a government department, an agency or a special purpose vehicle of a Member State;</p> <p>(c) a sovereign entity which is not listed under points (a) and (b).</p>	<p>smaller than (in EUR)</p>	<p>1 000 000 000</p>
Bond Type	Issuance size		

<p>Other Public Bond</p> <p>RTS2#3 = BOND and RTS2#9 = OEPB</p>	<p>means a bond which is neither a convertible nor a covered bond and is issued by any of the following public issuers:</p> <p>(a) in the case of a federal Member State, a member of that federation;</p> <p>(b) a special purpose vehicle for several Member States;</p> <p>(c) an international financial institution established by two or more Member States which have the purpose of mobilising funding and providing financial assistance to the benefit of its members that are experiencing or are threatened by severe financial problems;</p> <p>(d) the European Investment Bank;</p> <p>(e) a public entity which is not an issuer of a sovereign bond as specified in the previous row.</p>	<p>smaller than (in EUR)</p>	<p>500 000 000</p>
<p>Convertible Bond</p> <p>RTS2#3 = BOND and RTS2#9 = CVTB</p>	<p>means an instrument consisting of a bond or a securitised debt instrument with an embedded derivative, such as an option to buy the underlying equity</p>	<p>smaller than (in EUR)</p>	<p>500 000 000</p>

Covered Bond RTS2#3 = BOND and RTS2#9 = CVDB	Means bonds as referred to in Article 52(4) of Directive 2009/65/EC	during stages S1 and S2		during stages S3 and S4	
		smaller than (in EUR)	1 000 000 000	smaller than (in EUR)	500 000 000
Corporate Bond RTS2#3 = BOND and RTS2#9 = CRPB	means a bond that is issued by a Societas Europaea established in accordance with Council Regulation (EC) No 2157/2001 (1) or a type of company listed in Article 1 of Directive 2009/101/EC of the European Parliament and of the Council (2) or equivalent in third countries	during stages S1 and S2		during stages S3 and S4	
		smaller than (in EUR)	1 000 000 000	smaller than (in EUR)	500 000 000
Bond Type	For the purpose of the determination of the financial instruments considered not to have a liquid market as per Article 13(18), the following methodology shall be applied				
Other Bond RTS2#3 = BOND and RTS2#9 = OTHR	A bond that does not belong to any of the above bond types is considered not to have a liquid market				

(1) Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE) (OJ L 294, 10.11.2001, p. 1).

(2) Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11).

(c) Table 2.4 of Annex III is replaced by the following:

Table 2.4

Bonds (ETC and ETN bond types) — classes not having a liquid market

Bond type	Each individual financial instrument shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria	
	Average daily turnover (ADT)	Average daily number of trades
<p>Exchange Traded Commodities (ETCs) - 'RTS2#3 = ETCS</p> <p>a debt instrument issued against a direct investment by the issuer in commodities or commodities derivative contracts. The price of an ETC is directly or indirectly linked to the performance of the underlying. An ETC passively tracks the performance of the commodity or commodity indices to which it refers.</p>	EUR 500 000	10
<p>Exchange Traded Notes (ETNs) - 'RTS2#3 = ETNS</p> <p>a debt instrument issued against a direct investment by the issuer in the underlying or underlying derivative contracts. The price of an ETN is directly or indirectly linked to the performance of the underlying. An ETN passively tracks the performance of the underlying to which it refers.</p>	EUR 500 000	10

(d) Table 3.1 of Annex III is replaced by the following:

Table 3.1

SFPs — classes not having a liquid market

Asset class — Structured Finance Products (SFPs)

SFPs asset-class assessment for the purpose of the determination of the financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) - 'RTS2#3 = SFPs

Transactions to be considered for the calculations of the values related to the quantitative liquidity criteria for the purpose of the SFPs asset-class assessment	The SFPs asset-class shall be assessed by application of the following thresholds of the quantitative liquidity criteria	
	Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	Average daily number of trades [quantitative liquidity criterion 2]
Transactions executed in all SFPs	EUR 300 000 000	500
Test2 – SFPs not having a liquid market		

If the values related to the quantitative liquidity criteria are both above the quantitative liquidity thresholds set for the purpose of the SFPs asset-class assessment, then Test 1 is passed and Test-2 shall be performed. Each individual financial instrument shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria

Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	Average daily number of trades [quantitative liquidity criterion 2]	Percentage of days traded over the period considered [quantitative liquidity criteria 3]
EUR 100 000	2	80 %

(e) Table 4.1 of Annex III is replaced by the following:

Securitised derivatives — classes not having a liquid market

means a transferable security as defined in Article 4(1)(44)(c) of Directive 2014/65/EU different from structured finance products and should include at least:

- (a) warrants and plain vanilla covered warrants mean securities giving the holder the right, but not the obligation, to purchase (sell), at or by the expiry date, a specific amount of the underlying asset at a predetermined strike price or, in case cash settlement has been fixed, the payment of the positive difference between the current market price (the strike price) and the strike price (the current market price);
- (b) leverage certificates means certificates that track the performance of the underlying asset with leverage effect;
- (c) exotic covered warrants means covered warrants whose main component is a combination of options;
- (d) negotiable rights whose underlying is a non-equity instrument;
- (e) investment certificates means certificates that track the performance of the underlying asset without leverage effect.

For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied

all securitised derivatives are considered to have a liquid market

Field(s) for segmentation criteria	RTS2#3 = SDRV
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(f) Table 5.1 of Annex III is replaced by the following:

Table 5.1

Interest rate derivatives — classes not having a liquid market



any contract as defined in Annex I, Section C(4) of Directive 2014/65/EU whose ultimate underlying is an interest rate, a bond, a loan, any basket, portfolio or index including an interest rate, a bond, a loan or any other product representing the performance of an interest rate, a bond, a loan.

	Sub-asset class		<p>For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below</p>	<p>Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria. For sub-classes determined to have a liquid market the additional qualitative liquidity criterion, where applicable, shall be applied</p>		
				<p>Average daily notional amount (ADNA) [quantitative liquidity criterion 1]</p>	<p>Average daily number of trades [quantitative liquidity criterion 2]</p>	<p>Additional qualitative liquidity criterion</p>

Bond futures/forwards
/ Future on a bond future
/ Forward on a bond future

'Future on a bond

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = FUTR

'RTS2#16 = BOND

or

Forward on a bond

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = FORW

'RTS2#16 = BOND

or

Future on a bond future

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = FUTR

'RTS2#16 = BNFD

or

Forward on a bond future

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = FORW

'RTS2#16 = BNFD

a bond future/forward sub-class is defined by the following segmentation criteria:

Segmentation criterion 1 (RTS2#17) — issuer of the underlying

Segmentation criterion 2 (RTS2#18) — term of the underlying deliverable bond defined as follows:

Short-term: the underlying deliverable bond with a term up to 4 years shall be considered to have a short-term

Medium-term: the underlying deliverable bond with a term between 4 and 8 years shall be considered to have a medium-term

Long-term: the underlying deliverable bond with a term between 8 and 15 years shall be considered to have a long-term

Ultra-long-term: the underlying deliverable bond with a term longer than 15 years shall be considered to have an ultra-long-term

EUR 5 000
000

10

whenever a sub-class is determined to have a liquid market with respect to a specific time to maturity bucket and the sub-class defined by the next time to maturity bucket is determined not to have a liquid market, the first back month contract is determined to have a liquid market 2 weeks before expiration of the front month

	<p>Segmentation criterion 3 — time to maturity bucket of the future defined as follows:</p> <p>Maturity bucket 1: $0 < \text{time to maturity} \leq 3$ months</p> <p>Maturity bucket 2: $3 \text{ months} < \text{time to maturity} \leq 6$ months</p> <p>Maturity bucket 3: $6 \text{ months} < \text{time to maturity} \leq 1$ year</p> <p>Maturity bucket 4: $1 \text{ year} < \text{time to maturity} \leq 2$ years</p> <p>Maturity bucket 5: $2 \text{ years} < \text{time to maturity} \leq 3$ years</p> <p>...</p> <p>Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n$ years</p>			
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Bond Option

/'Option on a bond option
/ Option on a bond future

Bond Option

'Option on a bond option

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = OPTN

RTS2#16 = BOND

or

'Option on a bond option

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = OPTN

RTS2#16 = BOND

or

Option on a bond future

RTS2#3 = DERV

RTS2#4 = INTR

RTS2#5 = OPTN

RTS2#16 = BNFD

a bond option sub-class is defined by the following segmentation criteria:

Segmentation criterion 1 (RTS2#22) —
ultimate underlying bond ~~or underlying bond~~
future/forward

Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the option defined as follows:

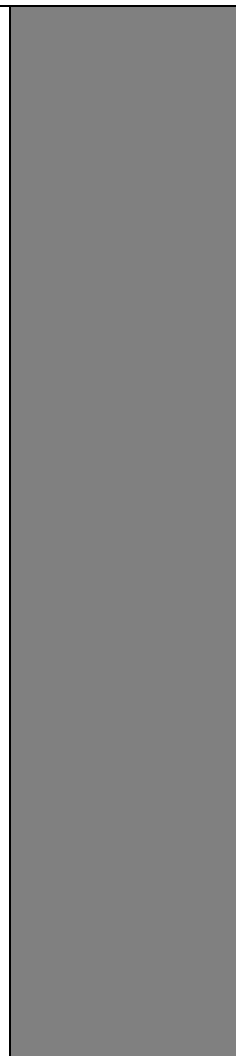
Maturity bucket 1: $0 < \text{time to maturity} \leq 3$ months

Maturity bucket 2: $3 \text{ months} < \text{time to maturity} \leq 6$ months

Maturity bucket 3: $6 \text{ months} < \text{time to maturity} \leq 1$ year

EUR 5 000
000

10



<p>Maturity bucket 4: 1 year < time to maturity \leq 2 years</p> <p>Maturity bucket 5: 2 years < time to maturity \leq 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity \leq n years</p>			
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IR futures and FRA/ Future on an interest rate future/ Forward rate agreement on an interest rate future

Future on an interest rate

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = FUTR

'RTS2#16 = INTR

or

Forward rate agreement

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = FRAS

'RTS2#16 = INTR

or

Future on an interest rate future

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = FUTR

'RTS2#16 = IFUT

or

Forward rate agreement on an interest rate future

RTS2#3 = DERV

RTS2#4 = INTR

'RTS2#5 = FRAS

'RTS2#16 = IFUT

an interest rate future sub-class is defined by the following segmentation criteria:

Segmentation criterion 1 (RTS2#24) — underlying interest rate

Segmentation criterion 2 (RTS2#25) — term of the underlying interest rate

Segmentation criterion 3 (RTS2#8) — time to maturity bucket of the future defined as follows:

Maturity bucket 1: $0 < \text{time to maturity} \leq 3$ months

Maturity bucket 2: $3 \text{ months} < \text{time to maturity} \leq 6$ months

Maturity bucket 3: $6 \text{ months} < \text{time to maturity} \leq 1$ year
 Maturity bucket 4: $1 \text{ year} < \text{time to maturity} \leq 2$ years
 Maturity bucket 5: $2 \text{ years} < \text{time to maturity} \leq 3$ years

...

Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n$ years

EUR 500 000 000

10

whenever a sub-class is determined to have a liquid market with respect to a specific time to maturity bucket and the sub-class defined by the next time to maturity bucket is determined not to have a liquid market, the first back month contract is determined to have a liquid market 2 weeks before expiration of the front month

<p>IR options /Option on an interest rate future/FRA /Option on an interest rate option 'Option on an option on an interest rate future/FRA</p> <p>'Option on an interest rate future/FRA/'Option on an interest rate option RTS2#3 = DERV RTS2#4 = INTR 'RTS2#5 = OPTN 'RTS2#16 = IFUT or 'IR Option //Option on an option on an interest rate future/FRA RTS2#3 = DERV RTS2#4 = INTR 'RTS2#5 = OPTN 'RTS2#16 = INTR</p>	<p>an interest rate option sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS2#24) — underlying interest rate or underlying interest rate future or FRA</p> <p>Segmentation criterion 2 (RTS2#25) — term of the underlying interest rate</p> <p>Segmentation criterion 3 (RTS2#8) — time to maturity bucket of the option defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 3 months</p> <p>Maturity bucket 2: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 3: 6 months < time to maturity ≤ 1 year Maturity bucket 4: 1 year < time to maturity ≤ 2 years Maturity bucket 5: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 500 000 000</p>	<p>10</p>	<div style="background-color: #cccccc; width: 100%; height: 100%;"></div>
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Swaptions

RTS2#3 = DERV
RTS2#4 = INTR

RTS2#5 = SWPT

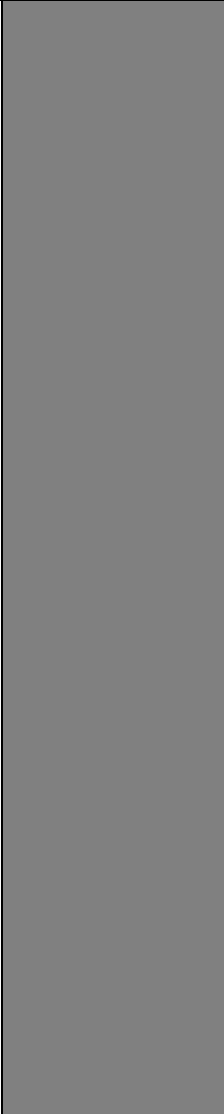
a swaption sub-class is defined by the following segmentation criteria:

Segmentation criterion 1 (RTS2#16) — underlying swap type defined as follows: fixed-to-fixed single currency swap, futures/forwards on fixed-to-fixed single currency swap, fixed-to-float single currency swap, futures/forwards on fixed-to-float single currency swap, float-to-float single currency swap, futures/forwards on float-to-float single currency swap, inflation single currency swap, futures/forwards on inflation single currency swap, OIS single currency swap, futures/forwards on OIS single currency swap, fixed-to-fixed multi-currency swap, futures/forwards on fixed-to-fixed multi-currency swap, fixed-to-float multi-currency swap, futures/forwards on fixed-to-float multi-currency swap, float-to-float multi-currency swap, futures/forwards on float-to-float multi-currency swap, inflation multi-currency swap, futures/forwards on inflation multi-currency swap, OIS multi-currency swap, futures/forwards on OIS multi-currency swap

Segmentation criterion 2 (RTS2#20) — notional currency defined as the currency in which the notional amount of the option is denominated

EUR 500 000
000

10



Segmentation criterion 3 (RTS2#22 or RTS2#23) — inflation index if the underlying swap type is either an inflation single currency swap or an inflation multi-currency swap

Segmentation criterion 4 (RTS2#21) — time to maturity bucket of the swap defined as follows:

Maturity bucket 1: $0 < \text{time to maturity} \leq 1$ month

Maturity bucket 2: $1 \text{ month} < \text{time to maturity} \leq 3$ months

Maturity bucket 3: $3 \text{ months} < \text{time to maturity} \leq 6$ months

Maturity bucket 4: $6 \text{ months} < \text{time to maturity} \leq 1$ year

Maturity bucket 5: $1 \text{ year} < \text{time to maturity} \leq 2$ years

Maturity bucket 6: $2 \text{ years} < \text{time to maturity} \leq 3$ years

...

Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n$ years

Segmentation criterion 5 (RTS2#8) — time to maturity bucket of the option defined as follows:

Maturity bucket 1: $0 < \text{time to maturity} \leq 6$ months

Maturity bucket 2: $6 \text{ months} < \text{time to maturity} \leq 1$ year

Maturity bucket 3: $1 \text{ year} < \text{time to maturity} \leq 2$ years

Maturity bucket 4: $2 \text{ years} < \text{time to maturity} \leq 5$ years

Maturity bucket 5: $5 \text{ years} < \text{time to maturity} \leq 10$ years

interest rate while those of the other leg are

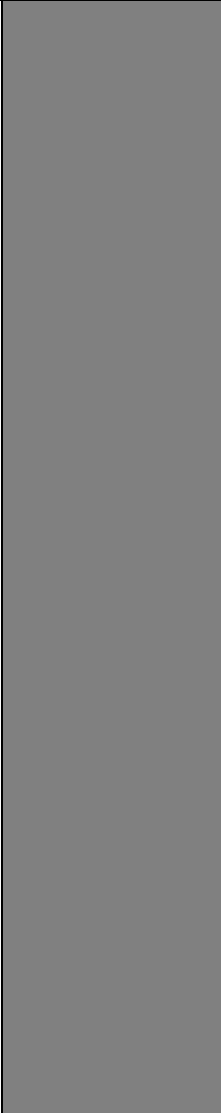


<p>Fixed-to-Float 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards/ options on Fixed-to-Float 'multi-currency swaps' or 'cross-currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in different currencies and the cash flows of one leg are determined by a fixed</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = XFMC</p>	<p>a fixed-to-float multi-currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < maturity ≤ 1 month Maturity bucket 2: 1 month < maturity ≤ 3 months Maturity bucket 3: 3 months < maturity ≤ 6 months Maturity bucket 4: 6 months < maturity ≤ 1 year Maturity bucket 5: 1 year < maturity ≤ 2 years Maturity bucket 6: 2 years < maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	<p style="background-color: #cccccc;"></p>
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<p>Float-to-Float 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards/ options on Float-to-Float 'multi-currency swaps' or 'cross-currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in different currencies and where the cash flows of both legs are determined by floating interest rates</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = FFMC</p>	<p>a float-to-float multi-currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < maturity ≤ 1 month Maturity bucket 2: 1 month < maturity ≤ 3 months Maturity bucket 3: 3 months < maturity ≤ 6 months Maturity bucket 4: 6 months < maturity ≤ 1 year Maturity bucket 5: 1 year < maturity ≤ 2 years Maturity bucket 6: 2 years < maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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<p>Fixed-to-Fixed 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards/ options on Fixed-to-Fixed 'multi-currency swaps' or 'cross-currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in different currencies and where the cash flows of both legs are determined by fixed interest rates</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = XXMC</p>	<p>a fixed-to-fixed multi-currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 5: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 6: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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<p>Overnight Index Swap (OIS) 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards/options on Overnight Index Swap (OIS) 'multi-currency swaps' or 'cross-currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in different currencies and where the cash flows of at least one leg are determined by an Overnight Index Swap (OIS) rate</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = OSMC</p>	<p>an overnight index swap (OIS) multi-currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 5: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 6: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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<p>Inflation 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards/ options on Inflation 'multi-currency swaps' or 'cross-currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in different currencies and where the cash flows of at least one leg are determined by an inflation rate</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = IFMC</p>	<p>an inflation multi-currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#13 and RTS23#42) — notional currency pair defined as combination of the two currencies in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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<p>Fixed-to-Float 'single currency swaps' and futures/forwards/ options on Fixed-to-Float 'single currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in the same currency and the cash flows of one leg are determined by a fixed interest rate while those of the other leg are determined by a floating interest rate</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = XFSC</p>	<p>a fixed-to-float single currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#13) — notional currency in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8)— time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 5: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 6: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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<p>Float-to-Float 'single currency swaps' and futures/forwards/ options on Float-to-Float 'single currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in the same currency and where the cash flows of both legs are determined by floating interest rates</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = FFSC</p>	<p>a float-to-float single currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS2#13) — notional currency in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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<p>Fixed-to-Fixed 'single currency swaps' and futures/forwards/ options on Fixed-to-Fixed 'single currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in the same currency and where the cash flows of both legs are determined by fixed interest rates</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = XXSC</p>	<p>a fixed-to-fixed single currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS2#13) — notional currency in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 5: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 6: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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<p>Overnight Index Swap (OIS) 'single currency swaps' and futures/forwards/ options on Over- night Index Swap (OIS) 'single currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in the same currency and where the cash flows of at least one leg are determined by an Over- night Index Swap (OIS) rate</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = OSSC</p>	<p>an overnight index swap (OIS) single currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#13) — notional currency in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 5: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 6: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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<p>Inflation 'single currency swaps' and futures/forwards/ options on Inflation 'single currency swaps'</p> <p>a swap or a future/forward/option on a swap where two parties exchange cash flows denominated in the same currency and where the cash flows of at least one leg are determined by an inflation rate</p> <p>RTS2#3 = DERV RTS2#4 = INTR</p> <p>RTS2#5 = SWAP or FONS or FWOS or OPTS</p> <p>RTS2#16 = IFSC</p>	<p>an inflation single currency sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS2#13) — notional currency in which the two legs of the swap are denominated</p> <p>Segmentation criterion 2 (RTS2#8)— time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 5: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 6: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 50 000 000</p>	<p>10</p>	
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Asset class — Interest Rate Derivatives	
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), the following methodology shall be applied
<p>Other Interest Rate Derivatives</p> <p>an interest rate derivative that does not belong to any of the above sub-asset classes</p> <p>RTS2#3 = DERV RTS2#4 = INTR RTS2#5 = OTHR</p>	<p>any other interest rate derivative is considered not to have a liquid market</p>

(g) Table 6.1 of Annex III is replaced by the following:

Table 6.1

Equity derivatives — classes not having a liquid market

Asset class — Equity Derivatives

any contract as defined Annex I, Section C(4) of Directive 2014/65/EU related to:

- (a) one or more shares, depositary receipts, ETFs, certificates, other similar financial instruments, cash-flows or other products related to the performance of one or more shares, depositary receipts, ETFs, certificates, or other similar financial instruments;
- (b) an index of shares, depositary receipts, ETFs, certificates, other similar financial instruments, cash-flows or other products related to the performance of one or more shares, depositary receipts, ETFs, certificates, or other similar financial instruments

Asset class — Equity Derivatives	
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied
<p>Stock index options an option whose underlying is an index composed of shares</p> <p>RTS2#3 = DERV RTS2#4 = EQU1 RTS2#5 = OPTN RTS2#27 = STIX RTS23#26 or if null RTS23#28</p>	<p>all index options are considered to have a liquid market</p>
<p>Stock index futures/forwards a future/forward whose underlying is an index composed of shares</p> <p>RTS2#3 = DERV RTS2#4 = EQU1 RTS2#5 = FUTR or FORW RTS2#27 = STIX RTS23#26 or if null RTS23#28</p>	<p>all index futures/forwards are considered to have a liquid market</p>

<p>Stock options an option whose underlying is a share or a basket of shares resulting from a corporate action</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = OPTN RTS2#27 = SHRS RTS23#26 or if null RTS23#28</p>	<p>all stock options are considered to have a liquid market</p>
<p>Stock futures/forwards a future/forward whose underlying is a share or a basket of shares resulting from a corporate action</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = FUTR or FORW RTS2#27 = SHRS RTS23#26 or if null RTS23#28</p>	<p>all stock futures/forwards are considered to have a liquid market</p>
<p>Stock dividend options an option on the dividend of a specific share</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = OPTN RTS2#27 = DVSE RTS23#26 or if null RTS23#28</p>	<p>all stock dividend options are considered to have a liquid market</p>

<p>Stock dividend futures/forwards a future/forward on the dividend of a specific share</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = FUTR or FORW RTS2#27 = DVSE RTS23#26 or if null RTS23#28</p>	<p>all stock dividend futures/forwards are considered to have a liquid market</p>
<p>Dividend index options an option on an index composed of dividends of more than one share</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = OPTN RTS2#27 = DIVI RTS23#26 or if null RTS23#28</p>	<p>all dividend index options are considered to have a liquid market</p>
<p>Dividend index futures/forwards a future/forward on an index composed of dividends of more than one share</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = FUTR or FORW RTS2#27 = DIVI RTS23#26 or if null RTS23#28</p>	<p>all dividend index futures/forwards are considered to have a liquid market</p>

