10 July 2024
ESMA74-2134169708-7011

Third consultation Package (CP 3)

On equity transparency (RTS 1 and CDR 2017/567), volume cap (RTS 3) circuit breakers (new RTS), SI (new ITS on SI notification), the equity CTP (new RTS on input / output data of the pre-trade and post-trade equity CTP) and the flags for non-equity transparency (RTS 2)

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:

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

ESMA will consider all comments received by:

- **30 September 2024** for the technical advice (Section 3), RTS 1 (Section 4), the RTS on input / output data for shares and ETFs CTP (Section 8) and the flags under RTS 2;
- **15 October 2024** for the SI ITS (Section 5), RTS 3 (Section 6) and RTS 7 (Section 7).

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 systematic internalisers (SIs). This 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.

Table of Contents

List of abbreviations and legal acts

ADT	Average daily turnover
ADNTE	Average daily number of transactions
ADNTE-MRMTL	Average daily number of transactions on the most relevant market in terms of liquidity
AVT	Average value of transactions
APA	Approved Publication Arrangement
CDR 2017/567	Commission Delegated Regulation (EU) 2017/567
CP	Consultation Paper
CTP	Consolidated Tape Provider
DORA	Digital Operational Resilience Act
DR	Depositary receipt
EC	European Commission
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 3	Commission Delegated Regulation (EU) 2017/577
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

The Amending Regulation and the Amending Directive following the review of the Markets in Financial Instruments Regulation (‘MIFIR’) and of the second Markets in Financial Instruments Directive ('MiFID II') were published in the Official Journal of the EU on 8 March 2024. In this context, the European Securities and Markets Authority (ESMA) has been empowered, among others, to develop various technical standards further specifying certain provisions.

This consultation paper (CP) includes several of those mandates with a 12-month deadline and one mandate with a 9-month deadline with the aim of collecting views, comments, and opinions from stakeholders and market participants on the proposals for (i) the amendment of the L2 provisions specifying the requirements on equity transparency, covering technical advice to the Commission and amendments to the RTS on equity transparency, (ii) a new implementing technical standard for the notification of investment firms acting as Systematic Internalisers (SIs) to competent authorities, (iii) the amendment of the RTS specifying the volume cap (iv) the amendments of the RTS specifying organisational requirements for trading venues in order to integrate the new empowerment on circuit breakers and reflecting the changes stemming from DORA, (v) a new RTS on input/output data for the equity CTP. Lastly, this CP also includes a proposal on flags for post-trade transparency for the transparency requirements for non-equity instruments, notably bonds.

Contents

This CP presents the proposal on the above topics in seven sections (sections 3 – 9). The changes to the L2 provisions on equity transparency (sections 3 and 4) cover changes to the definition of a liquid market for equity instruments (section 3.1), the specification of information to be disclosed for pre-trade transparency purposes, which is also of relevance for the equity consolidated tape (section 4.1) and the review of the pre-trade transparency requirements for SIs (section 4.2), notably the calibration of two quoting sizes. The remaining proposed changes are largely of a technical nature. Section 5 presents ESMA’s proposal for the notification of investment firms acting as SIs to competent authorities.

The CP covers in section 6 some, largely technical, amendments to the RTS specifying the provisions on the volume cap following the change in the MiFIR review from a Double to a Single Volume Cap. Section 7 presents the proposed recast of the RTS specifying the organisational requirements for trading venues, focussing on the new mandate on circuit breakers and reflecting the changes stemming from DORA.

Section 8 specifies the data to be contributed to the equity CTP as well as the data to be published by the equity CTP and has been developed in parallel to the proposed amendments to the RTS on equity transparency to ensure full alignment. Lastly, the CP includes a section on flags to be used for the purposes of post-trade transparency for non-equity instruments (section 9).

The various Annexes to the CP present the legal drafting of the proposed L2 amendments as well as for the new ITS/RTS mandates.

Next Steps

Stakeholders are invited to provide comments by 30 September 2024 for the proposals on equity transparency (Sections 3-4, the RTS on input / output data for the equity CTP (Section 8) and the flags on post-trade transparency for non-equity instruments (Section 9). Stakeholders are invited to provide feedback by 15 October 2024 on the remaining sections, i.e. sections 5-7.

ESMA staff will consider the feedback received during this consultation and expect to publish a final report covering the proposals in sections 3, 4, 8 and 9 in December 2024, and the proposals on the remaining mandates (i.e sections 5-7) in March 2025. The delivery of the amendments to the L2 provisions on equity transparency ahead of the legal deadline is necessary to ensure full alignment between the transparency requirements with the CTP requirements, to ensure clear requirements for the equity CTP applicants and ultimately contribute to a successful selection procedure for the equity CTP.

2 Introduction

1. On 20 December 2022, the European Commission (EC) adopted two legislative proposals for the review of the Markets in Financial Instruments Regulation ('MIFIR') and of the second Markets in Financial Instruments Directive ('MiFID II'). The review focused on amendments for the improvement of transparency and availability of market data, for the improvement of the level-playing field between execution venues and for ensuring that EU market infrastructures can remain competitive at international level.

2. On 29 June 2023, the European Parliament and the Council reached political agreement on a compromise text. The final legislative amending texts of MiFID II and MiFIR were published in the Official Journal of the European Union on 8 March 2024 and entered into force on 28 March 2024.

3. The amended texts require ESMA to develop new draft Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS) and amend those in force in several areas with different legislative deadlines. Furthermore, the changes in the MiFIR review also require amendments of Commission Delegated Regulation 2017/567 on which ESMA intends to provide technical advice.

4. According to Articles 10 and 15 of Regulation (EU) No. 1095/2010 of the European Parliament and of the Council establishing ESMA (ESMA Regulation), ESMA is required to conduct a public consultation before submitting draft RTS and ITS to the EC.

5. This CP therefore seeks stakeholders' views on key elements of future ESMA technical standards and the technical advice for amending Commission Delegated Regulation 2017/567. Respondents to this consultation are encouraged to provide the relevant information to support their arguments or proposals. Based on responses and feedback received, ESMA will prepare a Final Report that will include the draft technical standards for submission to the Commission. The technical advice (section 3), RTS 1 (section 4), the RTS on input / output data for shares and ETFs CTP (section 8) and the flags for RTS 2 (section 9) will be submitted by ESMA to the European Commission by December 2024. RTS 1 will be delivered three months in advance compared to the legal deadline to ensure full alignment between the transparency requirements with the CTP requirements and not put the selection procedure for the equity CTP at risk, as well as, to ensure clear requirements to for the equity CTP applicants. The remaining mandates addressed in this CP (SI ITS (section 5), RTS 3 (section 6) and RTS 7 (section 7)) will be delivered as per the legal deadline in March 2025.