<p>Volatility index options an option whose underlying is a volatility index defined as an index relating to the volatility of a specific underlying index of equity instruments</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = OPTN RTS2#27 = VOLI RTS23#26 or if null RTS23#28</p>	<p>all volatility index options are considered to have a liquid market</p>
<p>Volatility index futures/forwards a future/forward whose underlying is a volatility index defined as an index relating to the volatility of a specific underlying index of equity instruments</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = FUTR or FORW RTS2#27 = VOLI RTS23#26 or if null RTS23#28</p>	<p>all volatility index futures/forwards are considered to have a liquid market</p>
<p>ETF options an option whose underlying is an ETF</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = OPTN RTS2#27 = ETFS RTS23#26 or if null RTS23#28</p>	<p>all ETF options are considered to have a liquid market</p>

<p>ETF futures/forwards a future/forward whose underlying is an ETF</p> <p>RTS2#3 = DERV RTS2#4 = EQU' RTS2#5 = FUTR or FORW RTS2#27 = ETFS RTS23#26 or if null RTS23#28</p>	<p>all ETF futures/forwards are considered to have a liquid market</p>
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Asset class — Equity Derivatives			
Sub-asset class	<p>For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below</p>	<p>Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria</p>	
		<p>Average daily notional amount (ADNA) [quantitative liquidity criterion 1]</p>	<p>Average daily number of trades [quantitative liquidity criterion 2]</p>

Swaps

RTS2#3 = DERV

RTS2#4 = EQUI

RTS2#5 = SWAP

a swap sub-class is defined by the following segmentation criteria: **Segmentation criterion 1** ('RTS2#27) — underlying type: single name, index, basket **Segmentation criterion 2** (RTS23#26 or if null RTS23#28) — underlying single name, index, basket **Segmentation criterion 3** ('RTS2#28) — parameter: price return basic performance parameter, parameter return dividend, parameter return variance, parameter return volatility **Segmentation criterion 4** ('RTS2#8) — time to maturity bucket of the swap defined as follows:

Price return basic performance parameter	Parameter return variance/volatility	Parameter return dividend
Maturity bucket 1: 0 < time to maturity ≤ 1 month	Maturity bucket 1: 0 < time to maturity ≤ 3 months	Maturity bucket 1: 0 < time to maturity ≤ 1 year
Maturity bucket 2: 1 month < time to maturity ≤ 3 months	Maturity bucket 2: 3 months < time to maturity ≤ 6 months	Maturity bucket 2: 1 year < time to maturity ≤ 2 years
Maturity bucket 3: 3 months < time to maturity ≤ 6 months	Maturity bucket 3: 6 months < time to maturity ≤ 1 year	Maturity bucket 3: 2 years < time to maturity ≤ 3 years
Maturity bucket 4: 6 months < time to maturity ≤ 1 year	Maturity bucket 4: 1 year < time to maturity ≤ 2 years	...
Maturity bucket 5: 1 year < time to maturity ≤ 2 years	Maturity bucket 5: 2 years < time to maturity ≤ 3 years	Maturity bucket m: (n-1) years < time to maturity ≤ n years

EUR 50 000 000

	Maturity bucket 6: 2 years < time to maturity ≤ 3 years	...			
	...	Maturity bucket m: (n-1) years < time to maturity ≤ n years			
	Maturity bucket m: (n-1) years < time to maturity ≤ n years				
Portfolio Swaps RTS2#3 = DERV RTS2#4 = EQU RTS2#5 = PSWP	a portfolio swap sub-class is defined by a specific combination of: Segmentation criterion 1 ('RTS2#27) — underlying type: single name, index, basket Segmentation criterion 2 (RTS23#26 or if null RTS23#28) — underlying single name, index, basket Segmentation criterion 3 ('RTS2#28) — parameter: price return basic performance parameter, parameter return dividend, parameter return variance, parameter return volatility Segmentation criterion 4 ('RTS2#8) — me to maturity bucket of the portfolio swap defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 month Maturity bucket 2: 1 month < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 6 months Maturity bucket 4: 6 months < time to maturity ≤ 1 year Maturity bucket 5: 1 year < time to maturity ≤ 2 years Maturity bucket 6: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years			EUR 50 000 000	15

Asset class — Equity Derivatives	
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied
<p>Other equity derivatives an equity derivative that does not belong to any of the above sub-asset classes</p> <p>RTS2#3 = DERV RTS2#4 = EQUI RTS2#5 = OTHR'</p>	<p>any other equity derivative is considered not to have a liquid market</p>

(h)* Table 7.1 of Annex III is replaced by the following:

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
		Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
Metal commodity futures/forwards RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'METL' and [RTS2#5 = 'FUTR' or 'FORW']	a metal commodity future/forward sub-class is defined by the following segmentation criteria: Segmentation criterion 1 (RTS23#36) — metal type: precious metal, non-precious metal Segmentation criterion 2 (RTS23#37) — underlying metal Segmentation criterion 3 (RTS2#15) — notional currency defined as the currency in which the notional amount of the future/forward is denominated Segmentation criterion 4 (RTS2#8) — time to maturity bucket of the future/forward defined as follows:		Metal commodity futures/forwards are considered not to have a liquid market
	Precious metals	Non-precious metals	
	Maturity bucket 1: 0 < time to maturity ≤ 3 months	Maturity bucket 1: 0 < time to maturity ≤ 1 year	
	Maturity bucket 2: 3 months < time to maturity ≤ 1 year	Maturity bucket 2: 1 year < time to maturity ≤ 2 years	

Asset class — Commodity Derivatives				
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below		Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
			Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	Maturity bucket 3: 1 year < time to maturity ≤ 2 years	Maturity bucket 3: 2 years < time to maturity ≤ 3 years		
	Maturity bucket 4: 2 years < time to maturity ≤ 3 years	...		
	...	Maturity bucket m: (n-1) years < time to maturity ≤ n years		
	Maturity bucket m: (n-1) years < time to maturity ≤ n years			
Metal commodity options RTS2#3 = 'DERV' and RTS2#4 =	a metal commodity option sub-class is defined by the following segmentation criteria: Segmentation criterion 1 (RTS23#36) — metal type: precious metal, non-precious metal Segmentation criterion 2 (RTS23#37) — underlying metal Segmentation criterion 3 (RTS2#15) — notional currency defined as the currency in which the		Metal commodity options are considered not to have a liquid market	

Asset class — Commodity Derivatives				
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below		Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
			Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
'COMM' and RTS23#35 = 'METL' and RTS2#5 = 'OPTN'	notional amount of the option is denominated			
	Segmentation criterion 4 (RTS2#8) — time to maturity bucket of the option defined as follows:			
	Precious metals	Non-precious metals		
	Maturity bucket 1: 0 < time to maturity ≤ 3 months	Maturity bucket 1: 0 < time to maturity ≤ 1 year		
	Maturity bucket 2: 3 months < time to maturity ≤ 1 year	Maturity bucket 2: 1 year < time to maturity ≤ 2 years		
	Maturity bucket 3: 1 year < time to maturity ≤ 2 years	Maturity bucket 3: 2 years < time to maturity ≤ 3 years		
Maturity bucket 4: 2 years < time to maturity ≤ 3 years	...			

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below		Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT
			Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]
	...	Maturity bucket m: (n-1) years < time to maturity ≤ n years	
	Maturity bucket m: (n-1) years < time to maturity ≤ n years		
Metal commodity swaps RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'METL' and RTS2#5 = 'SWAP'	a metal commodity swap sub-class is defined by the following segmentation criteria: Segmentation criterion 1 (RTS23#36) — metal type: precious metal, non-precious metal Segmentation criterion 2 (RTS23#37) — underlying metal Segmentation criterion 3 (RTS2#15) — notional currency defined as the currency in which the notional amount of the swap is denominated Segmentation criterion 4 (RTS23#34) — settlement delivery type defined as cash, physical or optional other Segmentation criterion 5 (RTS2#8) — time to maturity bucket of the swap defined as follows:		Metal commodity swaps are considered not to have a liquid market

Asset class — Commodity Derivatives

Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below		Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
			Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	Precious metals	Non-precious metals		
	Maturity bucket 1: 0 < time to maturity ≤ 3 months	Maturity bucket 1: 0 < time to maturity ≤ 1 year		
	Maturity bucket 2: 3 months < time to maturity ≤ 1 year	Maturity bucket 2: 1 year < time to maturity ≤ 2 years		
	Maturity bucket 3: 1 year < time to maturity ≤ 2 years	Maturity bucket 3: 2 years < time to maturity ≤ 3 years		
	Maturity bucket 4: 2 years < time to maturity ≤ 3 years	...		
	...	Maturity bucket m: (n-1) years < time to maturity ≤ n years		
	Maturity bucket m: (n-1) years < time to maturity ≤ n years			

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
		Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
Energy commodity futures/forwards RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS2#35 = 'NRGY' and [RTS2#5 = 'FUTR' or 'FORW']	an energy commodity future/forward sub-class is defined by the following segmentation criteria: Segmentation criterion 1 (RTS23#36) — energy type: oil, oil distillates, coal, oil light ends, natural gas, electricity, inter energy and renewable energy Segmentation criterion 2 (RTS23#37) — underlying energy applicable to all energy types except natural gas Segmentation criterion 3 (RTS2#15) — notional currency defined as the currency in which the notional amount of the future/forward is denominated Segmentation criterion 4 — load type defined as baseload, peakload, off-peak or others, applicable to energy type: electricity Segmentation criterion 4 (RTS2#15a) — Duration of the delivery period applicable to energy types: electricity and natural gas Segmentation criterion 5 (RTS2#14) — delivery/cash settlement location delivery point or zone applicable to energy types: oil, oil distillates, oil light ends, electricity and natural gas, inter-energy Segmentation criterion 6 (RTS2#8) — time to maturity bucket of the future/forward defined as follows:	EUR 10 000 000 5 lots	40 50

Asset class — Commodity Derivatives

Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below			Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
				Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	Oil/Oil Distillates/Oil Light ends	Coal/Renewable Energy	Natural Gas/Electricity/Inter-energy		
	Maturity bucket 1: 0 < time to maturity ≤ 4 months	Maturity bucket 1: 0 < time to maturity ≤ 6 months	Maturity bucket 1: 0 < time to maturity ≤ 1 month		
	Maturity bucket 2: 4 months < time to maturity ≤ 8 months	Maturity bucket 2: 6 months < time to maturity ≤ 1 year	Maturity bucket 2: 1 month < time to maturity ≤ 1 year		
	Maturity bucket 3: 8 months < time to maturity ≤ 1 year	Maturity bucket 3: 1 year < time to maturity ≤ 2 years	Maturity bucket 3: 1 year < time to maturity ≤ 2 years		
	Maturity bucket 4: 1 year < time to maturity ≤ 2 years	...	...

Asset class — Commodity Derivatives					
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below			Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
				Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	...	Maturity bucket m: (n-1) years < time to maturity ≤ n years	Maturity bucket m: (n-1) years < time to maturity ≤ n years		
	Maturity bucket m: (n-1) years < time to maturity ≤ n years				

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
		Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
Energy commodity options RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'NRGY' and RTS2#5 = 'OPTN'	an energy commodity option sub-class is defined by the following segmentation criteria: Segmentation criterion 1 (RTS23#36) — energy type: oil, oil distillates, coal, oil light ends, natural gas, electricity, inter-energy and renewable energy Segmentation criterion 2 (RTS23#37) — underlying energy <u>applicable to all energy types except natural gas</u> Segmentation criterion 3 (RTS2#15) — notional currency defined as the currency in which the notional amount of the option is denominated Segmentation criterion 4 — load type defined as baseload, peakload, off-peak or others, applicable to energy type: electricity Segmentation criterion 4 (RTS2#15a) — Duration of the delivery period applicable to energy types: electricity and natural gas Segmentation criterion 5 (RTS2#14) — <u>delivery/cash settlement location</u> delivery point or zone applicable to energy types: oil, oil distillates, oil light ends, electricity and natural gas, inter-energy Segmentation criterion 6 (RTS2#8) — time to maturity bucket of the option defined as follows:	EUR 10 000 000 5 lots	40 50

Asset class — Commodity Derivatives					
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below			Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
				Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	Oil/Oil Distillates/Oil Light ends	Coal/Renewable energy	Natural Gas/Electricity/Inter-energy		
	Maturity bucket 1: 0 < time to maturity ≤ 4 months	Maturity bucket 1: 0 < time to maturity ≤ 6 months	Maturity bucket 1: 0 < time to maturity ≤ 1 month		
	Maturity bucket 2: 4 months < time to maturity ≤ 8 months	Maturity bucket 2: 6 months < time to maturity ≤ 1 year	Maturity bucket 2: 1 month < time to maturity ≤ 1 year		
	Maturity bucket 3: 8 months < time to maturity ≤ 1 year	Maturity bucket 3: 1 year < time to maturity ≤ 2 years	Maturity bucket 3: 1 year < time to maturity ≤ 2 years		
	Maturity bucket 4: 1 year < time to maturity ≤ 2 years	...	...
	...	Maturity bucket m: (n-1) years	Maturity bucket m: (n-1) years <		

Asset class — Commodity Derivatives					
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below			Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
				Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
		< time to maturity ≤ n years	time to maturity ≤ n years		
	Maturity bucket m: (n-1) years < time to maturity ≤ n years				

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
		Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
Energy commodity swaps RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS2#35 = 'NRGY' and RTS2#5 = 'SWAP'	an energy commodity swap sub-class is defined by the following segmentation criteria: Segmentation criterion 1 (RTS23#36) — energy type: oil, oil distillates, coal, oil light ends, natural gas, electricity, inter-energy and renewable energy Segmentation criterion 2 (RTS23#37) — underlying energy <u>applicable to all energy types except natural gas</u> Segmentation criterion 3 (RTS2#15) — notional currency defined as the currency in which the notional amount of the swap is denominated Segmentation criterion 4 (RTS23#34) — settlement delivery type defined as cash, physical or optional other Segmentation criterion 5 — load type defined as baseload, peakload, off-peak or others, applicable to energy type: electricity Segmentation criterion 5 (RTS2#15a) — Duration of the delivery period applicable to energy types: electricity and natural gas Segmentation criterion 6 (RTS2#14) — delivery/cash settlement location delivery point or zone applicable to energy types: oil, oil distillates, oil light ends, electricity and natural gas, inter-energy Segmentation criterion 7 (RTS2#8) — time to maturity bucket of the swap defined as follows:	EUR 10 000 000 5 lots	40 50

Asset class — Commodity Derivatives

Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below			Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
				Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	Oil/Oil Distillates/Oil Light ends	Coal/Renewable energy	Natural Gas/Electricity/Inter-energy		
	Maturity bucket 1: 0 < time to maturity ≤ 4 months	Maturity bucket 1: 0 < time to maturity ≤ 6 months	Maturity bucket 1: 0 < time to maturity ≤ 1 month		
	Maturity bucket 2: 4 months < time to maturity ≤ 8 months	Maturity bucket 2: 6 months < time to maturity ≤ 1 year	Maturity bucket 2: 1 month < time to maturity ≤ 1 year		
	Maturity bucket 3: 8 months < time to maturity ≤ 1 year	Maturity bucket 3: 1 year < time to maturity ≤ 2 years	Maturity bucket 3: 1 year < time to maturity ≤ 2 years		
	Maturity bucket 4: 1 year < time to maturity ≤ 2 years	...	...
	...	Maturity bucket m: (n-1) years	Maturity bucket m: (n-1) years <		

Asset class — Commodity Derivatives					
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below			Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
				Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
		< time to maturity ≤ n years	time to maturity ≤ n years		
	Maturity bucket m: (n-1) years < time to maturity ≤ n years				
Agricultural commodity futures/forwards RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'AGRI' and [RTS2#5 = 'FUTR' or 'FORW']	an agricultural commodity future/forward sub-class is defined by the following segmentation criteria: Segmentation criterion 1 (RTS23#36) — underlying agricultural commodity sub-product Segmentation criterion 1a (RTS23#37) — underlying agricultural commodity further sub-product Segmentation criterion 2 (RTS2#15) — notional currency defined as the currency in which the notional amount of the future/forward is denominated Segmentation criterion 3 (RTS2#8) — time to maturity bucket of the future/forward defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 3 months Maturity bucket 2: 3 months < time to maturity ≤ 6 months			EUR 10 000 000 5 lots	40 50

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
		Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	<p>Maturity bucket 3: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 4: 1 year < time to maturity ≤ 2 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>		
<p>Agricultural commodity options</p> <p>RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'AGRI' and RTS2#5 = 'OPTN'</p>	<p>an agricultural commodity option sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#36) — underlying agricultural commodity sub-product</p> <p>Segmentation criterion 1a (RTS23#37) — underlying agricultural commodity further sub-product</p> <p>Segmentation criterion 2 (RTS2#15) — notional currency defined as the currency in which the notional amount of the option is denominated</p> <p>Segmentation criterion 3 (RTS2#8) — time to maturity bucket of the option defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 3 months</p>	<p>EUR 10 000 000</p> <p>5 lots</p>	<p>40</p> <p>50</p>

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
		Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	<p>Maturity bucket 2: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 3: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 4: 1 year < time to maturity ≤ 2 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>		
<p>Agricultural commodity swaps</p> <p>RTS2#3 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'AGRI' and RTS2#5 = 'SWAP'</p>	<p>an agricultural commodity swap sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS23#36) — underlying agricultural commodity sub-product</p> <p>Segmentation criterion 1a (RTS23#37) — underlying agricultural commodity further sub-product</p> <p>Segmentation criterion 2 (RTS2#15) — notional currency defined as the currency in which the notional amount of the swap is denominated</p> <p>Segmentation criterion 3 (RTS23#34) — settlement delivery type defined as cash, physical or optional other</p>	<p>EUR 10 000 000</p> <p>5 lots</p>	<p>40</p> <p>50</p>

Asset class — Commodity Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
		Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
	<p>Segmentation criterion 4 (RTS2#8) — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 3 months</p> <p>Maturity bucket 2: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 3: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 4: 1 year < time to maturity ≤ 2 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>		
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied		

Other commodity derivatives a commodity derivative that does not belong to any of the above sub-asset classes	any other commodity derivative is considered not to have a liquid market
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(i) Table 7.2 of Annex III is replaced by the following:

Commodity derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class — Commodity Derivatives											
Percentages and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined to have a liquid market											
Calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class											
Sub-asset class	SSTI pre-trade				Threshold range	LIS pre-trade		SSTI post-trade		LIS post-trade	
	Percentage of ADVL					Percentage of ADVL	Threshold range	Percentage of ADVL	Threshold range	Percentage of ADVL	Threshold range
Energy commodity futures/ forwards	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 – 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							
Energy commodity options	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							
Energy commodity swaps	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							

Agricultural commodity futures/ forwards	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							
Agricultural commodity options	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							
Agricultural commodity swaps	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							

(j) Table 7.3 of Annex III is replaced by the following:

Commodity derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class — Commodity Derivatives				
Sub-asset class	Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market			
	SSTI pre-trade	LIS pre-trade	SSTI post-trade	LIS post-trade
	Threshold value	Threshold value	Threshold value	Threshold value
Metal commodity futures/forwards	6 lots	6 lots	11 lots	11 lots
Metal commodity options	6 lots	6 lots	11 lots	11 lots
Metal commodity swaps	6 lots	6 lots	11 lots	11 lots
Energy commodity futures/forwards	6 lots	6 lots	11 lots	11 lots

Energy commodity options	6 lots	6 lots	11 lots	11 lots
Energy commodity swaps	6 lots	6 lots	11 lots	11 lots
Agricultural commodity futures/forwards	6 lots	6 lots	11 lots	11 lots
Agricultural commodity options	6 lots	6 lots	11 lots	11 lots
Agricultural commodity swaps	6 lots	6 lots	11 lots	11 lots
Other commodity derivatives	6 lots	6 lots	11 lots	11 lots

(k) Table 8.1 of Annex III is replaced by the following:

Asset class — Foreign Exchange Derivatives
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a financial instrument relating to currencies as defined in Section C(4) of Annex I of Directive 2014/65/EU

Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into	Each sub-class shall be determined not to have a liquid market as per Article 8(1)(b)	
		Average daily number	Average daily number

Non-deliverable forward (NDF)

means a forward that, by its terms, is cash-settled between its counterparties, where the settlement amount is determined by the difference in the exchange rate of two currencies as between the trade date and the valuation date. On the settlement date, one party will owe the other party the net difference between (i) the exchange rate set at the trade date; and (ii) the exchange rate on the valuation date, based upon the notional amount, with such net amount payable in the settlement currency stipulated in the contract.

RTS2#3 = DERV

RTS2#4 = CURR'

RTS2#5 = FORW

RTS2#26 = NDLV

a non-deliverable FX forward sub-class is defined by the following segmentation criteria:

Segmentation criterion 1 'RTS23#13 and RTS23#47— underlying currency pair defined as combination of the two currencies underlying the derivative contract

Segmentation criterion 2 'RTS2#8— time to maturity bucket of the forward defined as follows:

Maturity bucket 1: $0 < \text{time to maturity} \leq 1 \text{ week}$

Maturity bucket 2: $1 \text{ week} < \text{time to maturity} \leq 3 \text{ months}$

Maturity bucket 3: $3 \text{ months} < \text{time to maturity} \leq 1 \text{ year}$

Maturity bucket 4: $1 \text{ year} < \text{time to maturity} \leq 2 \text{ years}$

Maturity bucket 5: $2 \text{ years} < \text{time to maturity} \leq 3 \text{ years}$

...

Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n \text{ years}$

Non-deliverable forward (NDF) are considered not to have a liquid market

<p>Deliverable forward (DF) means a forward that solely involves the exchange of two different currencies on a specific future contracted settlement date at a fixed rate agreed upon on the inception of the contract covering the exchange.</p> <p>RTS2#3 = DERV RTS2#4 = CURR' RTS2#5 = FORW RTS2#26 = DLVB</p>	<p>a deliverable FX forward sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 'RTS23#13 and RTS23#47— underlying currency pair defined as combination of the two currencies underlying the derivative contract</p> <p>Segmentation criterion 2 'RTS2#8— time to maturity bucket of the forward defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 week Maturity bucket 2: 1 week < time to maturity ≤ 3 months Maturity bucket 3: 3 months < time to maturity ≤ 1 year Maturity bucket 4: 1 year < time to maturity ≤ 2 years Maturity bucket 5: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>Deliverable forward (DF) are considered not to have a liquid market</p>
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Non-Deliverable FX options (NDO)

means an option that, by its terms, is cash- settled between its counterparties, where the settlement amount is determined by the difference in the exchange rate of two currencies as between the trade date and the valuation date. On the settlement date, one party will owe the other party the net difference between (i) the exchange rate set at the trade date; and (ii) the exchange rate on the valuation date, based upon the notional amount, with such net amount payable in the settlement currency stipulated in the contract.