6. Finally, while this CP does not include a specific draft cost-benefit analysis, ESMA has developed its draft RTS and ITS having due regard to the principle of proportionality and being mindful about the possible costs the obligations they contain would create for market participants. Nevertheless, respondents are invited to highlight in their response any specific concerns the ESMA proposals could raise for them in terms of their associated costs. ESMA will include a cost-benefit analysis in the final report.

2.1 General considerations on the transparency calculations

7. ESMA is currently exploring different options regarding data to be used to perform the transparency calculations. In principle, the considered alternatives are:

    a. Option 1: To retain the collection of quantitative data in the ESMA's Financial Instruments Transparency System (FITRS) and in the Double Volume Cap System (DVCAP).

    b. Option 2: To use other data available to ESMA to perform the transparency calculations (including the volume cap calculations) and, therefore, discontinue the collection of quantitative data in DVCAP and/or the FITRS system.

8. As regards Option 2, ESMA is assessing, in particular, whether transaction data reported as per Article 26 of MiFIR could be used to obtain sufficient information and perform necessary calculations. Should this be the case, and together with aligning the reporting of reference data with RTS 23, this could allow for the complete discontinuation of data flow to the FITRS and DVCAP system. Alternatively, the use of FITRS could be extended and used for the volume cap calculations and for a more detailed annual report on waivers and deferrals. In such case, the reporting to FITRS should become more granular[1].

9. This assessment is still ongoing, and it is not yet confirmed whether such a change could be possible. Therefore, no specific changes to the RTS 1, 2 and 3 are being proposed at this stage. Should the outcomes of this assessment be positive, additional changes to the reporting requirements in the respective RTS and their potential simplification/ discontinuation may be proposed when submitting the final report.

10. While the feasibility assessment is still ongoing, ESMA would like to use the opportunity of this consultation to collect feedback on possible implications of such a potential change.

[1] OPTION C in section 4.5.3 is included for such purposes

Q1: Should the use of alternative data to perform the calculations (i.e. as described under Option 2 above) be feasible, what would be the costs and the benefits of such a change for different categories of market participants, including in relation to the change and run costs of reporting systems, data quality assurance and other relevant aspects? Do you have other comments on this potential change, e.g. on specific issues, challenges or alternatives that could be considered by ESMA in its assessment?

3 Commission Delegated Regulation 2017/567 (Chapter I) – proposed technical advice

3.1 Liquid market definition - Article 2(17)(b) of MiFIR

3.1.1 Mandate

11. The MiFIR review amends the definition of the concept of a 'liquid market' in Article 2(17)(b) of MiFIR. The text below provides the amended text of Article 2(17)(b) of MiFIR, highlighting the changes in light-blue:

Article 2(17)(b) of MiFIR

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

[…]

(17) 'liquid market' means:

[…]

(b) for the purposes of Articles 4, 5 and 14, a market for a financial instrument that is traded daily where the market is assessed according to the following criteria:

(i) the ~~free float~~ market capitalisation of that financial instrument;

(ii) the average daily number of transactions in ~~those~~ that financial ~~instruments~~ instrument;

(iii) the average daily turnover for ~~those~~ that financial ~~instruments~~ instrument;

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to specify certain technical elements of the definitions laid down in paragraph 1 to adjust them to market developments.

3.1.2 Background

12. Considering that the definition of a liquid market is key for the determination of the transparency requirements for equity and equity-like instruments further specified in RTS 1, this CP first analyses the amendments to Article 2(17)(b) of MiFIR which set out the parameters to use for the determination of the liquid market for equity and equity-like instruments.

13. The technical provisions for the determination of the liquid market for equity and equity-like instruments are currently set out in Chapter I of Commission Delegated Regulation (EU) 2017/567 (CDR 2017/567). The main elements of the current framework can be summarised as follows:

    The liquidity determination is based on four parameters:

    - being traded on a daily basis;
    - the free float which is measured differently among the instruments;
    - the minimum average daily turnover; and
    - the minimum average daily number of transactions.

    The liquidity determination is made at three points in time:

    - on the first trading day following the first admission to trading on a regulated market or an MTF (estimates calculations);
    - after six weeks from the first trading day following the first admission to trading on a regulated market or an MTF (4-weeks calculations);
    - each year by the first Monday of March (annual calculations).

    Moreover, the above calculations should be recomputed in the case of a corporate action.

14. Since 2018 ESMA has performed and published the liquidity assessment for each equity and equity-like instrument by means of the Financial Instruments Transparency System (FITRS), an IT system developed for such purpose.

15. In the course of the performance of the liquidity assessments, ESMA identified several technical challenges. Therefore, ESMA's proposals in this CP do not only reflect the amended Article 2(17)(b) of MiFIR which require to use the market capitalisation of the issuer of the financial instrument instead of the free float but also cover improvements when performing and publishing such assessment.

3.1.3 Analysis and Proposals

3.1.3.1 Common elements of the liquidity assessment for equity and equity-like instruments

3.1.3.1.1 Points in time of the liquidity assessment

16. As set out in paragraph 13, the current text of CDR 2017/567 provides that the liquidity determination is performed at three points in time and following a corporate action.

17. ESMA does not consider it necessary to make changes to the framework and suggests maintaining the three calculations. Moreover, considering that a corporate action might indeed change the structure of a company, e.g. when a very large company acquires a smaller one, ESMA considers that this requirement should be maintained.

18. Finally, Article 5 of CDR 2017/567 provides that the annual calculations should be performed for instruments traded on a trading venue before 1 December of the relevant calendar year.

19. ESMA still considers it relevant that a minimum observation period of trading data is necessary to perform the annual calculations which should be longer than the 4-weeks necessary for the 4-weeks calculations. Therefore, ESMA proposes to maintain such requirement.

3.1.3.1.2 Point in time when the calculations start applying

20. In the context of the timing of the calculations, the issue on when those calculations apply especially in the context of multi-traded instruments was raised. In the Manual of post-trade transparency (Table 86, page 251), this question was addressed, and it was clarified that

the earliest date of admission to trading or first traded date (Field 11 of table 3 of the Annex of RTS 23, Date and time of admission to trading or date of first trade) had to be considered for applying the estimates calculations and to perform the counting for the determination of the start of the 4-weeks calculations and of the annual calculations.

21. However, this determination has proven to be problematic due to the quality of the data reported for such field. Therefore, it is proposed to determine such date as that of the trading venue of the initial public offering (IPO) by using, in addition to field 11 of table 3 of the Annex of RTS 23, field 6b in Table 3 of the Annex of RTS 23 ("Venue of admission to trading"). This requirement is not different from the current one. However, the use of the new field 6b to define such venue should contribute to the legal certainty of the applicable requirements in the context of the transparency calculations. This field is proposed to be added to the fields in RTS 23 in the CP published in May 2024 (see also section 4.1.3.2).

Q2: Do you agree with the proposal on the start day of application of the transparency calculations? Please explain.

3.1.3.1.3 Calculation of the average daily turnover (ADT) parameter

22. The current provisions in CDR 2017/567 set that the total turnover executed in the Union should be used to calculate the average daily turnover (ADT). This means that the numerator should include on-venue and off-venue trading executed on the instrument. However, the text is silent on the denominator to be used to perform such calculation.

23. Therefore, ESMA proposes to clarify that the denominator to be used to calculate the ADT should be the number of days on which the instrument was available for trading on the most relevant market in terms of liquidity (MRMTL) as defined in Article 4 of RTS 1, and where such market was open. This would be in line with the methodology used for the calculation of the ADT determining the post-trade LIS threshold as set out in Article 7(10) of RTS 1 and with the current practice when performing the transparency calculations. Therefore, such specification would not require further IT changes, but would ensure legal certainty (see also section 4.1.3.2).

3.1.3.1.4 Calculation of the average daily number of transactions (ADNTE) parameter

24. Like the calculation of the ADT, the current provisions in CDR 2017/567 set that the total number of transactions executed in the Union should be used to calculate the average daily number of transactions (ADNTE) but it is silent on the number of days to be used in the denominator.

25. Therefore, ESMA proposes to clarify that the denominator to be used is the number of days on which the instrument was available for trading on the MRMTL defined in Article 4 of RTS 1 and where such market was open, as for the calculation of the ADT. Also in this case, the amendment will not result in additional IT changes since this is the current methodology used when performing the transparency calculations. However, it would ensure legal certainty (see also section 4.1.3.2).

3.1.3.1.5 Calculation of the daily traded parameter

26. As far as the calculation of the daily traded parameter is concerned, the current provisions in CDR 2017/567 do not provide for a specification on how to determine if an instrument is traded daily.

27. ESMA considers that it is important to clarify the denominator to perform such calculation and align it with the denominator used for the other parameters as presented above. In other words, to use the number of days on which the instrument was made available for trading on the MRMTL and where such market was open. Also in this case, the change is in line with the current practice when performing the transparency calculations and therefore, it would ensure legal certainty (see also section 4.1.3.2). The numerator instead should still consider all transactions executed on-venue and off-venue.

Q3: Do you agree with the proposal on the denominator of the (i) ADT, (ii) ADNTE and (iii) for specifying daily traded parameter? Please explain.

3.1.3.1.6 Possibility to deem up to 5 instruments liquid

28. The current provisions in CDR 2017/567 provide that, in case the annual calculations for a jurisdiction do not result in at least five liquid shares, ETFs, certificates or depositary receipt respectively, the RCA of that jurisdiction can designate up to five liquid instruments for each type.

29. A few jurisdictions make use of such provision on a yearly basis. Furthermore, the removal of such possibility would be contrary to the general spirit of MiFID II / MiFIR to increase transparency in financial markets. Therefore, ESMA proposes to keep such possibility since it would allow a jurisdiction to impose a more stringent transparency requirements to a larger scope of instruments. In consequence, ESMA does not consider it necessary to amend CDR 2017/567 in this respect.

3.1.3.2 Distinct elements of the liquidity assessment for equity and equity-like instruments

3.1.3.2.1 Shares

30. The amended MiFIR requires to determine a liquid market for equity and equity-like instruments using the market capitalisation instead of the free-float.

31. The market capitalisation should be calculated by multiplying the number of outstanding shares by the price per share. This approach is already currently used in CDR 2017/567 for the liquidity determination for shares which are traded on MTFs only, i.e. shares not admitted to trading or traded on any regulated market in the EU. Therefore, ESMA proposes to amend the text along this line for all shares.

32. ESMA has investigated at which value the market capitalisation threshold, as well as the threshold for ADT and ADNTE should be set using FITRS data of 2021-2023. The results are presented in Table 1 below and in Annex VII (Liquidity assessment tables).

33. When using a threshold of market cap of EUR 100,000,000 compared to the current system, (i.e. the threshold currently based on the free-float) everything else being equal, the number of different liquid (roughly 1,000) / illiquid ISINs, as well as the percentages of turnover (roughly 90% for liquid shares) and number of transactions (also roughly 90% for liquid shares) are relatively stable across years. Therefore, ESMA proposes that a daily traded share should be deemed to have a liquid market if:

    a. it has a market capitalisation equal to or greater than EUR 100,000,000;

    b. it has recorded an ADT equal to or greater than EUR 1,000,000;

    c. it has recorded an ADNTE equal to or greater than EUR 250.

TABLE 1 – LIQUIDITY ASSESSMENT FOR SHARES IN YEAR 2023, 2022, 2021: OLD VS. NEW METHODOLOGY[2]

RCA	2023		2022		2021	
	Old methodology based on free-float or market cap	New methodology solely based on market cap	Old methodology based on free-float or market cap	New methodology solely based on market cap	Old methodology based on free-float or market cap	New methodology solely based on market cap
	Liquid shares					
AT	21	21	22	22	23	23
BE	35	36	37	40	38	40
BG	-	-	-	-	-	-
CY	-	-	-	-	-	-
CZ	3	3	3	3	1	3
DE	347	353	308	331	176	335
DK	39	39	41	41	44	44
EE	-	-	-	-	-	-
ES	53	55	55	55	58	58
FI	35	37	40	40	42	42
FR	123	124	131	134	130	151

[2] Since the results were manually replicated outside FITRS, there might be some small discrepancies with the annual transparency results published by 1st March.