RTS2#3 = DERV

RTS2#4 = CURR

RTS2#5 = OPTN

RTS2#26 = NDLV

a non-deliverable FX option sub-class is defined by the following segmentation criteria:

Segmentation criterion 1 'RTS23#13 and RTS23#47

— underlying currency pair defined as combination of the two currencies underlying the derivative contract

Segmentation criterion 2 'RTS2#8— time to maturity bucket of the option defined as follows:

Maturity bucket 1: $0 < \text{time to maturity} \leq 1 \text{ week}$

Maturity bucket 2: $1 \text{ week} < \text{time to maturity} \leq 3 \text{ months}$

Maturity bucket 3: $3 \text{ months} < \text{time to maturity} \leq 1 \text{ year}$

Maturity bucket 4: $1 \text{ year} < \text{time to maturity} \leq 2 \text{ years}$

Maturity bucket 5: $2 \text{ years} < \text{time to maturity} \leq 3 \text{ years}$

...

Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n \text{ years}$

Non-Deliverable FX options (NDO) are considered not to have a liquid market

<p>Deliverable FX options (DO) means an option that solely involves the exchange of two different currencies on a specific future contracted settlement date at a fixed rate agreed upon on the inception of the contract covering the exchange.</p> <p>RTS2#3 = DERV RTS2#4 = CURR RTS2#5 = OPTN RTS2#26 = DLVB</p>	<p>a deliverable FX option sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 "RTS23#13 and RTS23#47— underlying currency pair defined as combination of the two currencies underlying the derivative contract</p> <p>Segmentation criterion 2 RTS2#8— time to maturity bucket of the option defined as follows:</p> <p>Maturity bucket 1: $0 < \text{time to maturity} \leq 1 \text{ week}$</p> <p>Maturity bucket 2: $1 \text{ week} < \text{time to maturity} \leq 3 \text{ months}$</p> <p>Maturity bucket 3: $3 \text{ months} < \text{time to maturity} \leq 1 \text{ year}$</p> <p>Maturity bucket 4: $1 \text{ year} < \text{time to maturity} \leq 2 \text{ years}$</p> <p>Maturity bucket 5: $2 \text{ years} < \text{time to maturity} \leq 3 \text{ years}$</p> <p>...</p> <p>Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n \text{ years}$</p>	<p>Deliverable FX options (DO) are considered not to have a liquid market</p>
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Non-Deliverable FX swaps (NDS)

means a swap that, by its terms, is cash-settled between its counterparties, where the settlement amount is determined by the difference in the exchange rate of two currencies as between the trade date and the valuation date. On the settlement date, one party will owe the other party the net difference between (i) the exchange rate set at the trade date; and (ii) the exchange rate on the valuation date, based upon the notional amount, with such net amount payable in the settlement currency stipulated in the contract.

'RTS2#3 = DERV

RTS2#4 = CURR'

RTS2#5 = SWAP

RTS2#26 = NDLV

a non-deliverable FX swap sub-class is defined by the following segmentation criteria:

Segmentation criterion 1 'RTS23#13 and RTS23#47 — underlying currency pair defined as combination of the two currencies underlying the derivative contract

Segmentation criterion 2 'RTS2#8 — time to maturity bucket of the swap defined as follows:

Maturity bucket 1: $0 < \text{time to maturity} \leq 1 \text{ week}$

Maturity bucket 2: $1 \text{ week} < \text{time to maturity} \leq 3 \text{ months}$

Maturity bucket 3: $3 \text{ months} < \text{time to maturity} \leq 1 \text{ year}$

Maturity bucket 4: $1 \text{ year} < \text{time to maturity} \leq 2 \text{ years}$

Maturity bucket 5: $2 \text{ years} < \text{time to maturity} \leq 3 \text{ years}$

...

Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n \text{ years}$

Non-Deliverable FX swaps (NDS) are considered not to have a liquid market

<p>Deliverable FX swaps (DS) means a swap that solely involves the exchange of two different currencies on a specific future contracted settlement date at a fixed rate agreed upon on the inception of the contract covering the exchange.</p> <p>'RTS2#3 = DERV RTS2#4 = CURR RTS2#5 = SWAP RTS2#26 = DLVB</p>	<p>a deliverable FX swap sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 'RTS23#13 and RTS23#47 — underlying currency pair defined as combination of the two currencies underlying the derivative contract</p> <p>Segmentation criterion 2 'RTS2#8 — time to maturity bucket of the swap defined as follows:</p> <p>Maturity bucket 1: $0 < \text{time to maturity} \leq 1 \text{ week}$</p> <p>Maturity bucket 2: $1 \text{ week} < \text{time to maturity} \leq 3 \text{ months}$</p> <p>Maturity bucket 3: $3 \text{ months} < \text{time to maturity} \leq 1 \text{ year}$</p> <p>Maturity bucket 4: $1 \text{ year} < \text{time to maturity} \leq 2 \text{ years}$</p> <p>Maturity bucket 5: $2 \text{ years} < \text{time to maturity} \leq 3 \text{ years}$</p> <p>...</p> <p>Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n \text{ years}$</p>	<p>Deliverable FX swaps (DS) are considered not to have a liquid market</p>
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FX futures

'RTS2#3 = DERV

'RTS2#4 = CURR'

'RTS2#5 = FUTR

an FX future sub-class is defined by the following segmentation criteria:

Segmentation criterion 1 'RTS23#13 and RTS23#47 — underlying currency pair defined as combination of the two currencies underlying the derivative contract

Segmentation criterion 2 'RTS2#8 — time to maturity bucket of the future defined as follows:

Maturity bucket 1: $0 < \text{time to maturity} \leq 1 \text{ week}$

Maturity bucket 2: $1 \text{ week} < \text{time to maturity} \leq 3 \text{ months}$

Maturity bucket 3: $3 \text{ months} < \text{time to maturity} \leq 1 \text{ year}$

Maturity bucket 4: $1 \text{ year} < \text{time to maturity} \leq 2 \text{ years}$

Maturity bucket 5: $2 \text{ years} < \text{time to maturity} \leq 3 \text{ years}$

...

Maturity bucket m: $(n-1) \text{ years} < \text{time to maturity} \leq n \text{ years}$

FX futures are considered not to have a liquid market

Asset class — Foreign Exchange Derivatives	
Sub-asset class	For the purpose of the determination of the classes of financial instruments

Other Foreign Exchange Derivatives

an FX derivative that does not belong to any of the above sub-asset classes

'RTS2#3 = DERV
 RTS2#4 = CURR
 RTS2#5 = OTHR

any other FX derivative is considered not to have a liquid market

(l) Table 9.1 of Annex III is replaced by the following:

Table 9.1

Credit derivatives — classes not having a liquid market

Asset class — Credit Derivatives			
	Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria. For sub-classes determined to have a liquid market the additional qualitative liquidity criterion, where applicable, shall be applied
			<table border="1"> <tr> <td>Average daily notional amount (ADNA)</td> <td>Average daily number of trades</td> <td>On-the-run status of the index [Additional qualitative liquidity criterion]</td> </tr> </table>
Average daily notional amount (ADNA)	Average daily number of trades	On-the-run status of the index [Additional qualitative liquidity criterion]	

<p>Index credit default swap (CDS) a swap whose exchange of cash flows is linked to the creditworthiness of several issuers of financial instruments composing an index and the occurrence of credit events</p>	<p>an index credit default swap sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 <i>RTS23#26 or if null RTS23#28</i> — underlying index</p> <p>Segmentation criterion 2 <i>RTS2#42</i> — notional currency defined as the currency in which the notional amount of the derivative is denominated</p> <p>Segmentation criterion 3 <i>RTS2#8</i>— time maturity bucket of the CDS defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 year</p> <p>Maturity bucket 2: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 3: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 200 000 000</p>	<p>10</p>	<p>The underlying index is considered to have a liquid market:</p> <p>(1) during the whole period of its ‘on-the-run status’</p> <p>(2) for the first 30 working days of its ‘1x off-the-run status’</p> <p>‘on-the-run’ index means the rolling most recent version (series) of the index created on the date on which the composition of the index is effective and ending one day prior to the date on which the composition of the next version (series) of the index is effective. ‘1x off-the-run status’ means the version (series) of the index which is immediately prior to the current ‘on-the-run’ version (series) at a certain point in time. A version (series) ceases being ‘on-the-run’ and acquires its ‘1x off-the-run’ status when the latest version (series) of the index is created.</p>
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RTS2#3 = DERV

RTS2#4 = CRDT

<p>Single name credit default swap (CDS) a swap whose exchange of cash flows is linked to the creditworthiness of one issuer of financial instruments and the occurrence of credit events</p> <p>RTS2#3 = DERV</p> <p>RTS2#4 = CRDT</p>	<p>a single name credit default swap sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 'RTS2#41 — underlying reference entity</p> <p>Segmentation criterion 2 'RTS2#39 — underlying reference entity type defined as follows: 'Issuer of sovereign and public type' means an issuer entity which is either:</p> <ul style="list-style-type: none"> (a) the Union; (b) a Member State including a government department, an agency or a special purpose vehicle of a Member State; (c) a sovereign entity which is not listed under points (a) and (b); (d) in the case of a federal Member State, a member of that federation; (e) a special purpose vehicle for several Member States; (f) an international financial institution established by two or more Member States which have the purpose of mobilising funding and providing financial assistance to the benefit of its members that are experiencing or are threatened by severe financial problems; (g) the European Investment Bank; (h) a public entity which is not a sovereign issuer as specified in the points (a) to (c). <p>'Issuer of corporate type' means an issuer entity which is not an issuer of sovereign and public type.</p> <p>Segmentation criterion 3 RTS2#42 — notional currency defined as the currency in which the notional amount of the derivative is denominated</p>	<p>EUR 10 000 000</p>	<p>10</p>	
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	<p>Segmentation criterion 4 RTS2#8 — time maturity bucket of the CDS defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 1 year Maturity bucket 2: 1 year < time to maturity ≤ 2 years Maturity bucket 3: 2 years < time to maturity ≤ 3 years ...Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>			
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Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet the following qualitative liquidity criterion
<p>CDS index options an option whose underlying is a CDS index</p> <p>RTS2#3 = DERV RTS2#4 = CRDT</p>	<p>a CDS index option sub-class is defined by the following segmentation criteria: Segmentation criterion 1 RTS23#26 — CDS index sub-class as specified for the sub-asset class of index credit default swap (CDS) Segmentation criterion 2 RTS2#8 — time maturity bucket of the option defined as follows: Maturity bucket 1: 0 < time to maturity ≤ 6 months Maturity bucket 2: 6 months < time to maturity ≤ 1 year Maturity bucket 3: 1 year < time to maturity ≤ 2 years Maturity bucket 4: 2 years < time to maturity ≤ 3 years ... Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>a CDS index option whose underlying CDS index is a sub-class determined to have a liquid market and whose time to maturity bucket is 0-6 months is considered to have a liquid market</p> <p>a CDS index option whose underlying CDS index is a sub-class determined to have a liquid market and whose time to maturity bucket is not 0-6 months is not considered to have a liquid market</p> <p>a CDS index option whose underlying CDS index is a sub-class determined not to have a liquid market is not considered to have a liquid market for any given time to maturity bucket</p>

<p>Single name CDS options an option whose underlying is a single name CDS</p> <p>RTS2#3 = DERV</p> <p>RTS2#4 = CRDT</p>	<p>a single name CDS option sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 RTS23#26 — single name CDS sub-class as specified for the sub-asset class of single name CDS</p> <p>Segmentation criterion 2 RTS2#8— time maturity bucket of the option defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 6 months</p> <p>Maturity bucket 2: 6 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 3: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 4: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>a single name CDS option whose underlying single name CDS is a sub-class determined to have a liquid market and whose time to maturity bucket is 0-6 months is considered to have a liquid market</p> <p>a single name CDS option whose underlying single name CDS is a sub-class determined to have a liquid market and whose time to maturity bucket is not 0-6 months is not considered to have a liquid market</p> <p>a single name CDS option whose underlying single name CDS is a sub-class determined not to have a liquid market is not considered to have a liquid market for any given time to maturity bucket</p>
Asset class — Credit Derivatives		
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall apply	
<p>Other credit derivatives a credit derivative that does not belong to any of the above sub-asset classes</p> <p>RTS2#3 = DERV</p> <p>RTS2#4 = CRDT RTS2#5 = OTHR</p>	<p>any other credit derivatives is considered not to have a liquid market</p>	

(m) Table 9.2 of Annex III is replaced by the following:

Asset class — Credit Derivatives	
	Percentiles and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined to have a liquid market

Sub-asset class	Transactions to be considered for the calculations of the thresholds	SSTI pre-trade				LIS pre-trade		SSTI post-trade			LIS post-trade			
		Trade – percentile		Threshold floor		Trade – percentile	Threshold floor	Trade – percentile	Volume – percentile	Threshold floor	Trade – percentile	Volume – percentile	Threshold floor	
Index credit default swap (CDS)	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	S1	S2	S3	S4	EUR 2 500 000	70	EUR 5 000 000	80	60	EUR 7 500 000	90	70	EUR 10 000 000
		30	40	50	60									
Single name credit default swap (CDS)	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	S1	S2	S3	S4	EUR 2 500 000	70	EUR 5 000 000	80	60	EUR 7 500 000	90	70	EUR 10 000 000
		30	40	50	60									
Bespoke basket credit default swap (CDS)	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	S1	S2	S3	S4	EUR 2 500 000	70	EUR 5 000 000	80	60	EUR 7 500 000	90	70	EUR 10 000 000
		30	40	50	60									

Asset class — Credit Derivatives														
Sub-asset class	Percentiles and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined to have a liquid market													
	Transactions to be considered for the calculations of the thresholds	SSTI pre-trade				LIS pre-trade		SSTI post-trade			LIS post-trade			
		Trade – percentile				Threshold floor	Trade – percentile	Threshold floor	Trade – percentile	Volume – percentile	Threshold floor	Trade – percentile	Volume – percentile	Threshold floor
CDS index options	calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	S1	S2	S3	S4	EUR 2 500 000	70	EUR 5 000 000	80	60	EUR 7 500 000	90	70	EUR 10 000 000
		30	40	50	60									
Single name CDS options	calculation of thresholds should be performed for each sub-class of	S1	S2	S3	S4	EUR 2 500 000	70	EUR 5 000 000	80	60	EUR 7 500 000	90	70	EUR 10 000 000

the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class	30	40	50	60										

(n) Table 9.3 of Annex III is replaced by the following:

Credit derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class — Credit Derivatives				
Sub-asset class	Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market			
	SSTI pre-trade	LIS pre-trade	SSTI post-trade	LIS post-trade
	Threshold value	Threshold value	Threshold value	Threshold value
Index credit default swap (CDS)	EUR 2 500 000	EUR 5 000 000	EUR 7 500 000	EUR 10 000 000
Single name credit default swap (CDS)	EUR 2 500 000	EUR 5 000 000	EUR 7 500 000	EUR 10 000 000

Bespoke basket credit default swap (CDS)	EUR 2 500 000	EUR 5 000 000	EUR 7 500 000	EUR 10 000 000
CDS index options	EUR 2 500 000	EUR 5 000 000	EUR 7 500 000	EUR 10 000 000
Single name CDS options	EUR 2 500 000	EUR 5 000 000	EUR 7 500 000	EUR 10 000 000
Other credit derivatives	EUR 2 500 000	EUR 5 000 000	EUR 7 500 000	EUR 10 000 000

(o) Table 10.1 of Annex III is replaced by the following:

Asset class — C10 Derivatives			
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
		Average daily notional amount (ADNA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]

<p>Freight derivatives a financial instrument relating to freight rates as defined in Section C(10) of Annex I of Directive 2014/65/EU</p> <p>RTS2#23 = 'DERV' and RTS2#4 = 'COMM' and RTS23#35 = 'FRGT'</p>	<p>a freight derivative sub-class is defined by the following segmentation criteria:</p> <p>Segmentation criterion 1 (RTS2#5) — contract type: Forward Freight Agreements (FFAs) futures or options</p> <p>Segmentation criterion 2 (RTS23#36) — freight type: wet freight, dry freight</p> <p>Segmentation criterion 3 (RTS2#37) — freight sub-type: dry bulk carriers, tanker, containership</p> <p>Segmentation criterion 4 (RTS2#12) — specification of the size related to the freight sub-type</p> <p>Segmentation criterion 5 (RTS2#13) — specific route or time charter average</p> <p>Segmentation criterion 6 (RTS2#8) — time maturity bucket of the derivative defined as follows:</p> <p>Maturity bucket 1: 0 < time to maturity ≤ 1 month</p> <p>Maturity bucket 2: 1 month < time to maturity ≤ 3 months</p> <p>Maturity bucket 3: 3 months < time to maturity ≤ 6 months</p> <p>Maturity bucket 4: 6 months < time to maturity ≤ 9 months</p> <p>Maturity bucket 5: 9 months < time to maturity ≤ 1 year</p> <p>Maturity bucket 6: 1 year < time to maturity ≤ 2 years</p> <p>Maturity bucket 7: 2 years < time to maturity ≤ 3 years</p> <p>...</p> <p>Maturity bucket m: (n-1) years < time to maturity ≤ n years</p>	<p>EUR 10 000 000</p> <p>5 lots</p>	<p>40</p> <p>50</p>
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Asset class — C10 Derivatives	
Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied
<p>Other C10 derivatives</p> <p>a financial instrument as defined in Section C(10) of Annex I of Directive 2014/65/EU which is not a 'Freight derivative', any of the following interest rate derivatives sub-asset classes: 'Inflation multi-currency swap or cross-currency swap', a 'Future/forward on inflation multi-currency swaps or cross-currency swaps', an 'Inflation single currency swap', a 'Future/forward on inflation single currency swap' and any of the following equity derivatives sub-asset classes: a 'Volatility index option', a 'Volatility index future/forward', a swap with parameter return variance, a swap with parameter return volatility, a portfolio swap with parameter return variance, a portfolio swap with parameter return volatility</p>	any other C10 derivatives is considered not to have a liquid market

(p) Table 10.2 of Annex III is replaced by the following:

C10 derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined to have a liquid market

Asset class — C10 Derivatives				
Percentages and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined to have a liquid market				
Calculation of thresholds should be performed for each sub-class of the sub-asset class considering the transactions executed on financial instruments belonging to the sub-class				
Sub-asset class	SSTI pre-trade	LIS pre-trade	SSTI post-trade	LIS post-trade

	Percentage of ADVL				Threshold range	Percentage of ADVL	Threshold range	Percentage of ADVL	Threshold range	Percentage of ADVL	Threshold range
	S1	S2	S3	S4							
Freight derivatives	0.7%	0.8%	0.9%	1%	6 - 201 lots	5%	6 - 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							

(q) Table 10.3 of Annex III is replaced by the following:

C10 derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-classes determined not to have a liquid market

Asset class — C10 Derivatives				
Sub-asset class	Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market			
	SSTI pre-trade	LIS pre-trade	SSTI post-trade	LIS post-trade
	Threshold value	Threshold value	Threshold value	Threshold value
Freight derivatives	6 lots	6 lots	11 lots	11 lots
Other C10 derivatives	6 lots	6 lots	11 lots	11 lots

(r) Table 11.1 of Annex III is replaced by the following:

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Sub-asset class	For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b), each sub-asset class shall be further segmented into sub-classes as defined below	Qualitative liquidity criterion	Average daily notional amount (ADNA) [quantitative liquidity criterion 1]	Average daily number of trades [quantitative liquidity criterion 2]
Currency CFDs 'RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = CURR	a currency CFD sub-class is defined by the underlying currency pair defined as combination of the two currencies underlying the CFD/spread betting contract. RTS2#30 and RTS2#31		EUR 50 000 000	100
Commodity CFDs 'RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = COMM	a commodity CFD sub-class is defined by the underlying commodity of the CFD/spread betting contract RTS23#35 and RTS23#36 and RTS23#37		EUR 50 000 000	100

<p>Equity CFDs</p> <p>'RTS2#3 = DERV RTS2#5 = CFDS RTS2#29 = EQUI</p>	<p>an equity CFD sub-class is defined by the underlying equity security of the CFD/spread betting contract</p>	<p>an equity CFD sub-class is considered to have a liquid market if the underlying is an equity security for which there is a liquid market as determined in accordance with Article 2(1)(17)(b) of Regulation (EU) No 600/2014 RTS23#26</p>		
<p>Bond CFDs</p> <p>'RTS2#3 = DERV RTS2#5 = CFDS 'RTS2#29 = BOND</p>	<p>a bond CFD sub-class is defined by the underlying bond or bond future of the CFD/spread betting contract</p>	<p>a bond CFD sub-class is considered to have a liquid market if the underlying is a bond or bond future for which there is a liquid market as determined in accordance with Articles 6 and 8(1)(b). RTS23#26</p>		
<p>CFDs on an equity future/forward</p> <p>'RTS2#3 = DERV RTS2#5 = CFDS 'RTS2#29 = FTEQ</p>	<p>a CFD on an equity future/forward sub-class is defined by the underlying future/forward on an equity of the CFD/spread betting contract</p>	<p>a CFD on an equity future/forward sub-class is considered to have a liquid market if the underlying is an equity future/forward for which there is a liquid market as determined in accordance with Articles 6 and 8(1)(b). RTS23#26</p>		



<p>CFDs on an equity option</p> <p>'RTS2#3 = DERV</p> <p>RTS2#5 = CFDS</p> <p>'RTS2 #29 = OPEQ</p>	<p>a CFD on an equity option sub-class is defined by the underlying option on an equity of the CFD/spread betting contract</p>	<p>a CFD on an equity option sub-class is considered to have a liquid market if the underlying is an equity option for which there is a liquid market as determined in accordance with Articles 6 and 8(1)(b).</p> <p>RTS23#26</p>		
<p>For the purpose of the determination of the classes of financial instruments considered not to have a liquid market as per Articles 6 and 8(1)(b) the following methodology shall be applied</p>				
<p>Other CFDs</p> <p>a CFD/spread betting that does not belong to any of the above sub-asset classes</p> <p>'RTS2#3 = DERV</p> <p>RTS2#5 = CFDS</p> <p>'RTS2#29 = OTHR</p>	<p>any other CFD/spread betting is considered not to have a liquid market</p>			

(s) Table 12.1 of Annex III is replaced by the following:

Emission allowances — classes not having a liquid market

Asset class — Emission Allowances		
Sub-asset class	Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT	
	Average Daily Amount (ADA) Minimum Standard Trade Size [quantitative liquidity criterion 1]	Maximum Average daily number of trades [quantitative liquidity criterion 2]
European Union Allowances (EUA) any unit recognised for compliance with the requirements of Directive 2003/87/EC of the European Parliament and of the Council ⁽¹⁾ (Emissions Trading Scheme) which represents the right to emit the equivalent to 1 tonne of carbon dioxide equivalent (tCO ₂ e) RTS2#3 = EMAL and RTS2#11 = EUAE	150 000 tons of Carbon Dioxide Equivalent 5 lots	5 50
European Union Aviation Allowances (EUAA) any unit recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme) which represents the right to emit the equivalent to 1 tonne of carbon dioxide equivalent (tCO ₂ e) from aviation RTS2#3 = EMAL and RTS2#11 = EUAA	150 000 tons of Carbon Dioxide Equivalent 5 lots	5 50
Certified Emission Reductions (CER) any unit recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme) which represents the emissions reduction equivalent to 1 tonne of carbon dioxide equivalent (tCO ₂ e) RTS2#3 = EMAL and RTS2#11 = CERE	150 000 tons of Carbon Dioxide Equivalent 5 lots	5 50

<p>Emission Reduction Units (ERU) any unit recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme) which represents the emissions reduction equivalent to 1 tonne of carbon dioxide equivalent (tCO₂e) RTS2#3 = EMAL and RTS2#11 = ERUE</p>	<p>150 000 tons of Carbon Dioxide Equivalent 5 lots</p>	<p>5 50</p>
<p>Other Emission Allowances an emission allowance which is an emission allowance recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme and is not a European Union Allowances (EUA), a European Union Aviation Allowances (EUAA), a Certified Emission Reductions (CER) and an Emission Reduction Units (ERU) RTS2#3 = EMAL and RTS2#11 = OTHR</p>	<p>any other emission allowances is considered not to have a liquid market</p>	
<p>(¹) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (JO L 275, 25.10.2003, p. 32).</p>		

(t) Table 12.2 of Annex III is replaced by the following:

Emission allowances — pre-trade and post-trade SSTI and LIS thresholds for sub-asset classes determined to have a liquid market

<p>Asset class — Emission Allowances</p>
<p>Percentages and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-asset classes determined to have a liquid market</p>
<p>Calculation of thresholds should be performed for each sub-asset class considering the transactions executed on financial instruments belonging to the sub-asset class</p>

Sub-asset class	SSTI pre-trade				LIS pre-trade		SSTI post-trade		LIS post-trade		
	Percentage of ADVL				Threshold range	Percentage of ADVL	Threshold range	Percentage of ADVL	Threshold range	Percentage of ADVL	Threshold range
European Union Allowances (EUA)	S1	S2	S3	S4	6 - 201 lots	5%	6 - 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							
European Union Aviation Allowances (EUAA)	S1	S2	S3	S4	6 - 201 lots	5%	6 - 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							
Certified Emission Reductions (CER)	S1	S2	S3	S4	6 - 201 lots	5%	6 - 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							
Emission Reduction Units (ERU)	S1	S2	S3	S4	6 - 201 lots	5%	6 - 201 lots	10%	11 - 301 lots	15%	11 - 301 lots
	0.7%	0.8%	0.9%	1%							

(u) Table 12.3 of Annex III is replaced by the following:

Emission allowances — pre-trade and post-trade SSTI and LIS thresholds for sub-asset classes determined not to have a liquid market

Asset class - Emission Allowances				
Sub-asset class	Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market			
	SSTI pre-trade		LIS pre-trade	
	SSTI post-trade		LIS post-trade	
	Threshold value		Threshold value	
	Threshold value		Threshold value	

European Union Allowances (EUA)	6 lots	11 lots	6 lots	11 lots
European Union Aviation Allowances (EUAA)	6 lots	11 lots	6 lots	11 lots
Certified Emission Reductions (CER)	6 lots	11 lots	6 lots	11 lots
Emission Reduction Units (ERU)	6 lots	11 lots	6 lots	11 lots
Other Emission Allowances	6 lots	11 lots	6 lots	11 lots

(v) Table 13.1 of Annex III is replaced by the following:

Emission allowance derivatives — classes not having a liquid market

Asset class — Emission Allowance Derivatives		
Sub-asset class	<p>Each sub-class shall be determined not to have a liquid market as per Articles 6 and 8(1)(b) if it does not meet one or all of the following thresholds of the quantitative liquidity criteria if (1) its STS is strictly greater than the minimum STS; and/or (2) its ADNT is strictly lower than the maximum ADNT</p>	
	<table border="1"> <tr> <td> <p>Average Daily Amount (ADA) Minimum Standard Trade Size [quantitative liquidity criterion 1]</p> </td> <td> <p>Maximum Average daily number of trades [quantitative liquidity criterion 2]</p> </td> </tr> </table>	<p>Average Daily Amount (ADA) Minimum Standard Trade Size [quantitative liquidity criterion 1]</p>
<p>Average Daily Amount (ADA) Minimum Standard Trade Size [quantitative liquidity criterion 1]</p>	<p>Maximum Average daily number of trades [quantitative liquidity criterion 2]</p>	

<p>Emission allowance derivatives whose underlying is of the type European Union Allowances (EUA)</p> <p>a financial instrument relating to emission allowances of the type European Union Allowances (EUA) as defined in Section C(4) of Annex I of Directive 2014/65/EU</p> <p>RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = EUAE</p>	<p>150 000 tons of Carbon Dioxide Equivalent</p> <p>5 lots</p>	<p>5</p> <p>50</p>
<p>Emission allowance derivatives whose underlying is of the type European Union Aviation Allowances (EUAA)</p> <p>a financial instrument relating to emission allowances of the type European Union Aviation Allowances (EUAA) as defined in Section C(4) of Annex I of Directive 2014/65/EU</p> <p>RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = EUAA</p>	<p>150 000 tons of Carbon Dioxide Equivalent</p> <p>5 lots</p>	<p>5</p> <p>50</p>
<p>Emission allowance derivatives whose underlying is of the type Certified Emission Reductions (CER)</p> <p>a financial instrument relating to emission allowances of the type Certified Emission Reductions (CER) as defined in Section C(4) of Annex I of Directive 2014/65/EU</p> <p>RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = CERE</p>	<p>150 000 tons of Carbon Dioxide Equivalent</p> <p>5 lots</p>	<p>5</p> <p>50</p>
<p>Emission allowance derivatives whose underlying is of the type Emission Reduction Units (ERU)</p> <p>a financial instrument relating to emission allowances of the type Emission Reduction Units (ERU) as defined in Section C(4) of Annex I of Directive 2014/65/EU</p> <p>RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = ERUE</p>	<p>150 000 tons of Carbon Dioxide Equivalent</p> <p>5 lots</p>	<p>5</p> <p>50</p>

Other Emission allowance derivatives

an emission allowance derivative whose underlying is **an emission allowances recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme) and is not a European Union Allowances (EUA), a European Union Aviation Allowances (EUAA), a Certified Emission Reductions (CER) and an Emission Reduction Units (ERU)**

RTS2#3 = DERV and RTS2#4 = EMAL and RTS2#43 = OTHR

any other emission allowance derivative is considered not to have a liquid market

(w) Table 13.2 of Annex III is replaced by the following:

Emission allowance derivatives— pre-trade and post-trade SSTI and LIS thresholds for sub-asset classes determined to have a liquid market

Asset class — Emission Allowance derivatives											
Percentages and threshold floors to be applied for the calculation of the pre-trade and post-trade SSTI and LIS thresholds for the sub-asset classes determined to have a liquid market											
Calculation of thresholds should be performed for each sub-asset class considering the transactions executed on financial instruments belonging to the sub-asset class											
Sub-asset class	SSTI pre-trade				Threshold range	LIS pre-trade		SSTI post-trade		LIS post-trade	
	Percentage of ADVL					Percentage of ADVL	Threshold range	Percentage of ADVL	Threshold range	Percentage of ADVL	Threshold range
Emission allowance derivatives whose underlying is of the type European Union Allowances (EUA)	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 – 301 lots	15%	11 – 301 lots
	0.7%	0.8%	0.9%	1%							
Emission allowance derivatives whose underlying is of the type European Union Aviation Allowances (EUAA)	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 – 301 lots	15%	11 – 301 lots
	0.7%	0.8%	0.9%	1%							

Emission allowance derivatives whose underlying is of the type Certified Emission Reductions (CER)	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 – 301 lots	15%	11 – 301 lots
	0.7%	0.8%	0.9%	1%							
Emission allowance derivatives whose underlying is of the type Emission Reduction Units (ERU)	S1	S2	S3	S4	6 – 201 lots	5%	6 – 201 lots	10%	11 – 301 lots	15%	11 – 301 lots
	0.7%	0.8%	0.9%	1%							

(x) Table 13.3 of Annex III is replaced by the following:

Emission allowance derivatives — pre-trade and post-trade SSTI and LIS thresholds for sub-asset classes determined not to have a liquid market

Asset class - Emission Allowance Derivatives				
Sub-asset class	Pre-trade and post-trade SSTI and LIS thresholds for the sub-classes determined not to have a liquid market			
	SSTI pre-trade	LIS pre-trade	SSTI post-trade	LIS post-trade
	Threshold value	Threshold value	Threshold value	Threshold value
European Union Allowances (EUA)	6 lots	11 lots	6 lots	11 lots
European Union Aviation Allowances (EUAA)	6 lots	11 lots	6 lots	11 lots
Certified Emission Reductions (CER)	6 lots	11 lots	6 lots	11 lots



Emission Reduction Units (ERU)	6 lots	11 lots	6 lots	11 lots
Other Emission Allowances	6 lots	11 lots	6 lots	11 lots

(8) Annex IV is amended as follows:

(a) Table 1 of Annex IV is replaced by the following:

Table 1

Symbol table for Table 2

SYMBOL	DATA TYPE	DEFINITION
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	Numerical field for both positive and negative values: – decimal separator is '.' (full stop); – the number may be prefixed with '-' (minus) to indicate negative numbers. Where applicable, values shall be rounded and not truncated.
{COUNTRYCODE_2}	2 alphanumerical characters	2 letter country code, as defined by ISO 3166-1 alpha-2 country code
{CURRENCYCODE_3}	3 alphanumerical characters	3 letter currency code, as defined by ISO 4217 currency codes
{DATEFORMAT}	ISO 8601 date format	Dates should be formatted by the following format: YYYY-MM-DD.
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{LEI}	20 alphanumerical characters	Legal entity identifier as defined in ISO 17442
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383
{EIC}	16 alphanumerical characters	an EIC code pertaining to a delivery point within or outside the European Union

{INDEX}	4 alphabetic characters	'EONA' — EONIA 'EONS' — EONIA SWAP 'EURI' — EURIBOR 'EUUS' — EURODOLLAR 'EUCH' — EuroSwiss 'GCFR' — GCF REPO 'ISDA' — ISDAFIX 'LIBI' — LIBID 'LIBO' — LIBOR 'MAAA' — Muni AAA 'PFAN' — Pfandbriefe 'TIBO' — TIBOR 'STBO' — STIBOR 'BBSW' — BBSW 'JIBA' — JIBAR 'BUBO' — BUBOR 'CDOR' — CDOR 'CIBO' — CIBOR ESTR, SONIA, TONA and SOFR [codes to be provided for the Final Report]
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(b) Table 2 of Annex IV is replaced by the following:

Table 2

Details of the reference data to be provided for the purpose of transparency calculations

#	FIELD	DETAILS TO BE REPORTED	FORMAT FOR REPORTING
1	Instrument identification code	Code used to identify the financial instrument	{ISIN}
2	Instrument full name	Full name of the financial instrument	{ALPHANUM-350}

3	MiFIR identifier	<p>Identification of non-equity financial instruments:</p> <p>Securitised derivatives as defined in Table 4.1 in Section 4 of Annex III</p> <p>Structured Finance Products (SFPs) as defined in Article 2(1)(28) of Regulation (EU) No 600/2014</p> <p>Bonds (for all bonds except ETCs and ETNs) as defined in Article 4(1)(44)(b) of Directive 2014/65/EU</p> <p>ETCs as defined in Article 4(1)(44)(b) of Directive 2014/65/EU and further specified in Table 2.4 of Section 2 of Annex III</p> <p>ETNs as defined in Article 4(1)(44)(b) of Directive 2014/65/EU and further specified in Table 2.4 of Section 2 of Annex III</p> <p>Emission allowances as defined in Table 12.1 of Section 12 of Annex III</p> <p>Derivative as defined in Annex I, Section C (4) to (10) of Directive 2014/65/EU</p>	<p>Non-equity financial instruments:</p> <p>'SDRV' — Securitised derivatives</p> <p>'SFPS' — Structured Finance Products (SFPs)</p> <p>'BOND' — Bonds</p> <p>'ETCS' — ETCs</p> <p>'ETNS' — ETNs</p> <p>'EMAL' — Emission Allowances</p> <p>'DERV' — Derivative</p>
4	Asset class of the underlying	To be populated when the MiFIR identifier is a securitised derivative or a derivative.	<p>'INTR' — Interest rate</p> <p>'EQUI' — Equity</p> <p>'COMM' — Commodity</p> <p>'CRDT' — Credit</p> <p>'CURR' — Currency</p> <p>'EMAL' — Emission Allowances</p> <p>'OC10' — Other C10</p> <p>[Code to be confirmed in the Final Report]</p>

5	Contract type	To be populated when the MiFIR identifier is a derivative.	'OPTN' — Options 'FUTR' — Futures 'FRAS' — Forward Rate Agreement (FRA) 'FORW' — Forwards 'SWAP' — Swaps 'PSWP' — Portfolio Swaps 'SWPT' — Swaptions 'OPTS' — Option on a swap 'FONS' — Futures on a swap 'FWOS' — Forwards on a swap 'FFAS' — Forward Freight Agreements (FFAs) 'SPDB' — Spread betting 'CFDS' — CFD 'OTHR' — Other
6	Reporting day	Day for which the reference data is provided	{DATEFORMAT}
7	Trading venue	Segment MIC for the trading venue, where available, otherwise operational operating MIC.	{MIC}
8	Maturity	Defined maturity of the financial instrument. Field applicable for the asset classes of bonds, interest rate derivatives, equity derivatives, commodity derivatives, foreign exchange derivatives, credit derivatives C10 derivatives and derivatives on emission allowances.	{DATEFORMAT}

Bonds (all bond types except ETCs and ETNs) related fields

The fields in this section should only be populated for Bonds as defined in Table 2.1 of Section 2 of Annex III

9	Bond type	Bond type as specified in Table 2.2 of Section 2 of Annex III. To be populated only when the MiFIR identifier is equal to bonds.	'EUSB' — Sovereign Bond 'OEPB' — Other Public Bond 'CVTB' — Convertible Bond 'CVDB' — Covered Bond 'CRPB' — Corporate Bond 'OTHR' — Other
10	Issuance date	Date on which a bond is issued and begins to accrue interest.	{DATEFORMAT}

Emission Allowances related fields

The fields in this section should only be populated for emission allowances as defined in Table 12.1 of Section 12 of Annex III

11	Emissions Allowances sub type	Emissions Allowances	'CERE' — CER 'ERUE' — ERU 'EUAE' — EUA 'EUAA' — EUAA 'OTHR' — Other
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Derivatives related fields

Commodity derivatives and C10 derivatives

The fields in this section should only be populated for commodity derivatives as defined in Table 7.1 of Section 7 of Annex III and for C10 derivatives as defined in Table 10.1 of Section 10 of Annex III

12	Specification of the size related to the freight sub-type	To be populated when the base product specified in field 35 in Table 2 of the Annex in Delegated Regulation (EU) 2017/585 is equal to freight.	For dry freight: 'CAPE' — Capesize 'PNMX' — Panamax 'SPMX' — Supramax 'HAND' — Handysize For wet freight: 'CLAN' — Clean 'DRTY' — Dirty {ALPHANUM-4} otherwise
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13 *	Specific route or time charter average	To be populated when the base product specified in field 35 in Table 2 of the Annex in Delegated Regulation (EU) 2017/585 is equal to freight.	'TD7' — TD7 'TD8' — TD8 'TD17' — TD17 'TD19' — TD19 'TD20' — TD20 'BLPG1' — BLPG1 'TD3C' — TD3C 'TC2' — TC2 'TC2_37' — TC2_37 'TD3' — TD3 'TC5' — TC5 'TC6' — TC6 'TC7' — TC7 'TC9' — TC9 'TC12' — TC12 'TC14' — TC14 'TC15' — TC15 {ALPHANUM-6} otherwise
14	<u>Delivery point or zone</u>	To be populated when the <u>sub product</u> specified in field 35 36 in Table 2 of the Annex in Delegated Regulation (EU) 2017/585 is equal to <u>electricity or natural gas</u> .	{EIC}
15	Notional currency	Currency in which the notional is denominated.	{CURRENCYCODE_3}
15a	<u>Duration of the delivery period</u>	To be populated when the <u>sub product</u> specified in field 36 in Table 2 of the Annex in Delegated Regulation (EU) 2017/585 is equal to <u>electricity or natural gas</u> .	'MNUT' — Minutes 'HOUR' — Hour 'DASD' — Day 'WEEK' — Week 'WKED' — Weekend 'MNTH' — Month 'QURT' — Quarter 'SEAS' — Season 'YEAR' — Annual 'OTHR' — Other

Interest rate derivatives

The fields in this section should only be populated for interest rate derivatives as defined in Table 5.1 of Section 5 of Annex III

16	Underlying type	<p>To be populated for contract type different from swaps, swaptions, futures on a swap and forwards on a swap with one of the following alternatives</p> <p>*****</p> <p>To be populated for the contract types of swaps, swaptions, options on a swap, futures on a swap and forwards on a swap with regard to the underlying swap with one of the following alternatives</p>	<p>'BOND' — Bond 'BNDF' — Bond Futures 'INTR' — Interest rate 'IFUT' — Interest rate Futures-FRA</p> <p>*****</p> <p>'FFMC' — FLOAT TO FLOAT MULTI-CURRENCY SWAPS 'XFMC' — FIXED TO FLOAT MULTI-CURRENCY SWAPS 'XXMC' — FIXED TO FIXED MULTI-CURRENCY SWAPS 'OSMC' — OIS MULTI-CURRENCY SWAPS 'IFMC' — INFLATION MULTI-CURRENCY SWAPS 'FFSC' — FLOAT TO FLOAT SINGLE-CURRENCY SWAPS 'XFSC' — FIXED TO FLOAT SINGLE-CURRENCY SWAPS 'XXSC' — FIXED TO FIXED SINGLE-CURRENCY SWAPS 'OSSC' — OIS SINGLE-CURRENCY SWAPS 'IFSC' — INFLATION SINGLE-CURRENCY SWAPS</p>
17	Issuer of the underlying bond	To be populated when the underlying type is a bond or a bond future with the legal entity identifier code (LEI) of the issuer of the direct or ultimate underlying bond.	{LEI}
18	Maturity date of the underlying bond	<p>To be populated with the date of the defined maturity of the underlying bond.</p> <p>The field applies to be populated for debt instruments with defined maturity.</p>	{DATEFORMAT}
19	Issuance date of the underlying bond	To be populated with the issuance date of the underlying bond.	{DATEFORMAT}
20	Notional currency of the swaption	To be populated for swaptions only .	{CURRENCYCODE_3}
21	Maturity of the underlying swap	To be populated for swaptions, options on swaps , futures on swaps and for- wards on a swap only.	{DATEFORMAT}

22	Inflation index ISIN code / ISIN code of the underlying bond	<p>In case of swaptions on one of the following underlying swap types: inflation single currency swap, futures/forwards on inflation single currency swap, inflation multi-currency swap, futures/forwards on inflation multi-currency swap; whenever the inflation index has an ISIN, the field has to be populated with the ISIN code for that index.</p> <p>*****</p> <p>In case of Bond Option/ 'Option on a bond option/ Option on a bond future, the field has to be populated with the ISIN code of the ultimate underlying bond.</p>	<p>{ISIN}</p> <p>*****</p> <p>{ISIN}</p>
23	Inflation index name	To be populated with standardised name of the index in case of swaptions on one of the following underlying swap types: inflation single currency swap, futures/forwards on inflation single currency swap, inflation multi-currency swap, futures/forwards on inflation multi-currency swap.	{ALPHANUM-25}
24	Reference rate	Name of the reference rate.	<p>{INDEX}</p> <p>or</p> <p>{ALPHANUM-25}- if the reference rate is not included in the {INDEX} list</p>
25	Term of the underlying interest rate contract	<p>This field states the term of the interest rate underlying the contract. The term shall be expressed in days, weeks, months or years.</p> <p>Starting with the largest term unit (years) and working downwards, if the term of the interest rate is an integer number, such standard term should be populated in this field.</p>	<p>{INTEGER-3}+'DAYS' — days</p> <p>{INTEGER-3}+'WEEK' — weeks</p> <p>{INTEGER-3}+'MNTH' — months</p> <p>{INTEGER-3}+'YEAR' — years</p>

Foreign exchange derivatives

The fields in this section should only be populated for foreign exchange derivatives as defined in Table 8.1 of Section 8 of Annex III

26	Contract sub-type	To be populated so as to differentiate deliverable and non-deliverable forwards, options and swaps as defined in Table 8.1 of Section 8 of Annex III.	<p>'DLVB' — Deliverable</p> <p>'NDLV' — Non-deliverable</p>
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Equity derivatives

The fields should only be populated for equity derivatives as defined in Table 6.1 of Section 6 of Annex III

27	Underlying type	<p>To be populated when the MiFIR identifier is a derivative, the asset class of the underlying is equity and the sub-asset class is neither swaps nor portfolio swaps.</p> <p>*****</p> <p>To be populated when the MiFIR identifier is a derivative, the asset class of the underlying is equity, the sub-asset class is either swaps or portfolio swaps and the segmentation criterion 2 as defined in Table 6.1 of Section 6 of Annex III is a single name.</p> <p>*****</p> <p>To be populated when the MiFIR identifier is a derivative, the asset class of the underlying is equity, the sub-asset class is either swaps or portfolio swaps and the segmentation criterion 2 as defined in Table 6.1 of Section 6 of Annex III is an index.</p> <p>*****</p> <p>To be populated when the MiFIR identifier is a derivative, the asset class of the underlying is equity, the sub-asset class is either swaps or portfolio swaps and the segmentation criterion 2 as defined in Table 6.1 of Section 6 of Annex III is a basket.</p>	<p>'STIX' — Stock Index 'SHRS' — Share/Stock 'DIVI' — Dividend Index 'DVSE' — Stock dividend 'BSKT' — Basket of shares resulting from a corporate action 'ETFS' — ETFs 'VOLI' — Volatility Index 'OTHR' — Other (including depositary receipts, certificates and other equity like financial instrument)</p> <p>*****</p> <p>'SHRS' — Share/Stock 'DVSE' — Stock dividend 'ETFS' — ETFs 'OTHR' — Other (including depositary receipts, certificates and other equity like financial instrument)</p> <p>*****</p> <p>'STIX' — Stock Index 'DIVI' — Dividend Index 'VOLI' — Volatility Index 'OTHR' — Other — Other</p> <p>*****</p> <p>'BSKT' — Basket</p>
28	Parameter	<p>To be populated when the MiFIR identifier is a derivative, the asset class of the underlying is equity and the sub-asset class is one of the following: swaps, portfolio swaps.</p>	<p>'PRBP' — Price return basic performance parameter 'PRDV' — Parameter return dividend 'PRVA' — Parameter return variance 'PRVO' — Parameter return volatility</p>

Contracts for difference (CFDs)

The fields should only be populated when the contract type is equal to contract for difference or spread betting

29	Underlying type	To be populated when the MiFIR identifier is a derivative and 'the contract type is equal to contract for difference or spread betting	'CURR' — Currency 'EQUI' — Equity 'BOND' — Bonds 'FTEQ' — Futures/ Forward on an equity 'OPEQ' — Options on an equity 'COMM' — Commodity 'EMAL' — Emission Allowances 'OTHR' — Other
30	Notional currency 1	Currency 1 of the underlying currency pair. This field is applicable when the underlying type is currency.	{CURRENCYCODE_3}
31	Notional currency 2	Currency 2 of the underlying currency pair. This field is applicable when the underlying type is currency.	{CURRENCYCODE_3}

Credit derivatives

The fields in this section should only be populated for credit derivatives as defined in Table 9.1 of Section 9 of Annex III

32	ISIN code of the underlying credit default swap	To be populated for derivatives on a credit default swaps with the ISIN code of the underlying swap.	{ISIN}
33	Underlying Index code	To be populated for derivatives on a CDS index with the ISIN code of the index.	{ISIN}
34	Underlying Index name	To be populated for derivatives on a CDS index with the standardised name of the index.	{ALPHANUM-25}

35	Series	<p>The series number of the composition of the index if applicable.</p> <p>To be populated for a CDS Index or a derivative on a CDS Index with the series of the CDS Index.</p>	{DECIMAL-18/17}
36	Version	<p>A new version of a series is issued if one of the constituents defaults and the index has to be re-weighted to account for the new number of total constituents within the index.</p> <p>To be populated for a CDS Index or a derivative on a CDS Index with the version of the CDS Index.</p>	{DECIMAL-18/17}
37	Roll months	<p>All months when the roll is expected as established by the index provider for a given year. Field should be repeated for each month in the roll.</p> <p>To be populated for a CDS Index or a derivative on a CDS Index.</p>	'01', '02', '03', '04', '05', '06', '07', '08', '09', '10', '11', '12'
38	Next roll date	<p>To be populated in the case of a CDS Index or a derivative on a CDS Index with the next roll date of the index as established by the index provider.</p>	{DATEFORMAT}
39	Issuer of sovereign and public type	<p>To be populated when the reference entity of a single name CDS or a derivative on single name CDS is a sovereign issuer as defined in Table 9.1 Section 9 of Annex III.</p>	<p>'TRUE' — the reference entity is an issuer of sovereign and public type</p> <p>'FALSE' — the reference entity is not an issuer of sovereign and public type</p>
40	Reference obligation	<p>To be populated for a derivative on a single name credit default swap with the ISIN of the reference obligation.</p>	{ISIN}
41	Reference entity	<p>To be populated with the reference entity of a single name CDS or a derivative on single name CDS.</p>	<p>{COUNTRYCODE_2}</p> <p>or</p> <p>ISO 3166-2 — 2 character country code followed by dash '-' and up to 3 alphanumeric character country subdivision code</p> <p>or</p> <p>{LEI}</p>
42	Notional currency	<p>Currency in which the notional is denominated.</p>	{CURRENCYCODE_3}

Emission allowance derivatives

The fields in this section should only be populated for emission allowance derivatives as defined in Table 13.1 of Section 13 of Annex III

43	Emission Allowances derivative sub type	To be populated when the MiFIR identifier is a derivative and the asset class of the underlying is Emission Allowances.	'CERE' — CER 'ERUE' — ERU 'EUAE' — EUA 'EUAA' — EUAA 'OTHR' — Other
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6.6.5 ANNEX V of RTS 2

(9) Annex V is inserted:

Annex V

Quantitative data to be provided for the purpose of transparency calculations

Table 1

Symbol table for Table 2

Symbol	Data Type	Definition
{ALPHANUM-n}	Up to n alphanumerical characters	Free text field.
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383
{DATEFORMAT}	ISO 8601 date format	Dates should be formatted by the following format: YYYY-MM-DD.