RCA	2023		2022		2021	
	Old methodology based on free-float or market cap	New methodology solely based on market cap	Old methodology based on free-float or market cap	New methodology solely based on market cap	Old methodology based on free-float or market cap	New methodology solely based on market cap
	Liquid shares					
GR	17	17	13	13	14	14
HR	-	-	-	-	-	-
HU	3	3	3	3	3	3
IE	16	16	15	15	12	12
IS	-	-	-	-	-	-
IT	78	83	87	88	93	95
LT	-	-	-	-	-	-
LU	-	-	-	-	-	-
LV	-	-	-	-	-	-
MT	-	-	-	-	-	-
NL	45	45	49	50	55	57
NO	65	65	64	68	73	76
PL	26	27	25	26	27	28
PT	12	12	12	12	13	13
RO	3	3	3	3	1	1

RCA	2023		2022		2021	
	Old methodology based on free-float or market cap	New methodology solely based on market cap	Old methodology based on free-float or market cap	New methodology solely based on market cap	Old methodology based on free-float or market cap	New methodology solely based on market cap
	Liquid shares					
SE	120	120	136	139	153	159
SI	-	-	-	-	-	-
SK	-	-	-	-	-	-
TOTAL	**1,041**	**1,059**	**1,044**	**1,083**	**956**	**1,154**

Q4: Do you agree with the proposal on the liquidity determination for shares? Please explain.

3.1.3.2.2 Depositary receipts

34. For depositary receipts, the current legal framework in CDR 2017/567 provides that the free-float should be calculated by multiplying the number of outstanding units of the depositary receipt by the price per unit.

35. Considering that this formula corresponds to that for the calculation of the market capitalisation, ESMA does not propose any amendments to this definition other than replacing the reference to 'free-float' by 'market capitalisation.

36. Furthermore, ESMA does not deem it necessary to propose any further amendments to the thresholds set to assess the liquidity of the instrument.

3.1.3.2.3 ETFs

37. For ETFs, the current legal framework in CDR 2017/567 provides that the free-float should correspond to the number of units issued for trading.

38. Considering that the number of units issued for trading already corresponds to the concept of "market capitalisation" for ETFs, ESMA does not propose any amendments to this definition, other than replacing the reference to 'free-float' by 'market capitalisation.

39. Furthermore, ESMA does not deem it necessary to propose any further amendments to the thresholds set to assess the liquidity of the instrument.

3.1.3.2.4 Certificates

40. For certificates, the current legal framework in CDR 2017/567 provides that the free-float should correspond to the issuance size irrespective of the number of units issued.

41. Similar to the case of depositary receipts and ETFs, the concept used to calculate the "free-float" for certificates is already mirroring the concept of "market capitalisation" for those instruments. Therefore, also in this case, ESMA does not propose any amendments to this definition other than replacing the reference to 'free-float' by 'market capitalisation.

42. Furthermore, ESMA does not deem it necessary to propose any further amendments to the thresholds set to assess the liquidity of the instrument.

3.1.3.2.5 Other similar financial instruments

43. In Chapter I of CDR 2017/567 there is no specific article providing for the parameters to be used for the liquidity assessment of those instruments. Therefore, those instruments are deemed to be illiquid at any point in time of their trading life.

44. In this regard, ESMA proposes to make this explicit and add a dedicated article for those instruments specifying that other similar financial instruments are determined not to have a liquid market over their entire trading life.

Q5: Do you agree with the proposal on the liquidity determination for other similar financial instruments? Please explain.

3.1.3.3 Provision of reference and quantitative data relevant for the liquidity assessment

45. The Annex of CDR 2017/567 provides for reference and quantitative data to be provided for the liquidity assessment. On the basis of the change of MiFID II in relation to the determination of the liquidity of the instrument such table should be modified as provided in red below. Furthermore, field 4 should be complemented to include other equity-like financial instruments.

46. Considering that fields 1 to 4 contain reference data, ESMA will review these fields in view of the feedback received to the ongoing consultation on RTS 23 to ensure full alignment.

Table 2

Details of the data to be provided for the purpose of determining a liquid market for shares, depositary receipts, exchange-traded funds and certificates

#	Field	Details to be reported	Format and standards 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	Trading venue	Segment MIC for the trading venue, where available, otherwise operational MIC.	{MIC}
4	MiFIR identifier	***Identification of equity financial instruments*** **Shares** as referred to in Article 4(1)(44)(a) of Directive 2014/65/EU; **Depositary receipts** as defined in Article 4(1)(45) of Directive 2014/65/EU; **Exchange-traded fund** as defined in Article 4(1)(46) of Directive 2014/65/EU; **Certificates** as defined in Article 2(1)(27) of Regulation (EU) No 600/2014; **Other equity-like financial instruments** as defined in Table 2 of Annex III of Commission Delegated Regulation (EU) 2017/587.	Equity financial instruments: 'SHRS' = shares 'ETFS'= ETFs 'DPRS' = depositary receipts 'CRFT' = certificates 'OTHR' = other equity-like financial instruments
5	Reporting day	***Date for which the data is provided*** Data has to be provided at least for the following dates: - 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). For case 1, estimates are to be provided for the fields 6 to 12 as applicable.	{DATEFORMAT}
6	Number of outstanding instruments	***For shares and depositary receipts*** The total number of outstanding instruments.	{DECIMAL-18/5}

		For ETFs Number of units issued for trading.	
~~7~~	~~Holdings exceeding 5 % of total voting rights~~	~~**For shares only**~~ ~~The total number of shares corresponding to holdings exceeding 5 % of total voting rights of the issuer unless such a holding is held by a collective investment undertaking or a pension fund.~~ ~~This field is to be populated only when actual information is available.~~	~~{DECIMAL-18/5}~~
8	Price of the instrument	**For shares and depositary receipts only** The price of the instrument at the end of the reporting day. The price should be expressed in euros.	{DECIMAL-18//13}
9	Issuance size	**For certificates only** The issuance size of the certificate expressed in euros.	{DECIMAL-18/5}
10	Number of trading days in the period	The total number of trading days for which the data is provided	{DECIMAL-18/5}
11	Total turnover	The total turnover for the period	{DECIMAL-18/5}
12	Total number of transactions	The total number of transactions for the period	{DECIMAL-18/5}

Q6: Do you agree with the proposal to remove the field "holdings exceeding 5% of total voting rights" from the legal text but keeping it in the XML schema of the reporting without being obliged to report such information? Pease explain.

3.1.3.4 Transitional provisions

47. Regarding the application of the amended CDR 2017/567, it must be considered that this being Technical Advice it has to be processed by the EC. Therefore, the EC should ensure

that these provisions enter into force at the same time as those in RTS 1 to ensure full consistency.

48. Furthermore, ESMA considers that in the interim period whereby the amended Level 1 already applies, the current provisions in the CDR 2017/567 continue to apply in line with Article 54 of MiFIR as communicated on 27 March 2024 .

Table 2 – Summary of all proposals for CDR 2017/567

Topic	Proposal
Common elements of the liquidity assessment for equity and equity-like instruments	
Points in time of the liquidity assessment	No amendments
Point in time when the calculation start applying	Calculations should apply from the earliest date of admission to trading or first traded date by means of the use of field 11 and the new field 6b of RTS 23
Calculation of the average daily turnover (ADT) parameter	The denominator to be used to calculate the ADT should be the number of days on which the instrument was available for trading on the most relevant market in terms of liquidity (MRMTL) as defined in Article 4 of RTS 1, and where such market was open
Calculation of the average daily number of transactions (ADNTE) parameter	as above
Calculation of the daily traded parameter	as above
Possibility to deem up to 5 liquid instruments	No amendments
Distinct elements of the liquidity assessment for equity and equity-like instruments	
Shares	Use the market cap only and no longer use of the free-float. New market cap threshold set to EUR 100,000,000
Depositary receipts	No amendments
ETFs	No amendments
Certificates	No amendments
Other similar financial instruments	Deemed to be illiquid at any point in time of their trading life
Provision of reference and quantitative data relevant for the liquidity assessment	Removal of the field “Holdings exceeding 5 % of total voting rights” to calculate the free-float and addition of the code for other similar financial instruments in the “MiFIR identifier” field.
Transitional provisions	No amendments to the main provisions and what communicated on 27 March in the transitional period

4 Commission Delegated Regulation 2017/587 (RTS 1)

49. The transparency regime for equity and equity-like instruments (shares, depositary receipts, ETFs and certificates) is defined in the following Articles of MiFIR:

- Articles 3 and 4 of MiFIR set out the pre-trade transparency requirements for trading venues and when those requirements can be waived. However, such possibility is capped by Article 5 of MiFIR;
- Articles 6 and 7 of MiFIR set out the post-trade disclosure requirements for trading venues;
- Articles 14 to 17a of MiFIR set out the pre-trade transparency requirements for systematic internalisers;
- Articles 20 and 21a of MiFIR sets out the post-trade disclosure requirements for investment firms, including systematic internalisers and designated public entities (DPE); and
- Article 23 of MiFIR sets out the trading obligation for investment firms with respect to shares.

50. RTS 1 specifies the provisions set out in MiFIR. Due to changes in the MiFIR review, ESMA considers it necessary to adjust some of the provisions in RTS 1. Moreover, the inclusion of new provisions in the RTS under the new mandate in Article 4(6)(a) of MiFIR (to specify the details of pre-trade data) and Article 22b(3)(d) of MiFIR (to specify the input data to the CTP) requires a further specification of the information already in the RTS. The following sections analyse the amendments to the provisions in RTS 1 and the mandates under those articles and provide proposals in this regard.

4.1 Pre-trade transparency for trading venues

Articles 3 to 4 of MiFIR

4.1.1 Mandate

51. The text below provides the ESMA mandates in the area of pre-trade transparency for trading venues highlighting the changes following MiFIR review in light-blue:

Article 4(6) of MiFIR

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

(a) the details of pre-trade data, 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.

4.1.2 Background

52. Article 3 of MiFIR sets out the pre-trade transparency requirements for trading venues and Article 4 of MiFIR provides for the circumstances where those obligations can be waived. The use of certain of those waivers is though limited by a mechanism provided in Article 5 of MiFIR and further analysed in section 6 of this CP.

53. Overall, the pre-trade transparency framework has not substantially changed by the MiFIR review. However, Article 4 of MiFIR now requires ESMA to draft RTS defining the details of pre-trade data to be made public.

54. This mandate is developed also considering the mandate in Article 22b(3)(d) of MiFIR which requires the specification of the input and output data of the pre-trade CTP for shares and ETFs (see section 8.2.2).

4.1.3 Analysis and Proposals

4.1.3.1 Pre-trade transparency obligations – Article 3 of RTS 1

55. The mandate of Article 4(6)(a) of MiFIR was specified via Table 1 of Annex I of RTS 1 which defines the range of bid and offer prices (or market-maker quotes) and the depth of trading interest at those prices to be made public for each class of financial instrument, taking into account the necessary calibration for different types of trading systems.

56. The RTS 1 review delivered to the Commission in March 2022[3] provided for a distinction between hybrid trading systems and other trading systems. Hence, no further amendments are proposed for those trading systems in this review.

57. The change in scope of pre-trade transparency in non-equity instruments lead to a change in the definition of the trading systems. It is considered that such changes do not require further amendments to Table 1 of Annex I of RTS 1. Finally, to ease the analysis of the new additional table on pre-trade transparency, an example providing the expected minimum information to be published is provided per type of trading system. Similar figures are provided in section 8.2.2 in the context of the pre-trade CTP.

Type of trading system	Description of the trading 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.	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

[3] esma70-156-4944_final_report_-_rts_1_review.pdf (europa.eu)

Type of trading system	Description of the trading system	Information to be made public
		five best bid and offer price levels.

FIGURE 1 - INFORMATION TO BE MADE PUBLIC IN CONTINUOUS AUCTION ORDER BOOK TRADING SYSTEMS

ISIN	BID Aggregated num of instruments	BID Aggregated num of orders	BID PX	ASK PX	ASK Aggregated num of orders	ASK Aggregated num of instruments
ABC	50,000	10	10,30	10,20	1	500
ABC	20,000	5	10,50	10,10	3	1,750
ABC	1,000	1	10,55	10,00	3	5,000
ABC	22,000	6	10,60	9,80	1	100
ABC	500	1	11,00	9,30	7	27,750

Type of trading system	Description of the trading system	Information to be made public
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	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

Type of trading system	Description of the trading system	Information to be made public
	commercial size and the risk to which the market maker exposes itself.	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.