{DECIMAL-n/m}	Decimal number of up to n digits in total of which up to m digits can be fraction digits	<p>Numerical field for both positive and negative values.</p> <p>decimal separator is ‘.’ (full stop);</p> <p>negative numbers are prefixed with ‘-’ (minus);</p> <p>values are rounded and not truncated.</p>
{INTEGER-n}	Integer number of up to n digits	Numerical field for both positive and negative integer values.

Table 2

Details of the data to be provided for the purpose of determining a liquid market, the LIS and SSTI thresholds for non-equity financial instruments

#	Field	Details to be reported	Type of execution or publication venue	Format and standards for reporting
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1	Instrument identification code	Code used to identify the financial instrument	<p>Regulated Market (RM)</p> <p>Multilateral Trading Facility (MTF)</p> <p>Organised Traded Facility (OTF)</p> <p>Approved Publication Arrangement (APA)</p> <p>Consolidated tape provider (CTP)</p>	{ISIN}
2	Reporting Execution date day	Date for which the data is provided—on which the trades are executed.	RM, MTF, OTF, APA, CTP	{DATEFORMAT}
3	Trading Execution venue	<p>Segment MIC of the trading venue, where available, otherwise operating MIC.</p> <p>Segment MIC of the systematic internaliser where available, otherwise the operating MIC.</p> <p>The MIC code XOFF for OTC transactions.</p> <p>For a given ISIN and Reporting Day execution date, APAs should sum all OTC trading activity for that instrument in a single record (ISIN, XOFF, execution date Reporting Day).</p>	RM, MTF, OTF, APA, CTP	<p>{MIC} of the trading venue or systematic internaliser or</p> <p>'XOFF'</p>

4	Suspended instrument flag	<p>Indicator of whether the instrument was suspended during the whole day for trading on the respective TV / APA on the execution date reporting day. The suspension flag shall be populated with Y if the instrument is suspended during the whole trading day.</p> <p>As a consequence, Fields 5 shall be reported with a value of zero.</p>	RM, MTF, OTF	<p>'TRUE' - if the instrument was suspended for the whole trading day</p> <p>or 'FALSE' – if the instrument was not suspended for the whole trading day</p>
5	Total number of transactions	<p>The total number of transactions executed on the execution date.</p> <p>Transactions that have been cancelled should be excluded from the reported figures.</p> <p>Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date.</p> <p>In all cases, the field has to be populated with a value greater than or equal to zero.</p> <p>For instruments that are suspended for the whole day, the field should have zero value.</p>	RM, MTF, OTF, APA, CTP	{INTEGER-18}

6	Total volume in lots	<p>The total volume executed on the execution date, expressed in lots</p> <p>Field applicable to commodity derivatives, freight derivatives, emission allowances and derivatives thereof</p>	RM, MTF, OTF, APA, CTP	{INTEGER-10}
7	Total volume	<p>The total volume executed on the execution date</p> <p>The volume shall be measured in accordance with Table 4 of Annex II of this Regulation.</p> <p>Monetary amounts shall be reported in Euros.</p> <p>Transactions that have been cancelled should be excluded from the reported figures.</p> <p>Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date.</p>	RM, MTF, OTF, APA, CTP	{DECIMAL-18/5}
8	Notation of the volume	<p>The unit in which field 7 (total volume) and field 11 (Total volume traded for that bin) are expressed</p> <p>For commodity derivatives, freight derivatives, emission allowances and derivatives on emission allowances, the unit in which the underlying instrument is expressed.</p> <p>For all the other instruments, the volume shall be reported in euros hence this field shall be populated with the value 'EUR'</p>	RM, MTF, OTF, APA, CTP	<p>'EUR' — euros</p> <p>'TOCD' — tonnes of carbon dioxide equivalent, for any contract related to emission allowances</p> <p>'TONE' — metric tonnes</p> <p>'MWHO' — megawatt hours</p> <p>'MBTU' — one million British thermal unit</p> <p>'THMS' — Therms</p> <p>'DAYS' — days</p> <p>Or</p> <p>{ALPHANUM-4} otherwise</p>

9	<p>"Size of transaction" bin range</p>	<p>This field shall be populated with the values as provided in Tables 3 and 4 of this Annex.</p> <p>The size of transaction bin range as defined:</p> <p>in Table 4 of this Annex for commodity derivatives, freight derivatives, emission allowances and derivatives thereof;</p> <p>In Table 3 of this Annex for the other instruments</p> <p>For instruments that are suspended for the whole day, data related to this field and to fields 10 and 11 shall not be reported.</p>	<p>RM, MTF, OTF, APA, CTP</p>	<p>{ALPHANUM - -140}</p>
10	<p>Total number of transactions executed for that bin</p>	<p>Total number of transactions executed on the execution date which size lies in the bin's range.</p> <p>Transactions that have been cancelled should be excluded from the reported figures.</p> <p>Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date.</p>	<p>RM, MTF, OTF, APA, CTP</p>	<p>{INTEGER-18}</p>

11	Total volume traded for that bin	<p>Total volume traded represented by all transactions executed on the reporting day which size lies in the bin's range.</p> <p>The volume shall be measured in accordance with Table 4 of Annex II of this Regulation.</p> <p>Monetary amounts shall be reported in Euros.</p> <p>Transactions that have been cancelled should be excluded from the reported figures.</p> <p>Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date.</p>	RM, MTF, OTF, APA, CTP	{DECIMAL-18/5}
12	Non-price forming transactions flag	<p>Indicator of whether for off-venue transactions (XOFF), Fields 5, 6, 7, 10 and 11 for the instrument are related to (BENC) benchmark transactions.</p> <p>Indicator of whether transactions executed on venue, Fields 5, 6, 7, 10 and 11 for the instrument are related to (BENC) benchmark transactions or (NPFT) non-price forming transactions.</p>	RM, MTF, OTF, APA, CTP	<p>In case of benchmark transactions BENC or</p> <p>In case of other non-price forming transactions [NPFT] or</p> <p>empty otherwise</p>

Table 3

Trade-size bins for bonds, SFPs, securitised derivatives, interest rate derivatives, equity derivatives, foreign exchange derivatives, credit derivatives, other C10 derivatives and CFDs

Scope	Size of transaction bin	Definition
Transactions with a size between 0 and 1,000,000 (excluded)	]0 – 100,000[	Transactions with a trade size smaller than EUR 100,000
	[100,000 – 100,000]	Transactions with a trade size equal to EUR 100,000
	]100,000 – 200,000[	Transactions with a trade size greater than EUR 100,000 and smaller than EUR 200,000
	[200,000 – 300,000[	Transactions with a trade size greater than or equal to EUR 200,000 and smaller than EUR 300,000
	[300,000 – 400,000[	Transactions with a trade size greater than or equal to EUR 300,000 and smaller than EUR 400,000
	[Y– Y+100,000[	Transactions with a trade size greater than or equal to EUR Y and smaller than EUR Y +100,000 (EUR 100,000 step)
	[900,000 – 1,000,000[	Transactions with a trade size greater than or equal to EUR 900,000 and smaller than EUR 1,000,000
Transactions with a size between 1,000,000 (included) and 10,000,000 (excluded)	[1,000,000 – 1,500,000[	Transactions with a trade size greater than or equal to EUR 1,000,000 and smaller than EUR 1,500,000
	[1,500,000 – 2,000,000[	Transactions with a trade size greater than or equal to EUR 1,500,000 and smaller than EUR 2,000,000
	[Z– Z+500,000[	Transactions with a trade size greater than or equal to EUR Z and smaller than

		EUR Z +500,000 (EUR 500,000 step)
	[9,500,000 – 10,000,000[	Transactions with a trade size greater than or equal to EUR 9,500,000 and smaller than EUR 10,000,000
Transactions with a size between 10,000,000 (included) and 100,000,000 (excluded)	[10,000,000 – 15,000,000[	Transactions with a trade size greater than or equal to EUR 10,000,000 and smaller than EUR 15,000,000
	[15,000,000 – 20,000,000[	Transactions with a trade size greater than or equal to EUR 15,000,000 and smaller than EUR 20,000,000
	[W– W+5,000,000[	Transactions with a trade size greater than or equal to EUR W and smaller than EUR W +5,000,000 (EUR 5,000,000 step)
	[95,000,000 – 100,000,000[	Transactions with a trade size greater than or equal to EUR 95,000,000 and smaller than EUR 100,000,000
Transactions with a size greater than or equal to 100,000,000	[100,000,000 – 125,000,000[	Transactions with a trade size greater than or equal to EUR 100,000,000 and smaller than EUR 125,000,000
	[125,000,000 – 150,000,000[	Transactions with a trade size greater than or equal to EUR 125,000,000 and smaller than EUR 150,000,000
	[X– X+25,000,000[	Transactions with a trade size greater than or equal to EUR X and smaller than EUR X +25,000,000 (EUR 25,000,000 step)
...

Table 4

Size of transaction bin ranges for commodity derivatives, freight derivatives, emission allowances and derivatives on emission allowances

Scope	Size of transaction bin range	Definition
Transactions with a size lower than 20 lots (included)	[1 – 1]	Transactions with a size of 1 lot
	[2 – 2]	Transactions with a size of 2 lots
	[X - X]	Transactions with a size of X lots
	[20 – 20]	Transactions with a size of 20 lots
Transactions with a size between 21 lots (included) and 100 lots (included)	[21 – 26[	Transactions with a size between 21 lots (included) and 26 lots (excluded)
	[26 – 31[	Transactions with a size between 26 lots (included) and 31 lots (excluded)
	[Y – Y+5[	Transactions with a size between Y lots (included) and Y + 5 lots (excluded)
	[96 – 101[	Transactions with a size between 96 lots (included) and 101 lots (excluded)
Transactions with a size equal to or greater than 101 lots	[101 – 151[	Transactions with a size between 101 lots (included) and 151 lots (excluded)
	[151 – 200[	Transactions with a size between 151 lots (included) and 200 lots (excluded)
	[Z – Z+50[	Transactions with a size between Z lots (included) and Z + 50 lots (excluded)

Article 2

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.



This Regulation shall be binding in its entirety and directly applicable in all Member States.

Notwithstanding the first paragraph, points (a) to (k) of Article 1(4), points (h), (i), (j), (o), (p), (q), (s), (t), (u), (v), (w) and (x) of Article 1(7), Article 1(8) and Article 1(9) shall apply from 1 January 2023 [1 January 2024 where the Regulation is published in the Official Journal of the European Union after 30 June 2022]

Done at Brussels,

For the Commission

The President

6.7 Annex VII – Quantitative analysis supporting the proposals related to the liquidity framework for commodity derivatives, EA and DEA

1. ESMA collected data from all EU commodity derivatives trading venues for the year 2020, on all instruments that had positive volumes in that year. The data was collected at sub-class level, hence the reference data on all relevant segmentation criteria was included in the data request. In addition, the new segmentation criterion that is proposed in this CP (i.e. the duration of the delivery period for electricity and gas) was also included in the data request. It was therefore possible to perform simulations at sub-class level.
2. In terms of quantitative data, trading venues reported inter-alia the total number of transactions and total volumes (in unit of underlying), the median daily number of trades, and the distribution of trade sizes in lots under the following trade-size bins: 1 lot until 20 lots, 5 lots until 100 lots and 50 lots thereafter.
3. All the analysis presented in Annex VII is based on this data, hence the data source is not repeated in the various graphs and tables. In addition, ESMA retrieved the liquid sub-classes of commodity derivatives that have been published in 2021 based on the year 2020 and has used this information to compare liquid classes under the current framework, and the new framework proposed in this CP.

6.7.1 Quantitative liquidity criterion 1: Average Daily Number of Trades (ADNT)

6.7.1.1 Comparison of the ADNT and MDNT

4. In the data collection, trading venues reported both the average and the median daily number of trades for each sub-class, which allowed a comparison between the two.
5. As shown in Table 13 below, the data indicates that the use of MDNT instead of ADNT is unlikely to make a significant difference. To measure this, we calculate the percentage of volumes and number of transactions in the sub-classes where the ADTN is higher than 10 transactions per day and the MDNT is lower than 10 transactions per day.
6. This percentage shows the sub-classes which are deemed “liquid” (in the sense of ADNT) while they would no longer be liquid if the ADNT is replaced with the MDNT ($MDNT < 10$). This percentage is very small for all categories. Instead, for the vast majority of sub-classes, ADNT and MDNT would lead to the same conclusion (both are above 10; or both are below 10). The same figures calculated with different parameters for the ADNT and MDNT (5 trades par day, 50 trades per day) lead to the same conclusion.

	Number of trades (%)	Volumes (%)
Agriculture		
ADNT and MDNT below 10	1.5%	10.8%
Only ADNT above 10	0.2%	0.0%
ADNT and MDNT above 10	98.3%	89.2%
Energy		
ADNT and MDNT below 10	15.7%	26.7%
Only ADNT above 10	1.3%	2.0%
ADNT and MDNT above 10	83.0%	71.3%
Derivatives on emission allowances		
ADNT and MDNT below 10	1.4%	42.3%
ADNT and MDNT above 10	98.6%	57.7%
Emission Allowances		
ADNT and MDNT below 10	2.5%	66.1%
ADNT and MDNT above 10	97.5%	33.9%
Freight		
ADNT and MDNT below 10	45.6%	98.2%
Only ADNT above 10	6.0%	0.2%
ADNT and MDNT above 10	48.4%	1.6%
Grand Total	100.0%	100.0%

Table 13: Comparison between ADNT and MDTN

6.7.1.2 Calibration of the ADTN

7. On the basis of the data collection, ESMA has calculated the ADNT at sub-class level and measured the percentage of trades that would be deemed “liquid” (in the sense of ADNT only) using different thresholds for the ADNT, from the current parameter (10 trades per day for all sub-classes except for EA and DEA where it is 5 trades per day) to the proposed parameter (100 trades per day). The results are presented in Table 14 below.
8. For agricultural and natural gas derivatives, moving the cursor of the ADNT from 10 to 100 trades per day would not make a big difference because the trading activity in classes with an ADNT above 100 is very high: 97% of agricultural trades and 98% of natural gas trades would fall in “liquid” classes (in terms of the ADNT only) when using a threshold of 100 trades per day, versus 99% when using the current threshold of 10 trades per day.
9. For electricity derivatives, the sensitivity to the value of the ADNT parameter is higher: 48% of trades would fall in “liquid” classes (in terms of the ADNT only) when using a threshold of 100 trades per day, versus 92% when using the current threshold of 10 trades per day.
10. For freight derivatives, there is no class with an ADNT above 30 trades per day hence choosing a parameter above 30 would render the whole asset class illiquid.
11. For EA, there is no class with an ADNT above 10 trades per day hence choosing a parameter above 10 would render the whole asset class illiquid.

12. For DEA, all classes have an ADNT above 100 trades per day hence any parameter below that level would not make any difference.

% of the number of trades broken down per ADNT of the class	Agriculture	Electricity	Natural Gas	Freight	Emission Allowances	Derivatives on emission allowances
ADNT above 100	97.0%	48.4%	98.2%	0.0%	0.0%	100.0%
ADNT above 90	98.3%	48.4%	98.2%	0.0%	0.0%	100.0%
ADNT above 80	98.3%	54.2%	98.2%	0.0%	0.0%	100.0%
ADNT above 60	98.3%	65.5%	98.2%	0.0%	0.0%	100.0%
ADNT above 50	98.3%	71.4%	98.2%	0.0%	0.0%	100.0%
ADNT above 40	98.3%	73.0%	98.6%	0.0%	0.0%	100.0%
ADNT above 30	98.3%	78.0%	98.9%	13.6%	0.0%	100.0%
ADNT above 20	98.7%	85.6%	98.9%	34.7%	0.0%	100.0%
ADNT above 10	99.2%	91.8%	99.2%	54.4%	99.4%	100.0%
ADNT above 5	99.6%	94.2%	99.6%	81.1%	99.4%	100.0%
ADNT above 0	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Table 14: Calibration of ADNT

6.7.2 Quantitative liquidity criterion 2: Average Daily Notional Amount (ADNA) versus Standard Trade Size (STS)

6.7.2.1 Standard trade size based on “Mode” as a quantitative liquidity criterion

13. On the basis on the data collection, ESMA has calculated the mode (most frequently traded size) of each sub-class. The sub-classes are constructed slightly differently than the sub-classes constructed on the basis of the current version of RTS 2, in the sense that they already incorporate the changes to the segmentation criteria which are developed in Section 4.3.3.3.7 (Segmentation criteria for commodity derivatives). In particular, for electricity and natural gas, the new segmentation criterion “duration of the delivery period” (Section 4.3.3.3.7.2) was already reported in the data collection.

14. Table 15 in Annex VII shows the number of sub-classes, the percentage of the volumes and the percentage of the number of trades for each value of the mode of the sub-class. The data confirms that the mode is a reasonable metric to allow the distinction between (1) classes with a high number of small trades; and (2) classes with a small number of large trades. Classes of the first type have by construction a small mode (most of the time, the transactions have a “small” size of 1 to 5 lots) while classes of the second type have by construction a large mode (most of the time, the transactions have a “large” size of ~ 100 lots or more).

15. The sub-classes highlighted in orange in Table 15 are typically those dominated by “large” trades: they account for a large proportion of the trading volumes compared to the number of trades. They would be deemed liquid under the current methodology based on ADNA (because of the large volumes they represent) but would be deemed illiquid if the ADNA is replaced by the mode (because they have a high standard trade size). In other words,

using a maximum value for the mode, instead of a minimum value for the ADNA, would likely avoid that classes dominated by few trades of large sizes are deemed liquid.

16. The data also shows that the calibration of the standard trade size calculated using the mode (STS_mode) would likely be either the value 1 lot or the value 5 lots, and that this feature is relatively stable across asset classes: for agricultural derivatives, as well as for EA and DEA, more than 90% of the total number and trades and total volumes is concentrated on classes which have a mode equal to 1 lot. For gas derivatives, 90% of the total number of trades and 85% of the total volumes is concentrated on classes which have a mode equal to 5 lots. For electricity derivatives, 80% of the total number of trades and 95% of the total volumes are concentrated on classes which have a mode equal to either 1 or 5 lots. Finally for freight derivatives, the results are slightly different depending on whether the contracts are denominated in tonnes or in days, yet classes with a mode equal to 5 lots represent 60 to 90% of the total number of trades, and 30 to 40% of the total volumes.