FIGURE 2 - INFORMATION TO BE MADE PUBLIC IN QUOTE DRIVEN TRADING SYSTEMS[4]

ISIN		BID Volume	BID PX	ASK PX	ASK Volume	
ABC	Market Maker A	10	10,30	10,20	10	Market Maker A
ABC	Market Maker B	5	10,50	10,10	5	Market Maker B
ABC	Market Maker C	5	10,50	10,10	5	Market Maker C
ABC	Market Maker B	5	10,50	10,00	5	Market Maker B

[4] The row in grey is not disclosed to the market.

Type of trading system	Description of the trading system	Information to be made public
Periodic auction trading system	A system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention.	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.

FIGURE 3 - INFORMATION TO BE MADE PUBLIC IN PERIODIC AUCTION TRADING SYSTEMS[5]

ISIN	BID VOLUME	BID PX	ASK PX	ASK VOLUME
ABC	50,000	10,75	10,75	55,000

Type of trading system	Description of the trading system	Information to be made public
Request for quote trading system	A trading 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 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

[5] In line with the ESMA Opinion on Frequent Batch Auctions

Type of trading system	Description of the trading system	Information to be made public
	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.	response to a request for quote may be published at the same time but not later than when they become executable.

FIGURE 4 - INFORMATION TO BE MADE PUBLIC IN REQUEST FOR QUOTE TRADING SYSTEMS

ISIN	BID Volume	BID PX	ASK PX	ASK Volume
ABC	10,000	10,30	10,20	100
ABC	5,000	10,50	10,10	300
ABC	100	10,55	10,00	3,000
ABC	600	10,60	9,80	100
ABC	100	11,00	9,30	7,000

Type of trading system	Description of the trading system	Information to be made public
Any other trading system	Any other type of trading system, including a hybrid system falling into two or more of the types of trading systems referred to in this table.	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

Type of trading system	Description of the trading system	Information to be made public
		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.

58. Regarding the addition in the mandate in Article 4(6)(a) of MiFIR, which requires the specification of the details of pre-trade data to be disclosed, ESMA proposes a new table 1b that complements Table 1 of Annex I of RTS 1. Such new table is based on Table 3 of Annex I of RTS 1 which provides for the details of the post-trade reports and has been adjusted to cater for the specificities of pre-trade transparency information. Therefore, certain fields have been added to reflect the specific needs of pre-trade information (e.g. “side”, “number of orders”).

59. Such table was developed on the basis of the table included in the CP of the RTS 1 and 2 review and considering the feedback received. Furthermore, the needs of the pre-trade CTP arising under the mandate under Article 22b(3)(d) of MiFIR analysed in Section 8, were also considered.

60. ESMA intentionally presents a comprehensive list of fields in the new table to solicit feedback on a large set of information. Additionally, ESMA acknowledges the potential need for further refinement to ensure that this list effectively provides meaningful pre-trade transparency information to the market without creating unnecessary technical challenges and costs for reporting entities. Furthermore, the field “Price” allows for the reporting of this information according to different price notations in line with the post-trade transparency information. In this context, ESMA welcomes feedback on the need to cater for all those possibilities in the equity space.

61. Regarding orders and quotes, it is expected that the trading systems provide different orders and quotes from the same market participant separately and not aggregated unless specified otherwise.

Table 1b

List of details for the purpose of pre-trade transparency

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
1	Submission date and time	For trading systems, 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 submitted for execution into the trading system. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574. For trading venues operating an auction trading system the date and time at which the price would best satisfy the trading algorithm or the indication of date and time of the prices or volumes when the trading system is pending the identification of two matching orders satisfying the trading algorithm. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	{DATE_TIME_FORMAT}
2	Instrument identification code	Code used to identify the financial instrument.	{ISIN}
3	Side	For all trading systems, excluding auction trading systems, the side of the order or quote. For auction trading system, each side related to the aggregated quantity that would potentially be matched or not.	'BUYI' or 'SELL'

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
4	Price	The price of orders and quotes as required under Table 1 and excluding, where applicable, commission and accrued interest. Where price is reported in monetary terms, it shall be provided in the major currency unit. Where price is currently not available but pending ("PNDG") or not applicable ("NOAP"), this field shall not be populated. For auction trading system, the price at which the auction trading system would best satisfy its trading algorithm or the best bid and ask prices when the trading algorithm pending the identification of two matching orders satisfying the trading algorithm.	{DECIMAL-18/13} when the price is expressed as monetary value in the case of equity and equity-like financial instruments {DECIMAL-11/10} when the price is expressed as percentage or yield in the case of certificates and other equity-like financial instruments {DECIMAL-18/17} when the price is expressed as percentage, yield or basis points in the case of certificates and other equity-like financial instruments
5	Price currency	Major currency unit in which the price is expressed (applicable if the price is expressed as monetary value).	{CURRENCYCODE_3}
6	Price notation	Indication as to whether the price is expressed in monetary value, in percentage or in yield.	MONE' — Monetary value in the case of equity and equity-like financial instruments "PERC" — Percentage in n 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

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
7	Quantity	Number of units of the financial instruments attached to the quotes or orders as required under Table 1. The nominal or monetary value of the financial instrument when it is not traded in units. For auction trading system the aggregated quantity for each side attached to the price that would best satisfying the trading algorithm. When the system is pending the identification of two matching orders satisfying the trading algorithm, the aggregated quantity the respective side at the best price of each side.	{DECIMAL-18/17} in case the quantity is expressed as number of units in the case of equity and equity-like financial instruments {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value in the case of certificates and other equity-like financial instruments.
8	Quantity currency	Currency in which the quantity is expressed. This field shall be populated where the quantity is expressed as a nominal or monetary value when it is not traded in units. Otherwise, this field shall be left blank.	{CURRENCYCODE_3}
9	Aggregated number of orders and quotes	The number of aggregated orders or quotes from members or participants where aggregated information is required under Table 1.	{DECIMAL-18/0}
10	Venue	Identification of the trading venue through the system of which orders and quotes are advertised. Use the ISO 10383 segment MIC for or, where the segment MIC does not exist, use the operating MIC.	{MIC}
11	Trading system	Type of trading system where the order or quote is advertised	"CLOB' -- central limit order book trading systems. A continuous auction order book trading system as defined in Table 1 of Annex I and a trading system combining elements of a continuous