	Number of sub-classes	Number of trades	Volumes (in unit)
Agriculture	43	100.00%	100.00%
Mode = 1 lot	19	99.2%	92.5%
Mode = 2 lots	4	0.1%	0.0%
Mode = 4 lots	1	0.0%	0.0%
Mode = 10 lots	10	0.2%	0.5%
Mode = 36 to 40 lots	1	0.0%	0.0%
Mode = 46 to 50 lots	2	0.0%	0.2%
Mode = 96 to 100 lots	6	0.5%	6.7%
Electricity	309	100.0%	100.0%
Mode = 1 lot	75	31.3%	56.3%
Mode = 2 lots	8	0.0%	0.0%
Mode = 3 lots	1	0.0%	0.0%
Mode = 4 lots	3	0.0%	0.0%
Mode = 5 lots	129	50.9%	39.1%
Mode = 10 lots	21	4.1%	0.5%
Mode = 11 lots	2	0.0%	0.0%
Mode = 15 lots	3	0.0%	0.0%
Mode = 21 to 25 lots	50	13.3%	3.6%
Mode = 31 to 35 lots	1	0.0%	0.0%
Mode = 46 to 50 lots	7	0.3%	0.2%
Mode = 96 to 100 lots	6	0.0%	0.3%
Mode = 101 to 150 lots	3	0.0%	0.0%
Natural Gas	110	100.0%	100.0%
Mode = 1 lot	23	0.0%	0.2%
Mode = 2 lots	6	0.0%	0.1%
Mode = 3 lots	1	0.0%	0.0%
Mode = 4 lots	1	0.0%	0.0%
Mode = 5 lots	31	99.1%	85.1%
Mode = 10 lots	21	0.4%	1.5%
Mode = 11 lots	1	0.0%	0.0%
Mode = 20 lots	4	0.0%	0.0%
Mode = 21 to 25 lots	5	0.0%	0.0%
Mode = 26 to 30 lots	3	0.0%	0.0%
Mode = 31 to 35 lots	2	0.0%	0.0%
Mode = 36 to 40 lots	2	0.0%	0.0%
Mode = 41 to 45 lots	1	0.0%	0.0%
Mode = 56 to 60 lots	1	0.0%	0.0%
Mode = 96 to 100 lots	1	0.0%	0.0%
Mode = 101 to 150 lots	2	0.0%	0.0%
Mode = 151 to 200 lots	1	0.0%	0.0%
Mode = 201 to 250 lots	1	0.0%	0.0%
Mode = 251 to 300 lots	3	0.4%	13.0%
Emission Allowances	2	100.0%	100.0%
Mode = 1 lot	1	99.4%	99.7%
Mode = 2 lots	1	0.6%	0.3%
Derivatives on emission allowances	2	100.0%	100.0%
Mode = 1 lot	1	100.0%	100.0%
Mode = 10 lots	1	0.0%	0.0%
Grand Total	466		

	Number of sub-classes	Number of trades	Volumes (in unit)
Freight	93		
class reported in tonnes	49	100.0%	100.0%
Mode = 2 lots	5	0.2%	2.0%
Mode = 3 lots	1	0.1%	0.0%
Mode = 4 lots	1	0.0%	0.0%
Mode = 5 lots	26	98.4%	40.8%
Mode = 10 lots	4	0.8%	0.0%
Mode = 20 lots	1	0.1%	11.3%
Mode = 46 to 50 lots	9	0.4%	40.8%
Mode = 56 to 60 lots	1	0.0%	0.0%
Mode = 151 to 200 lots	1	0.0%	5.2%
class reported in d	44	100.0%	100.0%
Mode = 5 lots	12	63.9%	30.5%
Mode = 10 lots	1	0.0%	0.0%
Mode = 15 lots	4	1.0%	0.6%
Mode = 26 to 30 lots	17	32.2%	64.3%
Mode = 56 to 60 lots	2	2.3%	4.0%
Mode = 8 lots	6	0.5%	0.4%
Mode = 71 to 75 lots	1	0.0%	0.0%
Mode = 86 to 90 lots	1	0.0%	0.1%
Grand Total	93		

Table 15: Percentage of volumes and percentage of number of trades, broken down in accordance with the mode of the sub-class⁵⁰

6.7.2.2 Standard trade size based on “Median” as a quantitative liquidity criterion

17. The second option tested would be to consider that a class is deemed liquid if the median trade size (i.e. the size in lots below which lies 50% of the trade distribution) is lower than a given threshold.

⁵⁰ The volumes of classes reported in MMBtu and in Therms have been converted to MWh to allow the aggregation of volumes.

18. As shown in Table 16, bucketing the sub-classes on the basis of the median trade size leads to observations that are somehow similar to the ones drawn from Table 15. However, the range of possible values for the median trade size is wider compared to the mode. On agricultural and electricity derivatives, there are significant volumes in classes with a median trade size equal to 1, 2, 3, 4 or 5 lots. On freight derivatives most volumes appear in classes with a median trade size equal to either 5 or 10 lots. On EA and DEA there is no difference in the results when calculating the standard trade size with the mode or with the median.

19. In the same way as in Table 15, the classes dominated by “large” trades are highlighted in orange in Table 16 (large volumes compared to a small number of trades), and typically have a median trade size above 50 lots.

	Number of sub-classes	Number of trades	Volumes (in unit)
Agriculture	43	100.0%	100.0%
Median = 1 lot	3	34.3%	13.3%
Median = 2 lots	7	4.2%	2.5%
Median = 3 lots	3	1.8%	1.3%
Median = 4 lots	6	40.7%	51.1%
Median = 5 lots	4	18.2%	24.0%
Median = 8 lots	1	0.0%	0.0%
Median = 10 lots	6	0.1%	0.3%
Median = 13 lots	1	0.1%	0.3%
Median = 15 lots	1	0.0%	0.2%
Median = 26 to 30 lots	1	0.0%	0.1%
Median = 36 to 40 lots	1	0.0%	0.0%
Median = 41 to 45 lots	1	0.1%	1.3%
Median = 46 to 50 lots	5	0.4%	5.4%
Median = 96 to 100 lots	3	0.0%	0.2%
Electricity	309	100.0%	100.0%
Median = 1 lot	39	22.1%	47.7%
Median = 2 lots	28	4.3%	3.3%
Median = 3 lots	11	5.6%	6.6%
Median = 4 lots	6	0.0%	0.1%
Median = 5 lots	113	50.1%	37.6%
Median = 6 lots	2	0.0%	0.0%
Median = 8 lots	1	0.0%	0.0%
Median = 10 lots	32	4.2%	0.5%
Median = 11 lots	4	0.0%	0.0%
Median = 15 lots	6	0.0%	0.0%
Median = 19 lots	1	0.0%	0.0%
Median = 20 lots	1	0.0%	0.0%
Median = 21 to 25 lots	44	13.2%	3.4%
Median = 26 to 30 lots	1	0.0%	0.0%
Median = 31 to 35 lots	1	0.0%	0.0%
Median = 46 to 50 lots	10	0.3%	0.3%
Median = 96 to 100 lots	6	0.0%	0.3%
Median = 101 to 150 lots	2	0.0%	0.0%
Median = 201 to 250 lots	1	0.0%	0.0%
Natural Gas	110	100.0%	100.0%
Median = 1 lot	4	0.0%	0.0%
Median = 2 lots	5	0.0%	0.0%
Median = 3 lots	7	0.0%	0.1%
Median = 4 lots	4	0.0%	0.0%
Median = 5 lots	33	98.9%	84.5%
Median = 6 lots	1	0.0%	0.0%
Median = 7 lots	1	0.0%	0.0%
Median = 8 lots	1	0.0%	0.0%
Median = 9 lots	2	0.0%	0.0%
Median = 10 lots	21	0.6%	2.1%
Median = 11 lots	1	0.0%	0.0%
Median = 14 lots	1	0.0%	0.0%
Median = 15 lots	2	0.0%	0.0%
Median = 20 lots	5	0.0%	0.0%
Median = 21 to 25 lots	2	0.0%	0.0%
Median = 26 to 30 lots	3	0.0%	0.0%
Median = 31 to 35 lots	2	0.0%	0.0%
Median = 36 to 40 lots	3	0.0%	0.0%
Median = 41 to 45 lots	1	0.0%	0.0%
Median = 46 to 50 lots	2	0.0%	0.0%
Median = 56 to 60 lots	1	0.0%	0.0%
Median = 96 to 100 lots	1	0.0%	0.0%
Median = 101 to 150 lots	3	0.0%	0.0%
Median = 201 to 250 lots	2	0.0%	1.0%
Median = 251 to 300 lots	2	0.4%	12.0%
Emission Allowances	2	100.0%	100.0%
Median = 1 lot	1	99.4%	99.7%
Median = 5 lots	1	0.6%	0.3%
Derivatives on emission allowances	2	100.0%	100.0%
Median = 1 lot	1	100.0%	100.0%
Median = 10 lots	1	0.0%	0.0%
Grand Total	466		

	Number of sub-classes	Number of trades	Volumes (in unit)
Freight	93		
class reported in tonnes	49	100.0%	100.0%
Median = 5 lots	13	36.4%	26.2%
Median = 7 lots	4	0.2%	0.0%
Median = 8 lots	3	0.3%	2.0%
Median = 10 lots	11	62.3%	14.6%
Median = 20 lots	2	0.1%	11.3%
Median = 21 to 25 lots	6	0.4%	2.4%
Median = 31 to 35 lots	1	0.0%	2.3%
Median = 46 to 50 lots	7	0.3%	34.8%
Median = 56 to 60 lots	1	0.0%	0.0%
Median = 71 to 75 lots	1	0.0%	6.5%
class reported in d	44	100.0%	100.0%
Median = 5 lots	6	10.7%	4.3%
Median = 10 lots	6	51.2%	24.8%
Median = 15 lots	4	2.9%	1.8%
Median = 21 to 25 lots	6	0.5%	0.4%
Median = 26 to 30 lots	16	29.1%	54.1%
Median = 31 to 35 lots	1	0.1%	0.1%
Median = 41 to 45 lots	1	3.2%	7.6%
Median = 56 to 60 lots	2	2.4%	6.8%
Median = 71 to 75 lots	1	0.0%	0.0%
Median = 86 to 90 lots	1	0.0%	0.1%
Grand Total	93		

Table 16: Percentage of volumes and percentage of number of trades, broken down in accordance with the median of the sub-class

6.7.2.3 Comparison between standard trade size calculated with the mode and the median

20. A comparison of the standard trade size calculated using the mode and the median is provided in Table 17. The sub-classes for which the standard trade size is the same based on the median and the mode would represent [70-75%] of the total number of transactions and total volumes. There are few cases (two classes) where the mode is higher than the median, while the sub-classes for which the mode is lower than the median represent a non-negligible fraction of the total number of classes, number of trades and volumes.

21. From a theoretical perspective, it could be argued that the mode provides a less arbitrary measure of the standard trade size compared to the median. Indeed, the mode plainly measures the size at which transactions most frequently occur. Provided that the data on the basis of which the calculation is made is granular enough, this standard size can be determined accurately. The median on the other end is a statistical measure which calculates the 50% percentile. Calculating the standard trade size using a slightly modified version of the median (e.g. a percentile of 49% or 51%) may lead to different results, in particular on the less liquid classes, where there are fewer points in the distribution. This is why there is more divergence between the mode and the median on the less liquid classes.

22. This being said, from an outcome perspective and on the basis of the data collected, it appears that the difference between the methodologies (mode or median) depends on the parameter used for the standard size. As shown in Table 17, setting a parameter of maximum 5 lots for the STS would lead to determine that the same classes are liquid

irrespective of whether the mode or median is used (with the exception of the 5 classes highlighted in orange). However, setting a parameter of 1 lot for the STS would lead to more liquid classes using the mode (because the sub-classes highlighted in blue have a mode equal to 1 but a median higher than 1, and would not be deemed liquid on the basis of the median).

	Number of sub-classes	Number of trades	Volumes (in lots)
<input type="checkbox"/> Mode < Median	17	23.5%	26.8%
<input type="checkbox"/> Mode = 1 lot	12	23.0%	26.1%
Median = 2 lots	6	1.8%	0.9%
Median = 3 lots	2	1.3%	0.7%
Median = 4 lots	3	13.8%	16.6%
Median = 5 lots	1	6.1%	7.8%
<input type="checkbox"/> Mode = 5 lots	5	0.5%	0.7%
Median = 10 lots	5	0.5%	0.7%
<input checked="" type="checkbox"/> Mode = Median	53	76.4%	71.6%
<input type="checkbox"/> Mode > Median	2	0.1%	1.7%
Mode = 96 to 100 lots	2	0.1%	1.7%
Median = 46 to 50 lots	2	0.1%	1.7%
Grand Total	72	100.0%	100.0%

Table 17: Comparison of the standard trade size calculated using the mode versus median (limited to classes with an ADNT above 10)⁵¹

6.7.3 Calibration of the liquidity parameters for commodity derivatives

23. Having discussed in the previous sections the two quantitative liquidity criteria ADNT and ADNA, and alternatives to those currently used in RTS 2, it is useful to compare the outcome of a simulated liquidity determination on the basis of different scenarios (presented in Table 18).

24. In a first step, the analysis is done across all asset-classes. Then the most relevant parameters are selected and the analysis is done at asset class level (agriculture, energy, metals, freight, EA and DEA).

Scenario	Scenario ID	ADNT	Quantitative Criteria 2	Quantitative Criteria 2 - Parameter	Comment
	1.1.1	10 ⁵²	ADNA	As in RTS 2	

⁵¹ The table is aggregated across asset classes hence volumes in unit cannot be calculated. Instead volumes are calculated in lots.

⁵² In RTS 2 the ADNT is 5 trades per day for EA and DEA and 10 trades per day for the other classes. In the data collection there was no EA nor DEA class with an ADNT comprised between 5 and 10 trades per day. Hence for simplicity we use the parameter 10 trades per day for all classes.

ADNT as in RTS 2	1.2.1		STS_mode	= 1 lot	No class with ADNA > 10 and mode = 2, 3 or 4
	1.2.2			<= 5 lots	
	1.3.1		STS_median	1 lot	
	1.3.2			<= 2 lots	
	1.3.3			<= 3 lots	
	1.3.4			<= 4 lots	
1.3.5	<= 5 lots				
ADNT increased to 50 trades per day	2.1.1	50	ADNA	As in RTS 2	
	2.2.1		STS_mode	= 1 lot	No class with ADNA > 10 and mode = 2, 3 or 4
	2.2.2			<= 5 lots	
	2.3.1		STS_median	1 lot	
	2.3.2			<= 2 lots	
	2.3.3			<= 3 lots	
	2.3.4			<= 4 lots	
2.3.5	<= 5 lots				
ADNT increased to 100 trades per day	3.1.1	100	ADNA	As in RTS 2	
	3.2.1		STS_mode	= 1 lot	No class with ADNA > 10 and mode = 2, 3 or 4
	3.2.2			<= 5 lots	
	3.3.1		STS_median	1 lot	
	3.3.2			<= 2 lots	
	3.3.3			<= 3 lots	
	3.3.4			<= 4 lots	
3.3.5	<= 5 lots				

Table 18: Scenarios tested for the calibration of the liquidity determination

6.7.3.1 Simulation of liquidity determination – across asset classes

25. Table 19 provides the result of simulations using different metrics for the liquidity determination, and different parameters for each metric. Under each scenario we compute the percentage of liquid classes, and the percentage of volumes and number of trades captured under liquid classes. To allow a comparison across asset classes, volumes here are calculated in lots.

26. The first observation that can be made on the basis of Table 19 is that using a calibration of 5 lots for the STS (either using mode or median) leads to overall similar results compared to the status quo; however there is a small increase of the number of trades that would fall under liquid classes, and a small decrease of the volumes that would fall under liquid classes.

27. For example, under the current liquidity determination as set in RTS 2 (scenario 1.1.1), it has been estimated that 91.6% of the volume and 93.6% of the trades would fall under liquid classes. Using STS_mean with a parameter of 5 lots (scenario 1.2.2), the percentage

of liquid volumes would decline to 82.9% while the percentage of liquid trades would rise to 95.4%.

28. This outcome is expected, given that liquid classes determined with the STS typically include classes with numerous small trades, while classes dominated by few large trades are deemed illiquid.
29. The second observation is the low sensitivity of the results to the parameter chosen for the ADNT. While increasing this parameter mechanically reduces the number of liquid classes, keeping the current parameter of 10 trades per day, or increasing it to 50 or even to 100 trades per day does not fundamentally change the picture in terms of the overall volumes and trades that would fall under liquid classes.
30. The third observation is the high sensitivity of the results to the parameter chosen for the STS_mode (or STS_median). Irrespective of the ADNT chosen, there are two main outcomes:
 - Outcome 1: setting STS_mode = 1 lot (or STS_median \leq 4 lots). This calibration delivers roughly 30% of liquid volumes, and 35% of liquid trades; or
 - Outcome 2: setting STS_mode \leq 5 lots (or STS_median \leq 5 lots). This calibration delivers roughly 80% of liquid volumes, and more than 90% of liquid trades.
31. The different between Outcome 1 and Outcome 2 essentially comes from the gas market. In gas, there is hardly any activity occurring at the size of 1 lot (which translates into no class with an STS_mode equal to 1 lot), instead the bulk of trading activity is concentrated at the size of 5 lots. And given that the gas market represents a very significant share (in terms of number of trades) of the overall commodity derivatives markets, this feature greatly influences the results when presented at overall level.
32. In the next section, we repeat those simulations breaking down the results per asset classes and we compare the following scenarios: scenario 1.1.1 (calibration as currently set in RTS 2), scenario 1.2.1 (ADNT \geq 10 and STS_mode = 1) and scenario 1.2.2 (ADNT \geq 10 and STS_mode \leq 5), given that the other scenarios are not fundamentally different from those three scenarios.

Scenario ID	Category	Quantitative Criteria 1	Quantitative Criteria 1 parameter	Quantitative Criteria 2	Quantitative Criteria 2 parameter	% of liquid classes	% of volumes (in lots) in liquid classes	% of number of trades in liquid classes
1.1.1	All asset classes	ADNT	>= 10 trades	ADNA	EA and DEA: 150 000 tonnes of CDE Others: above EUR 10 000 000	8.2%	91.6%	93.6%
1.2.1	All asset classes	ADNT	>= 10 trades	STS_mode	= 1 lot	5.0%	30.6%	38.4%
1.2.2	All asset classes	ADNT	>= 10 trades	STS_mode	<= 5 lots	10.4%	82.9%	95.4%
1.3.1	All asset classes	ADNT	>= 10 trades	STS_median	= 1 lot	2.9%	5.9%	15.9%
1.3.2	All asset classes	ADNT	>= 10 trades	STS_median	<= 2 lots	3.9%	6.8%	17.7%
1.3.3	All asset classes	ADNT	>= 10 trades	STS_median	<= 3 lots	4.3%	7.4%	18.9%
1.3.4	All asset classes	ADNT	>= 10 trades	STS_median	<= 4 lots	4.8%	23.2%	32.4%
1.3.5	All asset classes	ADNT	>= 10 trades	STS_median	<= 5 lots	9.5%	82.3%	94.9%
2.1.1	All asset classes	ADNT	>= 50 trades	ADNA	EA and DEA: 150 000 tonnes of CDE Others: above EUR 10 000 000	4.8%	82.1%	91.4%
2.2.1	All asset classes	ADNT	>= 50 trades	STS_mode	= 1 lot	2.7%	30.1%	37.1%
2.2.2	All asset classes	ADNT	>= 50 trades	STS_mode	<= 5 lots	4.8%	80.9%	92.3%
2.3.1	All asset classes	ADNT	>= 50 trades	STS_median	= 1 lot	1.4%	5.6%	15.2%
2.3.2	All asset classes	ADNT	>= 50 trades	STS_median	<= 2 lots	1.8%	6.4%	16.5%
2.3.3	All asset classes	ADNT	>= 50 trades	STS_median	<= 3 lots	2.1%	7.0%	17.8%
2.3.4	All asset classes	ADNT	>= 50 trades	STS_median	<= 4 lots	2.5%	22.7%	31.1%
2.3.5	All asset classes	ADNT	>= 50 trades	STS_median	<= 5 lots	4.8%	80.9%	92.3%
3.1.1	All asset classes	ADNT	>= 100 lots	ADNA	EA and DEA: 150 000 tonnes of CDE Others: above EUR 10 000 000	3.2%	79.1%	88.7%
3.2.1	All asset classes	ADNT	>= 100 lots	STS_mode	= 1 lot	2.0%	29.7%	35.9%
3.2.2	All asset classes	ADNT	>= 100 lots	STS_mode	<= 5 lots	3.6%	80.0%	90.1%
3.3.1	All asset classes	ADNT	>= 100 lots	STS_median	= 1 lot	0.9%	5.5%	14.5%
3.3.2	All asset classes	ADNT	>= 100 lots	STS_median	<= 2 lots	1.1%	6.0%	15.3%
3.3.3	All asset classes	ADNT	>= 100 lots	STS_median	<= 3 lots	1.4%	6.6%	16.5%
3.3.4	All asset classes	ADNT	>= 100 lots	STS_median	<= 4 lots	1.8%	22.3%	29.9%
3.3.5	All asset classes	ADNT	>= 100 lots	STS_median	<= 5 lots	3.6%	80.0%	90.1%

Table 19: Liquidity determination based on different scenarios

33. The following sections show simulations of the liquidity determination per asset class for a sub-set of three scenarios, leaving out the other scenarios because they do not lead to an outcome significantly different from those three). This time, volumes are calculated both in terms of lots but also in terms of unit of the underlying: tonnes for agriculture, MWh for energy⁵³, tonnes for freight⁵⁴, and tonnes for EA and DEA.

6.7.3.2 Simulation of liquidity determination – agricultural derivatives

34. For agriculture derivatives the three scenarios tested lead to similar outcomes when looking at the overall results: the number of liquid class is around 20%, gathering ~92% of the total volumes and more than 90% of the number of trades (Table 20).

Scenario ID	Category	Unit of volume	Quantitative Criteria 1	Quantitative Criteria 1 parameter	Quantitative Criteria 2	Quantitative Criteria 2 parameter	% of liquid classes	% of volumes (in lots) in liquid classes	% of volumes (in unit) in liquid classes	% of number of trades in liquid classes
1.1.1	Agriculture	tonnes	ADNT	>= 10 trades	ADNA	EA and DEA: 150 000 tonnes of CDE Others: above EUR 10 000 000	18.6%	93.1%	93.3%	93.1%
1.2.1	Agriculture	tonnes	ADNT	>= 10 trades	STS_mode	= 1 lot	25.6%	91.9%	92.0%	98.8%
1.2.2	Agriculture	tonnes	ADNT	>= 10 trades	STS_mode	<= 5 lots	25.6%	91.9%	92.0%	98.8%

Table 20: Liquidity determination based on different scenarios - Agricultural derivatives

35. However, it is insightful to look at the liquidity profiles of the individual classes which are deemed liquid or illiquid under different scenarios. Figure 3 shows in red classes which are deemed liquid under all scenarios, in yellow classes which are currently illiquid (under scenario 1.1.1) and liquid when replacing the ADNA with the STS (scenario 1.2.1 or 1.2.2), and in blue classes which are currently liquid (under scenario 1.1.1) and illiquid when replacing the ADNA with the STS (under scenario 1.2.1 or 1.2.2).

36. The two classes (in blue) which are deemed liquid under the current RTS 2 parameters, and which would no longer be deemed liquid when replacing the ADNA with the STS have an ADNT which is just above 10 trades per day (they have the lowest ADNT of the liquid classes). They also have a different liquidity profiles compared to the other liquid classes (see Figure 3), with less trades of small size. This may be linked to the fact that those two classes are options (while all the others are futures). Those classes would be liquid with a higher parameter for the STS_mode (100 lots).

37. Conversely, the five classes (in yellow) which are deemed illiquid under the current RTS 2 parameters, and which would be deemed liquid when replacing the ADNA with the STS

⁵³ Volumes in energy classes reported in MMBtu or in Therms were converted to MWh to allow volume comparison

⁵⁴ Some classes of freight derivatives are reported with days as a unit, instead of tonnes. There was no liquid classes found for freights reported in days under any scenario, hence for simplicity they are not presented in the table.

have a liquidity profile which is similar to the classes which are liquid under all scenarios (red lines).

38. Therefore, when looking at the liquidity profiles of individual classes, it appears that a liquidity framework able to deem liquid the red and yellow classes (leaving out the blue ones) would lead to a set of liquid classes which present more homogeneous liquidity profiles, compared to the current RTS 2 framework (which deems liquid the red and blue classes, leaving out the yellow classes).

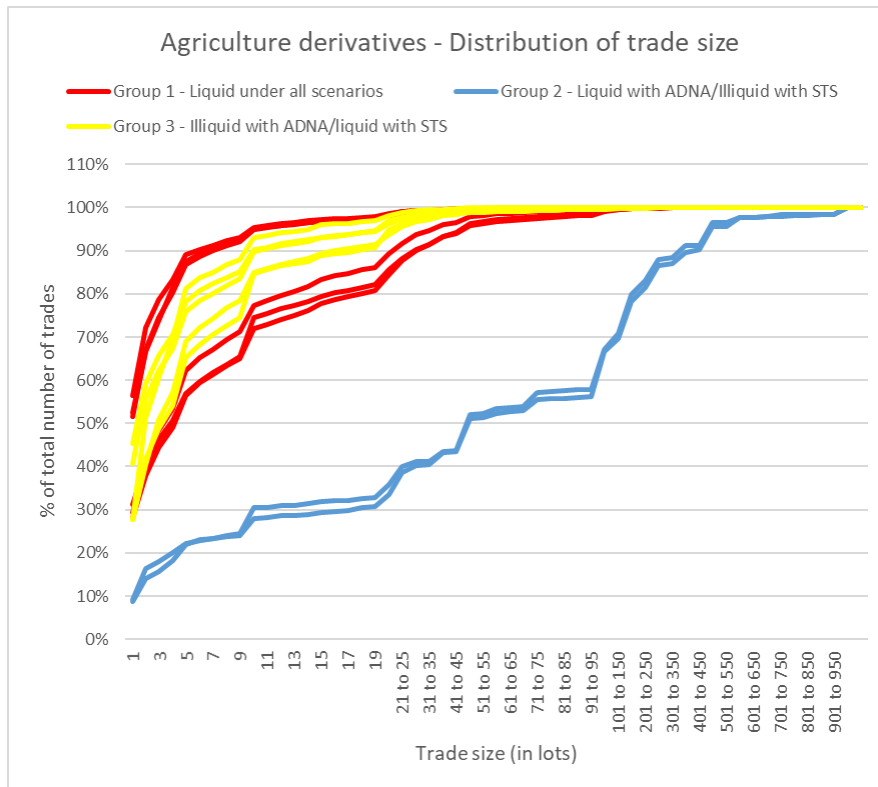


Figure 3: Trade size distribution of liquid agriculture classes

6.7.3.3 Simulation of liquidity determination – energy derivatives

39. The results of the liquidity simulation for energy derivatives are reported in Table 21, distinguishing electricity from gas (no other underlying energy was reported in 2020 by EU venues).

40. For electricity derivatives, scenario 1.2.1 would lead to excluding many classes which are currently liquid, and only a relatively small share of the total volumes and total number of trades would remain in liquid classes. Scenario 1.2.2 would lead to comparable overall liquid volumes and liquid trades compared to the baseline (scenario 1.1.1) except that the percentage of liquid volumes measured in lots would be smaller (43% versus 76%).

41. For gas derivatives, scenario 1.2.1 is irrelevant because there is no class with an STS_mode equal to one lot. Scenario 1.2.2 would lead to comparable overall liquid

volumes and liquid trades compared to the baseline (scenario 1.1.1) but the same number of liquid classes.

Scenario ID	Category	Quantitative Criteria 1	Quantitative Criteria 1 parameter	Quantitative Criteria 2	Quantitative Criteria 2 parameter	% of liquid classes	% of volumes (in lots) in liquid classes	% of volumes (in unit) in liquid classes	% of number of trades in liquid classes
1.1.1	ELEC	ADNT	>= 10 trades	ADNA	EA and DEA: 150 000 tonnes of CDE Others: above EUR 10 000 000	9.1%	75.1%	81%	80.9%
1.2.1	ELEC	ADNT	>= 10 trades	STS_mode	= 1 lot	4.9%	9.7%	52.3%	29.2%
1.2.2	ELEC	ADNT	>= 10 trades	STS_mode	<= 5 lots	10.0%	42.9%	86.7%	76.0%
1.1.1	NGAS	ADNT	>= 10 trades	ADNA	EA and DEA: 150 000 tonnes of CDE Others: above EUR 10 000 000	7.3%	96.1%	94.4%	98.8%
1.2.1	NGAS	ADNT	>= 10 trades	STS_mode	= 1 lot	0.0%	0.0%	0.0%	0.0%
1.2.2	NGAS	ADNT	>= 10 trades	STS_mode	<= 5 lots	7.3%	85.8%	84.3%	98.9%

Table 21: Liquidity determination based on different scenarios - Electricity and Gas derivatives

42. A comprehensive comparison of the different scenarios can be made by looking at the liquidity profiles of the individual classes which are deemed liquid or illiquid under different scenarios.
43. In the case of electricity derivatives, due to the high number of classes, figures are shown in two different graphs to increase readability: Figure 4 presents liquid sub-classes with an ADNT higher than 50 trades per day and Figure 5 presents liquid sub-classes with an ADNT between 10 and 50 trades per day. There is no major difference between those two figures.
44. There are a number of classes (in blue) which are currently liquid and would be deemed illiquid when replacing the ADNA with the STS (scenario 1.2.1 or 1.2.2). Those classes have a liquidity profile which significantly departs from the other liquid classes.
45. The classes shown in green reveal the difference between a calibration of the STS_mode with 1 lot (scenario 1.2.1) and 5 lots (scenario 1.2.2). The classes in green would be deemed liquid only under the second calibration. They have a distribution function which is very similar between themselves, with a liquidity cluster at the size of 5 lots.

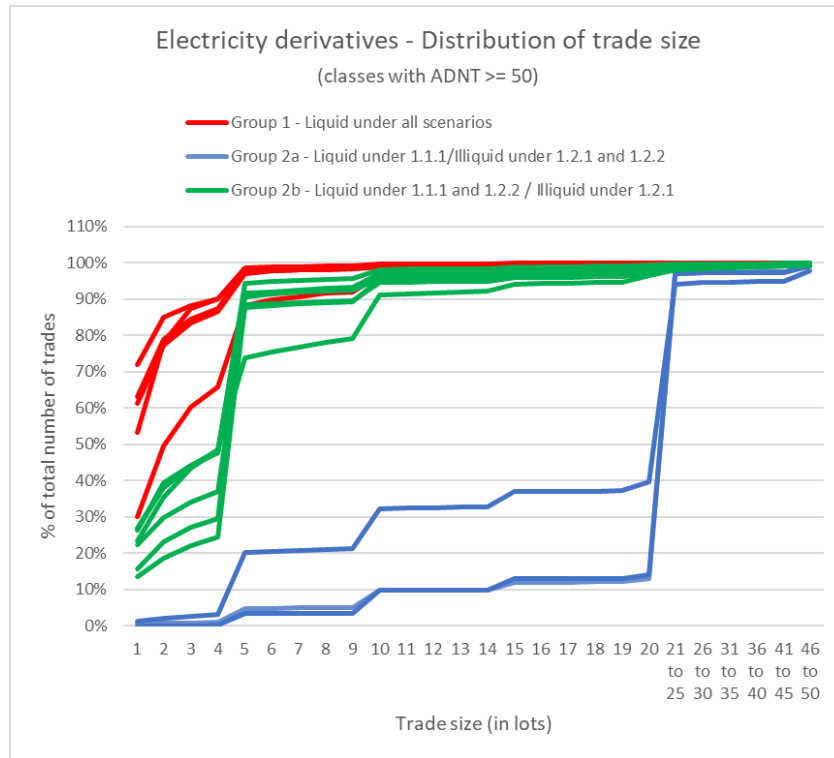


Figure 4: Trade size distribution of liquid electricity classes with ADNT > 50

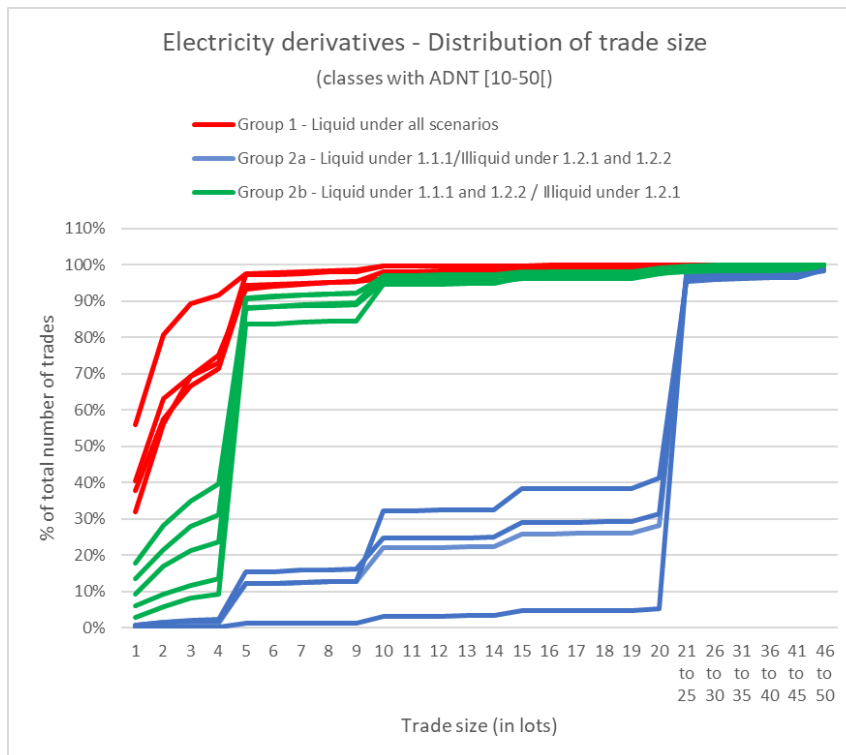


Figure 5: Trade size distribution of liquid electricity classes with ADNT [10 - 50]

46. The distribution of liquid classes of gas derivatives is presented in Figure 6. Most classes would be deemed liquid under all scenarios (which explains the very small difference in the

overall results of the simulation as presented in Table 21). In addition there is one class (in yellow) which is currently illiquid and would be deemed liquid when replacing the ADNA with the STS (scenario 1.2.2), and which presents a similar liquidity profiles compared to the red classes.

- 47. There is also one class (in blue) which is currently liquid and would be deemed illiquid when replacing the ADNA with the STS (scenario 1.2.2). As for agricultural derivatives, this may be due to the fact that this class is on options, while the others are on futures. This class would be liquid with a much higher parameter for the STS_mode (300 lots).
- 48. Therefore, the conclusion drawn for agriculture derivatives remains valid for electricity and gas derivatives: the replacement of the ADNA with the STS leads to the selection of liquid classes which present more homogeneous liquidity profiles.

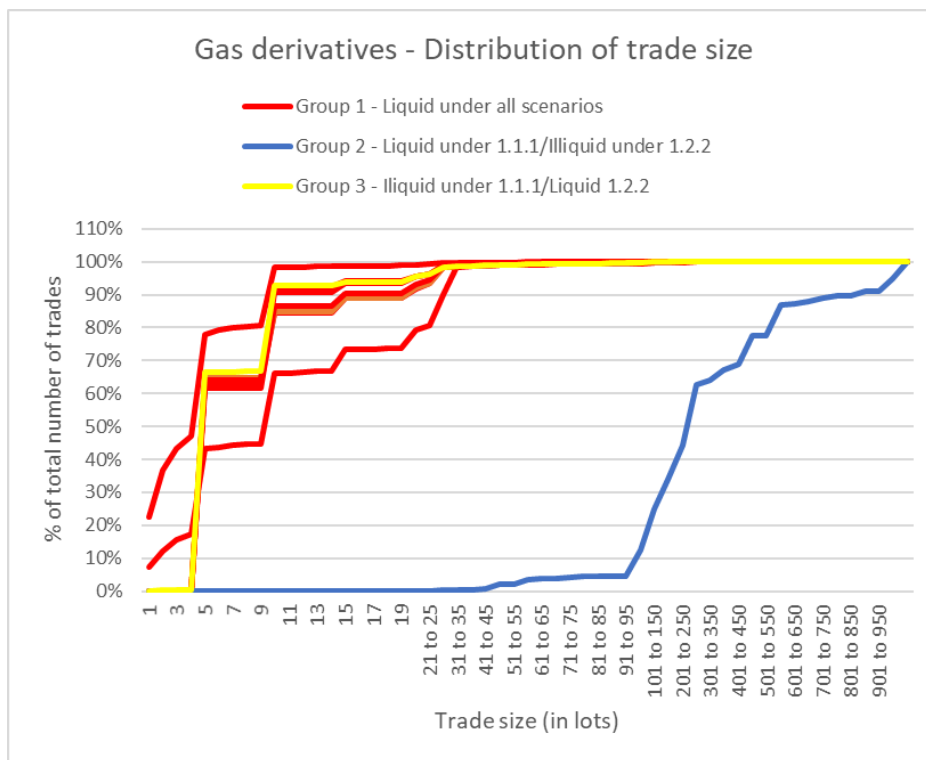


Figure 6: Trade size distribution of liquid gas classes

6.7.3.4 Simulation of liquidity determination – freight derivatives

- 49. The results of the liquidity simulation for freight derivatives are reported in Table 22. Under the current liquidity framework (scenario 1.1.1) there is no liquid freight sub-classes. Replacing the ADNA with the STS_mode (with a parameter of 5 lots) would lead to the creation of a small number of liquid sub-classes, representing over 70% of the total number of trades and volumes. There is no freight classes with a STS_mode equal to one lot.

Scenario ID	Category	Unit of volume	Quantitative Criteria 1	Quantitative Criteria 1 parameter	Quantitative Criteria 2	Quantitative Criteria 2 parameter	% of liquid classes	% of volumes (in lots) in liquid classes	% of volumes (in unit) in liquid classes	% of number of trades in liquid classes
1.1.1	Freight	Tonnes	ADNT	>= 10 trades	ADNA	EA and DEA: 150 000 tonnes of CDE Others: above EUR 10 000 000	0.0%	0.0%	0.0%	0.0%
1.2.1	Freight	Tonnes	ADNT	>= 10 trades	STS_mode	= 1 lot	0.0%	0.0%	0.0%	0.0%
1.2.2	Freight	Tonnes	ADNT	>= 10 trades	STS_mode	<= 5 lots	12.2%	70.3%	1.8%	70.4%

Table 22: Liquidity determination based on different scenarios - freight derivatives

50. The liquidity profiles of the freight derivatives classes that would be deemed liquid under scenario 1.2.2 are shown in Figure 7. They all exhibit similar liquidity profiles, with a major liquidity cluster at the size of 5 lots, followed by other clusters of liquidity at subsequent multiples of 5 lots.

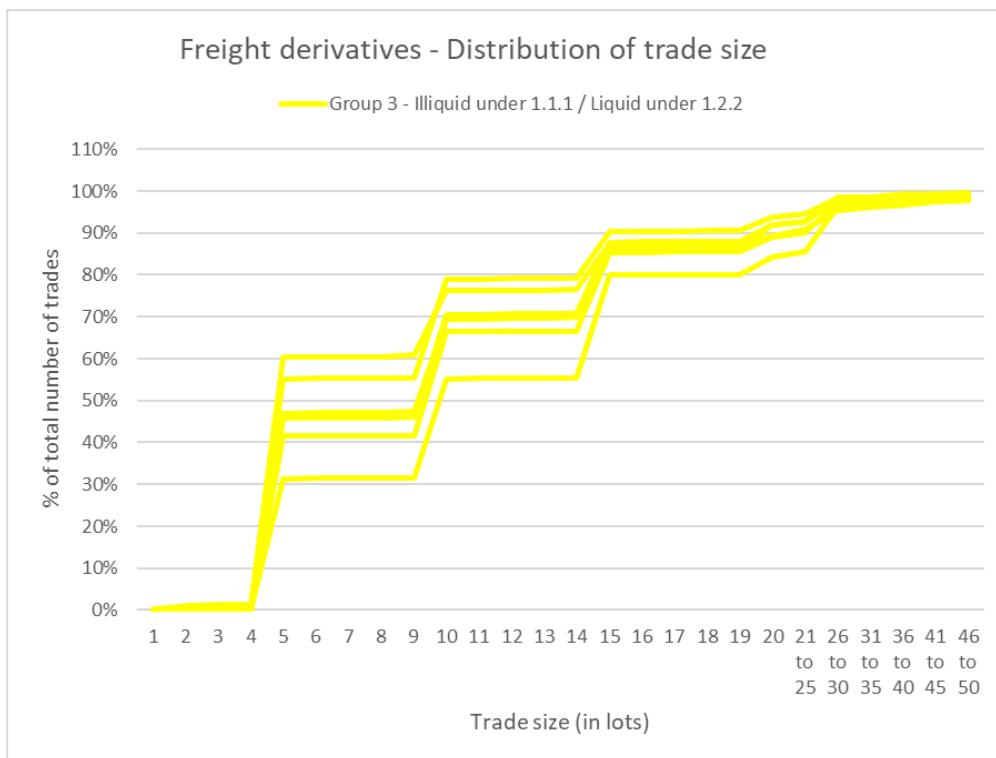


Figure 7: Trade size distribution of liquid freight classes

6.7.3.5 Simulation of liquidity determination – EA and DEA

51. EA classes are defined in RTS 2 in very simple terms. They are reported under four classes: European Union Allowances (EUA), European Union Aviation Allowances (EUAA), Certified Emission Reductions (CER) and Emission Reduction Units (ERU). DEA classes follow the same classification, with one class for each of the four types of EA described above.

52. According to the data collected from trading venues in 2020, three of the four EA classes were available for trading (EUA, EUAA and CER) and only EAU and CER had positive volumes. Under the current liquidity determination, there is one liquid EA class (EUA). The

same applies to DEA: derivatives on EUA, EUAA and CER are available for trading, derivatives on EAU and CER had positive volumes and derivatives on EUA was deemed liquid.

- 53. Changing the liquidity parameter from ADNA to STS would have no impact on the selection of liquid classes, neither on EA nor on DEA. More than 99% of the EA volumes was reported in the liquid class (EAU) and more than 99.9% of the DEA volumes was reported in the liquid class (derivatives on EAU).
- 54. The liquidity profiles of the two liquid EA and DEA classes are shown in Figure 8. Both of them exhibit similar liquidity profiles, with more than 50% of the trades executed at the size of 1 lot and around 90% of the trades executed at a size lower than or equal to 5 lots.

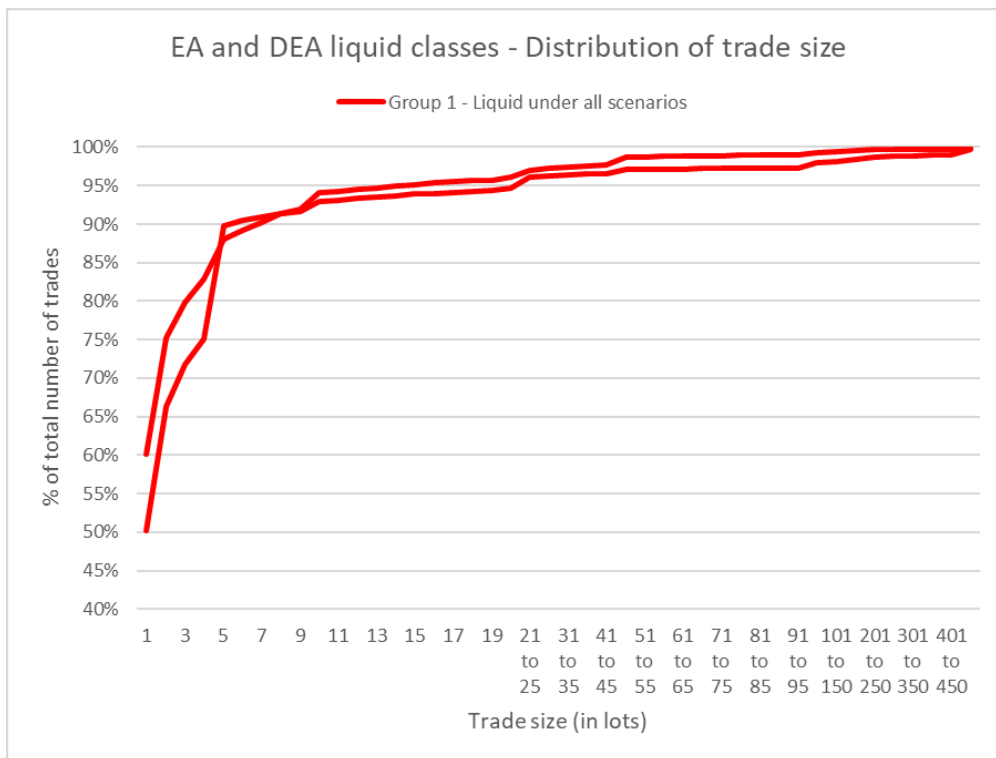


Figure 8: Trade size distribution of liquid EA and DEA classes

6.7.4 LIS and SSTI thresholds for commodity derivatives, freight derivatives, EA and DEA

- 55. ESMA has tested an alternative approach to calculate the LIS and SSTI thresholds, where the LIS/SSTI thresholds are equal to a **set percentage of the average daily volumes in lots (ADV L) rounded to the nearest 5 lots (ADV L approach)**. To calibrate the percentage, four parameters have been tested, corresponding to the four different thresholds (1% for pre-trade SSTI, 5% for pre-trade LIS, 10% for post-trade SSTI and 15% for post-trade LIS). In addition, under this new approach, the LIS/SSTI thresholds are bounded up and down in absolute terms with a floor (minimal value) and a cap (maximum value).

56. For comparison purposes, ESMA has also tested an alternative approach, where the LIS/SSTI thresholds are equal to a **set percentile of the trade size distribution (in lots)** rounded to the nearest 5 lots (**Percentile approach**). This alternative was tested with small trade size bins (1 lot until 20 lots, 5 lots until 100 lots and 50 lots thereafter). To calibrate the percentile, four parameters have been tested, corresponding to the four different thresholds (90th for pre-trade SSTI, 95th for pre-trade LIS, 97.5th for post-trade SSTI and 99th for post-trade LIS).

57. Under both approaches, the floors have been calibrated as follows: 5 lots for the pre-trade LIS and STI; and 10 lots for the post-trade LIS and SSTI. Under the ADVL approach, the caps have been calibrated as follows: 200 lots for the pre-trade LIS and STI; and 300 lots for the post-trade LIS and SSTI. There is no cap under the Percentile approach.

58. The tables below showing the LIS/SSTI values include classes which are liquid under:

- Scenario 1.1.1: this is the baseline i.e. the current approach in RTS 2; and/or
- Scenario 1.2.1: calibration of ADNT = 10 trades per day and calibration of STS_mode = 1 lot; and/or
- Scenario 1.2.2: calibration of ADNT = 10 trades per day and calibration of STS_mode = 5 lots.

59. This selection of scenarios does not take into account the fact that in the CP ESMA is proposing to change the parameter of the ADNT from 10 to 50 trades per day. However, it allows to show more classes and to presents an analysis which focuses on the LIS/SSTI calibration, notwithstanding the calibration of other parameters.

6.7.4.1 Calibration of LIS/SSTI thresholds – agricultural derivatives

60. Agricultural derivatives sub-classes which are liquid under the scenarios 1.1.1, 1.2.1 and/or 1.2.2 are shown in Table 23. The two classes on options which are currently liquid (under scenario 1.1.1) and no longer liquid with a calibration of the STS_mode at 5 lots, are also shown for completeness. Under the current approach, all agricultural derivatives sub-classes have the same pre-trade LIS threshold in EUR (which is equal to the floor) except the two option classes.

61. Under the ADVL approach, focusing on the pre-trade LIS calibrated with a parameter of 5% of the ADVL, the pre-trade LIS thresholds vary between the floor and the cap (5 to 200 lots). Under the Percentile approach, the pre-trade LIS thresholds vary between 5 lots (the floor) and 50 lots (except for options, 500 lots).