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
			auction order book trading defined in Table 1 of Annex I and of periodic auction trading system defined in Table 1 of Annex I. 'QDTS' -- quote driven trading systems. As defined in Table 1 of Annex I. 'PATS' -- periodic auction trading systems. As defined in Table 1 of Annex I. 'RFQT' -- request for quote trading systems. As defined in Table 1 of Annex I. ‘HYBR’ -- hybrid trading systems. As defined in Table 1 of Annex I. A trading system combining elements of a continuous auction order book trading defined in Table 1 of Annex I and of periodic auction trading system defined in Table 1 of Annex shall not be considered a hybrid system but a CLOB. ’OTHR’ -- for any other trading system. As defined in Table 1 of Annex I.
12	Publication date and time	Date and time when the information was published. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	{DATE_TIME_FORMAT}

Q7: Do you in general agree with the content of the proposed Tables 1a and 1b? Please specify (i) which fields you consider as not necessary (ii) any amendments that you consider necessary to the columns "Description and details to be published", "Type of execution or publication venue", "Type of trading system" to ensure that the information to be provided is clear and unambiguous (iii) the instruments and the circumstances when it is necessary to report the field price with a price notation different from "MONE" – Monetary value.

4.1.3.2 The most relevant market in terms of liquidity – Article 4 of RTS 1

62. The most relevant market in terms of liquidity (MRMTL) is determined to be the trading venue where the financial instrument is first admitted to trading or first traded until it can be defined based on the trading activity executed for the instrument. In the latter case, the MRMTL is the trading venue with the highest turnover executed for the instruments over one calendar year and, calculated excluding transactions executed under the reference price (RP) waiver, the negotiated trades (NT) waivers and the large in scale (LIS) waiver.

63. The initial determination of the MRMTL based on where the instrument was first admitted to trading or first traded presented several issues due to how the information on this date is provided by trading venues to the ESMA IT system FIRDS (Financial Instruments Reference Data System). Indeed, in many instances the information reported was not correct or not truly reflecting the concept on an instrument being available for trading thus resulting in the wrong determination of the MRMTL.

64. The concept of the MRMTL is used in different contexts, among others:

   - to determine the venue from which the reference price of an instrument can be taken to make use of the RP waiver;
   - to determine the tick-size applicable to a share or depositary receipt;
   - for the calculation of the ADT to determine the large in scale (LIS) threshold; and
   - for the calculation of the ADT and of the ADNTE used to perform the liquidity assessment as presented in section 3.

65. As a result, a correct and prompt determination of the MRMTL is crucial. Consequently, ESMA proposes to further refine the methodology to determine such parameter when trading data is not yet available for the instrument.

66. Firstly, it is proposed that, until the MRMTL for a specific financial instrument is determined in accordance with the turnover, the venue where the instrument is first admitted to trading or first traded should be selected among regulated markets. Only if the instrument is not admitted to trading or traded on a regulated market, the MRMTL shall be determined among the MTFs on which it is made available for trading as per data provided to FIRDS.

67. Secondly, as presented in section 3, it is proposed to add one field in the reporting of reference data to FIRDS declaring that the trading is the one where the IPO occurred. This should ensure better data quality and more certainty on the correctness of this field which could be compared to the current field 11 of the venue. This field is not only relevant for the determination of the MRMTL but will also be necessary by the CTP in the context of the revenue redistribution scheme.

68. Furthermore, in line with the proposal for the liquidity parameter, a paragraph clarifying the start day of the application of the determination of the MRMTL is introduced. As presented in section 3.1.3.1.2.1.2, this question was addressed in the Manual of post-trade transparency (Table 86, page 251) where it was clarified that the earliest date of admission to trading or first traded date (Field 11 of table 3 of the Annex of RTS 23, Date and time of admission to trading or date of first trade) had to be considered for which it is proposed a new field to ensure a correct determination of the venue and the IPO date.

69. Finally, it is proposed to simplify the case of newly instruments for which there is no sufficient trading activity to perform the determination of the most relevant market in terms of liquidity. It is suggested not to perform the assessment based on the turnover for instruments admitted to trading or first traded over the course of December in line with the approach followed for the determination of the liquid market as described in section 3.

70. The proposals presented in the precedent paragraphs are provided as amendments to the relevant Article 4 of RTS 1 in red below.

Article 4

Most relevant market in terms of liquidity

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

1. For the purposes of Article 4(1)(a) of Regulation (EU) No 600/2014, the most relevant market in terms of liquidity for a share, depositary receipt, ETF, certificate or other similar

financial instrument shall be considered to be the trading venue with the highest turnover within the Union for that financial instrument.

2. For the purpose of determining the most relevant markets in terms of liquidity in accordance with paragraph 1, competent authorities shall calculate the turnover in accordance with the methodology set out in Article 17(4) in respect of each financial instrument for which they are the competent authority and for each trading venue where that financial instrument is traded.

3. The calculation referred to in paragraph 2 shall have the following characteristics:

(a) it shall include, for each trading venue, transactions executed under the rules of that trading venue excluding reference price and negotiated transactions flagged as set out in Table 4 of Annex I and transactions executed on the basis of at least one order that has benefitted from a large-in-scale waiver and where the transaction size is above the applicable large-in-scale threshold as determined in accordance with Article 7;

(b) it shall cover either the preceding calendar year or, where applicable, the period of the preceding calendar year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

4. Until the most relevant market in terms of liquidity for a specific financial instrument is determined in accordance with the procedure specified in paragraphs 1 to 3, the most relevant market in terms of liquidity shall be ~~the trading venue where that financial instrument is first admitted to trading or first traded.~~ the regulated market where that financial instrument is first admitted to trading or first traded, or in cases where the financial instrument is not made available for trading on a regulated market, the multilateral trading facility where that financial instrument is first admitted to trading or first traded, based on fields 11 (Date and time of admission to trading or date of first trade) and 6b (Venue of admission to trading) in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585.

5. Paragraphs 2 and 3 shall not apply to shares, depositary receipts, ETFs, certificates and other similar financial instruments which were first admitted to trading or first traded on a trading venue from 1st to 31st December ~~four weeks or less before the end~~ of the preceding calendar year.

6. The determination of the most relevant market in terms of liquidity determined in paragraph 4 shall apply on the day on which the instrument was first admitted to trading or first traded of the trading venue being the one of field 11 (Date and time of admission to trading or date of

first trade) of reporting “Y” in field 6b (Venue of admission to trading) in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585).

Q8: Do you agree with the proposed amendments to Article 4? Please explain.