62. The impact of the cap is visible on the top 4 classes in terms of ADVL (for the pre-trade LIS). Absent a cap, the pre-trade LIS thresholds on those classes would have resulted in values between 220 and 1,250 lots.

63. For the classes with the smallest ADVL, the pre-trade LIS thresholds calculated under the ADVL approach tend to be smaller compared to those calculated under the Percentile

approach; for the classes with the highest ADVL, the ADVL approach leads to higher LIS compared to those calculated under the Percentile approach.

													ADVL approach - fixed % of ADVL				Percentile approach - fixed percentile of trade size distribution			
													Floor: 5 lots for pre- thresholds; 10 lots for post-thresholds Cap: 200 lots for pre- thresholds; 300 lots for post-thresholds				Floor: 5 lots for pre- thresholds; 10 lots for post-thresholds No Cap			
													pre SSTI	pre LIS	post SSTI	post LIS	pre SSTI	pre LIS	post SSTI	post LIS
ID	Contract Type	Sub-Product	Further Sub-Product	TTM B	Liquid under 1.1.1	Liquid under 1.2.1	Liquid under 1.2.2	Average Daily Number of Trades (ADNT, trades per day)	Average daily volumes (ADVL, lots)	STS_Mode (in lots)	Current pre-trade LIS (in EUR)	1% of ADVL (lots)	5% of ADVL (lots)	10% of ADVL (lots)	15% of ADVL (lots)	90% percentile of trade size (lots)	95% percentile of trade size (lots)	97.5% percentile of trade size (lots)	99% percentile of trade size (lots)	
AGRI_1	FUTR	GRIN	MWHT	1	TRUE	TRUE	TRUE	1,983	24,959	1	500,000	200	200	300	300	30	50	80	100	
AGRI_2	FUTR	GRIN	MWHT	2	TRUE	TRUE	TRUE	1,272	15,505	1	500,000	155	200	300	300	30	50	70	100	
AGRI_3	FUTR	GRIN	MWHT	3	TRUE	TRUE	TRUE	848	7,884	1	500,000	80	200	300	300	25	40	50	80	
AGRI_4	FUTR	GROS	RPSD	1	TRUE	TRUE	TRUE	1,183	4,418	1	500,000	45	200	300	300	5	10	20	30	
AGRI_5	FUTR	GROS	RPSD	2	TRUE	TRUE	TRUE	887	3,116	1	500,000	30	155	300	300	5	10	20	30	
AGRI_6	OPTN	GRIN	MWHT	2	TRUE	FALSE	FALSE	13	1,735	96 to 100	1,500,000	15	85	175	260	400	500	600	1000	
AGRI_7	OPTN	GRIN	MWHT	1	TRUE	FALSE	FALSE	11	1,627	96 to 100	2,000,000	15	80	165	245	450	500	600	1000	
AGRI_8	FUTR	GROS	RPSD	3	TRUE	TRUE	TRUE	336	1,059	1	500,000	10	55	105	160	5	10	15	25	
AGRI_9	FUTR	GROS	CORN	1	FALSE	TRUE	TRUE	178	998	1	500,000	10	50	100	150	10	20	30	60	
AGRI_10	FUTR	GRIN	MWHT	4	FALSE	TRUE	TRUE	120	833	1	500,000	10	40	85	125	15	25	40	50	
AGRI_11	FUTR	GROS	CORN	2	FALSE	TRUE	TRUE	95	504	1	500,000	5	25	50	75	10	20	25	45	
AGRI_12	FUTR	GROS	CORN	3	FALSE	TRUE	TRUE	25	194	1	500,000	5	10	20	30	20	25	35	50	
AGRI_13	FUTR	POTA	(blank)	3	FALSE	TRUE	TRUE	11	48	1	500,000	5	5	10	10	10	15	20	30	

Table 23: LIS/SSTI calibration – Agricultural derivatives

6.7.4.2 Calibration of LIS/SSTI thresholds – electricity derivatives

64. Electricity derivatives sub-classes which are liquid under the scenarios 1.1.1, 1.2.1 and/or 1.2.2 are shown in Table 24 with the same metrics as for agricultural derivatives. Under the current approach, all electricity derivatives sub-classes have the same LIS threshold in EUR (which is equal to the floor).
65. As explained in paragraph 59, certain electricity classes appearing in Table 24 below would not be deemed liquid under ESMA’s proposed recalibration of the ADNT parameter from 10 to 50 trades per day. Those classes can be identified easily using the ADNT column in Table 24.
66. Compared to agricultural derivatives, electricity derivative classes tend to have much lower levels of ADVL. Consequently, the impact of the cap is less visible. As said above, the differences between the new and the alternative approaches are mainly visible on the classes with high levels of ADVL. In the case of electricity classes, the largest differences between the two approaches are visible on the top 10 classes in terms of ADVL, where the thresholds calculated under the ADVL approach are higher compared to those calculated under the Percentile approach.
67. It can be noted that the Percentile approach would produce the same low pre-trade LIS thresholds of 10 lots on the most liquid electricity class (ELEC_1, with average volumes of over 2,300 lots per day) and on the much less liquid ELEC_29 with average volumes of 70 lots per day).

ID	Contract Type	Further Sub-Product	Delivery Period	Settlement Location	TTM B	Liquid under 1.1.1	Liquid under 1.2.1	Liquid under 1.2.2	Average Daily Number of Trades (ADNT, trades per day)	Average daily volumes (ADVL, lots)	STS_Mode (in lots)	Current pre-trade LIS (in EUR)	ADVL approach - fixed % of ADVL				Percentile approach - fixed percentile of trade size distribution			
													Floor: 5 lots for pre- thresholds; 10 lots for post-thresholds Cap: 200 lots for pre- thresholds; 300 lots for post-thresholds				Floor: 5 lots for pre- thresholds; 10 lots for post-thresholds No Cap			
													pre SSTI	pre LIS	post SSTI	post LIS	pre SSTI	pre LIS	post SSTI	post LIS
1% of ADVL (lots)	5% of ADVL (lots)	10% of ADVL (lots)	15% of ADVL (lots)	90% percentile of trade size (lots)	95% percentile of trade size (lots)	97.5% percentile of trade size (lots)	99% percentile of trade size (lots)													
ELEC_1	FUTR	BSLD	Monthly	10YDE-RWENET---	2	TRUE	FALSE	TRUE	428	2,323	5	500,000	25	115	230	300	10	10	20	40
ELEC_2	FUTR	BSLD	Daily	10YDE-RWENET---	1	TRUE	FALSE	FALSE	81	2,020	21 to 25	500,000	20	100	200	300	25	25	40	50
ELEC_3	FUTR	BSLD	Daily	10YIT-GRTN-----B	1	TRUE	FALSE	FALSE	63	1,512	21 to 25	500,000	15	75	150	225	25	25	50	50
ELEC_4	FUTR	BSLD	Weekly	10YDE-RWENET---	1	TRUE	FALSE	FALSE	67	1,474	21 to 25	500,000	15	75	145	220	25	50	50	100
ELEC_5	FUTR	BSLD	Quarterly	10YDE-RWENET---	2	TRUE	FALSE	TRUE	266	1,193	5	500,000	10	60	120	180	5	10	15	25
ELEC_6	FUTR	BSLD	Daily	10YFR-RTE-----C	1	TRUE	FALSE	FALSE	37	997	21 to 25	500,000	10	50	100	150	25	25	50	100
ELEC_7	FUTR	BSLD	Monthly	10YFR-RTE-----C	2	TRUE	FALSE	TRUE	118	727	5	500,000	5	35	75	110	10	15	25	45
ELEC_8	FUTR	BSLD	Yearly	10YDE-RWENET---	3	TRUE	TRUE	TRUE	306	619	1	500,000	5	30	60	95	5	5	10	10
ELEC_9	FUTR	BSLD	Quarterly	10Y1001A1001A9J	2	TRUE	TRUE	TRUE	140	530	1	500,000	5	25	55	80	5	10	15	20
ELEC_10	FUTR	BSLD	Weekend	10YDE-RWENET---	1	TRUE	FALSE	FALSE	24	524	21 to 25	500,000	5	25	50	80	25	25	50	75
ELEC_11	FUTR	BSLD	Monthly	10YIT-GRTN-----B	2	TRUE	FALSE	TRUE	103	519	5	500,000	5	25	50	80	5	10	15	25
ELEC_12	FUTR	BSLD	Monthly	10Y1001A1001A9J	2	TRUE	FALSE	TRUE	80	482	5	500,000	5	25	50	70	10	20	25	40
ELEC_13	FUTR	BSLD	Weekly	10YFR-RTE-----C	1	TRUE	FALSE	FALSE	20	445	21 to 25	500,000	5	20	45	65	25	25	50	95
ELEC_14	FUTR	BSLD	Weekly	10YIT-GRTN-----B	1	TRUE	FALSE	FALSE	17	351	21 to 25	500,000	5	20	35	55	25	25	50	75
ELEC_15	FUTR	BSLD	Quarterly	10YFR-RTE-----C	2	TRUE	FALSE	TRUE	62	309	5	500,000	5	15	30	45	5	10	20	40
ELEC_16	FUTR	BSLD	Monthly	10YHU-MAVIR----	2	TRUE	FALSE	TRUE	39	250	5	500,000	5	10	25	35	10	15	20	25
ELEC_17	FUTR	BSLD	Quarterly	10YIT-GRTN-----B	2	TRUE	FALSE	TRUE	63	249	5	500,000	5	10	25	35	5	5	10	15
ELEC_18	FUTR	BSLD	Monthly	10YNL-----L	2	FALSE	FALSE	TRUE	32	179	5	500,000	5	10	20	25	5	10	15	35
ELEC_19	FUTR	BSLD	Monthly	10YES-REE-----O	2	TRUE	FALSE	TRUE	29	178	5	500,000	5	10	20	25	10	10	20	35
ELEC_20	FUTR	BSLD	Monthly	10YDE-RWENET---	3	TRUE	TRUE	TRUE	44	145	1	500,000	5	5	15	20	5	10	15	25
ELEC_21	FUTR	BSLD	Yearly	10YDE-RWENET---	4	TRUE	TRUE	TRUE	54	119	1	900,000	5	5	10	20	5	5	10	10
ELEC_22	FUTR	BSLD	Yearly	10Y1001A1001A9J	3	TRUE	TRUE	TRUE	58	119	1	500,000	5	5	10	20	5	5	10	10
ELEC_23	FUTR	BSLD	Quarterly	10YES-REE-----O	2	TRUE	FALSE	TRUE	22	115	5	500,000	5	5	10	15	5	10	15	30
ELEC_24	FUTR	BSLD	Quarterly	10YHU-MAVIR----	2	TRUE	FALSE	TRUE	20	103	5	500,000	5	5	10	15	10	10	15	20
ELEC_25	FUTR	BSLD	Yearly	10YIT-GRTN-----B	3	TRUE	TRUE	TRUE	55	96	1	500,000	5	5	10	15	5	5	10	10
ELEC_26	FUTR	PKLD	Monthly	10YDE-RWENET---	2	FALSE	FALSE	TRUE	11	96	5	500,000	5	5	10	15	10	25	45	55
ELEC_27	FUTR	BSLD	Monthly	10YNL-----L	3	FALSE	FALSE	TRUE	21	91	5	500,000	5	5	10	15	5	5	10	10
ELEC_28	FUTR	BSLD	Quarterly	10Y1001A1001A9J	3	TRUE	TRUE	TRUE	24	77	1	500,000	5	5	10	10	5	10	10	20
ELEC_29	FUTR	BSLD	Quarterly	10YDE-RWENET---	3	TRUE	FALSE	TRUE	13	70	5	500,000	5	5	10	10	5	10	20	50
ELEC_30	FUTR	BSLD	Yearly	10YFR-RTE-----C	3	FALSE	TRUE	TRUE	23	57	1	500,000	5	5	10	10	5	5	10	15
ELEC_31	FUTR	BSLD	Yearly	10Y1001A1001A9J	4	TRUE	TRUE	TRUE	29	57	1	500,000	5	5	10	10	5	5	10	10
ELEC_32	FUTR	BSLD	Monthly	10YIT-GRTN-----B	3	TRUE	TRUE	TRUE	20	54	1	500,000	5	5	10	10	5	5	10	10
ELEC_33	FUTR	BSLD	Monthly	10YNL-----L	4	FALSE	FALSE	TRUE	10	44	5	500,000	5	5	10	10	5	5	10	15
ELEC_34	FUTR	PKLD	Yearly	10YDE-RWENET---	3	FALSE	TRUE	TRUE	15	39	1	500,000	5	5	10	10	5	5	10	15
ELEC_35	FUTR	BSLD	Yearly	10YDE-RWENET---	5	FALSE	TRUE	TRUE	15	36	1	500,000	5	5	10	10	5	5	10	15
ELEC_36	FUTR	BSLD	Yearly	10YHU-MAVIR----	3	FALSE	TRUE	TRUE	14	29	1	500,000	5	5	10	10	5	5	10	10
ELEC_37	FUTR	BSLD	Yearly	10Y1001A1001A9J	5	FALSE	TRUE	TRUE	14	27	1	500,000	5	5	10	10	5	5	10	10
ELEC_38	FUTR	BSLD	Yearly	10YIT-GRTN-----B	4	FALSE	TRUE	TRUE	12	22	1	500,000	5	5	10	10	5	5	10	10

Table 24: LIS/SSTI calibration – Electricity derivatives

6.7.4.3 Calibration of LIS/SSTI thresholds – natural gas derivatives

68. Gas derivatives sub-classes which are liquid under scenarios 1.1.1, 1.2.1 and/or 1.2.2 are shown in Table 25 with the same metrics as for agricultural derivatives. The class on options which is currently liquid (under scenario 1.1.1) and no longer liquid with a calibration of the STS_mode at 5 lots, is also shown for completeness (in case the STS_mode is calibrated differently for options). Under the current approach, all gas derivatives sub-classes have the same LIS threshold in EUR (which is equal to the floor) except the only gas option class.

69. Under the ADVL approach, focusing on the pre-trade LIS calibrated with a parameter of 5% of the ADVL, the pre-trade LIS thresholds vary between the floor and the cap (5 to 200 lots). Under the Percentile approach, the pre-trade LIS thresholds vary from 10 to 35 lots (except for options, 1,000 lots).

70. The impact of the cap is visible on the top 4 classes in terms of ADVL (for the pre-trade LIS). Absent a cap, the pre-trade LIS thresholds on those classes would have resulted in values between 630 and 2,930 lots.

71. For the classes with the smallest ADVL, the pre-trade LIS thresholds calculated under the ADVL approach tend to be smaller compared to those calculated under the Percentile

approach; for the classes with the highest ADVL, the ADVL approach leads to higher LIS compared to those calculated under the Percentile approach.

72. It can be noted that the Percentile approach would produce roughly the same pre-trade LIS thresholds of [30-35] lots on the most liquid natural gas class (NGAS_1, with average volumes of over 58,000 lots per day) and on the much less liquid NGAS_8 with average volumes of 219 lots per day).

													ADVL approach - fixed % of ADVL				Percentile approach - fixed percentile of trade size distribution				
													Floor: 5 lots for pre- thresholds; 10 lots for post-thresholds				Floor: 5 lots for pre- thresholds; 10 lots for post-thresholds				
													Cap: 200 lots for pre- thresholds; 300 lots for post-thresholds				No Cap				
													pre SSTI	pre LIS	post SSTI	post LIS	pre SSTI	pre LIS	post SSTI	post LIS	
ID	Contract Type	Sub-Product	Delivery Period	Settlement Location	TTM B	Liquid under 1.1.1	Liquid under 1.2.1	Liquid under 1.2.2	Average Daily Number of Trades (ADNT, trades per day)	Average daily volumes (ADVL, lots)	STS_Mode (in lots)	Current pre-trade LIS (in EUR)	1% of ADVL (lots)	5% of ADVL (lots)	10% of ADVL (lots)	15% of ADVL (lots)	90% percentile of trade size (lots)	95% percentile of trade size (lots)	97.5% percentile of trade size (lots)	99% percentile of trade size (lots)	
NGAS_1	FUTR	NGAS	Monthly	21YNL----	TTF--1	2	TRUE	FALSE	TRUE	6,109	58,579	5	500,000	200	200	300	300	20	30	30	55
NGAS_2	FUTR	NGAS	Monthly	21YNL----	TTF--1	1	TRUE	FALSE	TRUE	2,078	20,739	5	500,000	200	200	300	300	20	30	30	60
NGAS_3	FUTR	NGAS	Monthly	21YNL----	TTF--1	3	TRUE	FALSE	TRUE	1,729	15,780	5	500,000	160	200	300	300	15	30	30	45
NGAS_4	OPTN	NGAS	Monthly	21YNL----	TTF--1	2	TRUE	FALSE	FALSE	38	12,565	251 to 300	4,000,000	125	200	300	300	900	1,000	1,000	1,000
NGAS_5	FUTR	NGAS	Monthly	21YNL----	TTF--1	4	TRUE	FALSE	TRUE	477	3,928	5	500,000	40	195	300	300	10	20	30	30
NGAS_6	FUTR	NGAS	Monthly	21YNL----	TTF--1	5	TRUE	FALSE	TRUE	162	1,327	5	500,000	15	65	135	200	10	20	30	45
NGAS_7	FUTR	NGAS	Monthly	21YNL----	TTF--1	6	FALSE	FALSE	TRUE	46	371	5	500,000	5	20	35	55	10	20	30	50
NGAS_8	FUTR	NGAS	Quarterly	21YNL----	TTF--1	2	TRUE	FALSE	TRUE	17	219	5	500,000	5	10	20	35	35	35	35	35
NGAS_10	FUTR	NGAS	Yearly	21YNL----	TTF--1	3	TRUE	FALSE	TRUE	13	63	5	500,000	5	5	10	10	10	10	10	20

Table 25: LIS/SSTI calibration – Natural gas derivatives

6.7.4.4 Calibration of LIS/SSTI thresholds – freight derivatives

73. Freight derivatives sub-classes which are liquid under scenarios 1.1.1, 1.2.1 and/or 1.2.2 are shown in Table 26 with the same metrics as for agricultural derivatives. Under the current approach, all freight derivatives sub-classes are illiquid.

74. In accordance with the proposal made in the CP to change the parameter of the ADNT from 10 to 50 trades per day, no freight derivatives would be deemed liquid (because all freight classes have an ADNT lower than 50). The table below is nonetheless inserted for transparency purposes.

75. The range of different ADVL on freight classes is relatively narrow. The LIS and SSTI thresholds determined under the ADVL approach tend to be lower compared to those determined under the Percentile approach.

													ADVL approach - fixed % of ADVL				Percentile approach - fixed percentile of trade size distribution			
													Floor: 5 lots for pre- thresholds; 10 lots for post-thresholds				Floor: 5 lots for pre- thresholds; 10 lots for post-thresholds			
													Cap: 200 lots for pre- thresholds; 300 lots for post-thresholds				No Cap			
													pre SSTI	pre LIS	post SSTI	post LIS	pre SSTI	pre LIS	post SSTI	post LIS
ID	Contract Type	Sub-Product	Further Sub-Product	Freight SC	TTM B	Liquid under 1.1.1	Liquid under 1.2.1	Liquid under 1.2.2	Average Daily Number of Trades (ADNT, trades per day)	Average daily volumes (ADVL, lots)	STS_Mode (in lots)	Current pre-trade LIS (in EUR)	1% of ADVL (lots)	5% of ADVL (lots)	10% of ADVL (lots)	15% of ADVL (lots)	90% percentile of trade size (lots)	95% percentile of trade size (lots)	97.5% percentile of trade size (lots)	99% percentile of trade size (lots)
FRGT_1	FFAS	DRYF	DBCR	Panamax - 4TC	2	FALSE	FALSE	TRUE	30	440	5	50,000	5	20	45	65	30	30	45	70
FRGT_2	FFAS	DRYF	DBCR	Capesize - 5TC	2	FALSE	FALSE	TRUE	23	284	5	50,000	5	15	30	45	25	30	35	60
FRGT_3	FFAS	DRYF	DBCR	Panamax - 4TC	3	FALSE	FALSE	TRUE	24	265	5	50,000	5	15	25	40	20	30	30	50
FRGT_4	FFAS	DRYF	DBCR	Capesize - 5TC	3	FALSE	FALSE	TRUE	17	162	5	50,000	5	10	15	25	15	30	30	45
FRGT_5	FFAS	DRYF	DBCR	Panamax - 4TC	4	FALSE	FALSE	TRUE	14	151	5	50,000	5	10	15	25	20	30	30	40
FRGT_6	FFAS	DRYF	DBCR	Panamax - 4TC	6	FALSE	FALSE	TRUE	13	145	5	50,000	5	5	15	20	25	30	45	60

Table 26: LIS calibration – Freight derivatives

6.7.4.5 Calibration of LIS/SSTI thresholds – emission allowances and derivatives thereof

76. EA and DEA sub-classes which are liquid under scenarios 1.1.1, 1.2.1 and/or 1.2.2 are shown in Table 27 with the same metrics as for agricultural derivatives. The revision of the methodology to assess liquidity (replacing the ADNA with the STS) would not change the EA and DEA classes which are deemed liquid under the current approach. There are two liquid classes: EU Allowances (EUA) and derivatives on EUA.

77. EA and DEA are specific under RTS 2 because the volumes are reported in tonnes of CO2 (instead of EUR for all the other asset classes) hence LIS thresholds are calculated in that unit. Under the current approach, the liquid EA and DEA sub-classes have an LIS threshold equal to 100,000 tonnes of CO2, which is equivalent to 100 lots.

78. On the liquid DEA class, the ADVL approach would produce almost the same pre-trade LIS as the current methodology (110 lots) while under the Percentile approach that threshold would be only 15 lots.

79. As explained in paragraph 271, the volumes collected for emission allowances are likely to be significantly underestimated hence the data on the liquid EA class should be interpreted with caution.

ID	Category	Liquid under 1.1.1	Liquid under 1.2.1	Liquid under 1.2.2	Average Daily Number of Trades (ADNT, trades per day)	Average daily volumes (ADVL, lots)	STS_Mode (in lots)	Current pre-trade LIS (in EUR)	ADVL approach - fixed % of ADVL				Percentile approach - fixed percentile of trade size distribution			
									1% of ADVL (lots)	5% of ADVL (lots)	10% of ADVL (lots)	15% of ADVL (lots)	pre SSTI	pre LIS	post SSTI	post LIS
DEA_1	Derivatives on emission allowances	TRUE	TRUE	TRUE	348	2,243	1	100,000	20	110	225	300	5	15	40	95
EA_1	Emission Allowances	TRUE	TRUE	TRUE	19	245	1	100,000	5	10	25	35	5	25	100	500

Table 27: LIS/SSTI calibration – EA and DEA



6.8 Annex VIII - Q&As supporting consistent post-trade transparency reporting

The following Q&As are provided in the Question and Answers on MiFID II and MiFIR transparency topics document⁵⁵ and aim at supporting a consistent post-trade transparency reporting.

The Q&As presented below are as published as of **8 July 2020**.

6.8.1 Q&As in the General Section

- Question 2 (c)
- Question 3 (b)
- Question 6

6.8.2 Q&As in the Equity Section

- Question 3
- Question 5

6.8.3 Q&As in the Data Reporting Service Providers Section

- Question 1
- Question 4

⁵⁵ [esma70-872942901-35_qas_transparency_issues.pdf \(europa.eu\)](#)