4.1.3.3 Negotiated transactions – Articles 5 and 6 of RTS 1

71. Regarding the specific characteristics of negotiated transactions set out in Article 5 of RTS 1, ESMA does not deem it necessary to introduce any amendments.

72. However, in relation to the list of transactions subject to conditions other than the current market price set out in Articles 5 and 6 of RTS 1, ESMA proposes to change the reference in Article 6(j) to limit the possibility to use such Article for transactions equivalent to those in points (a) to (c) of the same Article.

73. Such amendment would no longer allow the possibility to use Article 6(j) for transactions equivalent to those in the former points (d) to (i), which are now covered in the references to Article 2(5) of RTS 22 in new point (k). ESMA considers such amendment appropriate, in light of:

    - the fact that the new point (k) extends the scope of the possible transactions under such waiver compared to the former points (d) to (i);

    - the limited number of waivers received for systems that formalise negotiated transactions which are subject to conditions other than the current market price of that financial instrument under Article 4(10)(b)(iii) of MiFIR overall (65 since the application of MiFID II/ MiFIR); and

    - the even more limited number of waivers requested under Article 6(j) for transactions equivalent to those in points (d) to (i) of the same Article (3 since the application of MiFID II/ MiFIR).

74. The proposed amendments to Article 6 of RTS 1 are presented in red below.

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;

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

(k) the transaction does not constitute a transaction for the purposes of Article 26 of Regulation (EU) No 600/2014 in accordance with Article 2(5) of Delegated Regulation (EU) 2017/590.

Q9: Do you agree with the proposed amendment to Article 6 of RTS 1? Please explain.

4.1.3.4 LIS – Article 7 of RTS 1

75. Likewise, ESMA does not deem it necessary to amend the specific characteristics of the LIS waiver set out in Article 7 of RTS 1, except for the simplification of the calculation of the average daily turnover.

76. As for the determination of the liquid market described in section 3 and the determination of the most relevant market in terms of liquidity analysed in section 40, it is proposed to simplify the case of newly instruments for which there is no sufficient trading activity to perform the calculation of the average daily turnover to determine the applicable LIS threshold. More specifically, it is suggested not to perform the assessment for instruments

admitted to trading or first traded over the course of the month of December of the observation period.

77. Furthermore, in line with the proposal for the liquidity parameter, paragraph 7 is modified to define the start of the application of the determination of the LIS threshold as the date on which the IPO occurred (see section 3.1.3.1.2).

78. Finally, in paragraph 6 wording is added to consider “other previous or similar financial instrument of the same issuer” when providing the estimates for new instruments. This new wording should cater the case of corporate actions and require considering the history of the instrument(s) before such corporate event.

79. The proposal is presented in the relevant Article 7 of RTS 1 in red below.

Article 7

Orders that are large in scale

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

1. An order in respect of a share, depositary receipt, certificate or other similar financial instrument shall be considered to be large in scale where the order is equal to or larger than the minimum size of orders set out in Tables 1 and 2 of Annex II.

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 3 000 000.

3. For the purpose of determining orders that are large in scale, competent authorities shall calculate, in accordance with paragraph 4, the average daily turnover in respect of shares, depositary receipts, certificates and other similar financial instruments traded on a trading venue.

4. The calculation referred to in paragraph 3 shall have the following characteristics:

(a) it shall include transactions executed in the Union in respect of the financial instrument, whether traded on or outside a trading venue;

(b) it shall cover the period beginning on 1 January of the preceding calendar year and ending on 31 December of the preceding calendar year or, where applicable, that part of the calendar year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

Paragraphs 3 and 4 shall not apply to shares, depositary receipts, certificates and other similar financial instruments first admitted to trading or first traded on a trading venue from 1st to 31st December ~~four weeks or less before the end~~ of the preceding calendar year.

5. Unless the price or other relevant conditions for the execution of an order are amended, the waiver referred to in Article 4(1) of Regulation (EU) No 600/2014 shall continue to apply in respect of an order that is large in scale when entered into an order book but that, following partial execution, falls below the threshold applicable for that financial instrument as determined in accordance with paragraphs 1 and 2.

6. Before a share, depositary receipt, certificate or other similar financial instrument is traded for the first time on a trading venue in the Union, the competent authority shall estimate the average daily turnover for that financial instrument taking into account any previous trading history of that financial instrument, other previous or similar financial instrument of the same issuer, and of other financial instruments that are considered to have similar characteristics, and ensure publication of that estimate.

7. The estimated average daily turnover referred to in paragraph 6 shall be used for the calculation of orders that are large in scale during a six-week period following the date that the share, depositary receipt, certificate or other similar financial instrument was admitted to trading or first traded on a trading venue~~.~~ being the one reporting “Y” to field “Venue of admission to trading“ (field 6b in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585).

8. The competent authority shall calculate and ensure publication of the average daily turnover based on the first four weeks of trading before the end of the six-week period referred to in paragraph 7.

9. The average daily turnover referred to in paragraph 8 shall be used for the calculation of orders that are large in scale and until an average daily turnover calculated in accordance with paragraph 3 applies.

10. For the purposes of this Article, the average daily turnover shall be calculated by dividing the total turnover for a particular financial instrument as specified in Article 17(4) by the number

of trading days in the period considered. The number of trading days in the period considered is the number of trading days on the most relevant market in terms of liquidity for that financial instrument as determined in accordance with Article 4.

Q10: Do you agree with the proposed amendments to Article 7 of RTS 1? Please explain.

4.1.3.5 OMF – Article 8 of RTS 1

80. As the MiFIR review did not introduce substantial amendments to the provisions of the Order Management Facility (OMF) waiver in Article 4(1)(d) of MiFIR, ESMA does not deem it necessary to introduce amendments to Article 8 of RTS 1 with the exception of a change in the last paragraph of the Article to cater for the possibility of execution of the hidden part of iceberg orders in line with the guidance in the Opinion on the assessment of pre-trade transparency waivers for equity and non-equity instruments (Section 3.2.2.1, p. 9).

Article 8

Type and minimum size of orders held in an order management facility

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

1. The type of order held in an order management facility of a trading venue pending disclosure for which pre-trade transparency obligations may be waived is an order which:

(a) is intended to be disclosed to the order book operated by the trading venue and is contingent on objective conditions that are pre-defined by the system's protocol;

(b) for orders other than reserve orders, cannot interact with other trading interests prior to disclosure to the order book operated by the trading venue;

(c) once disclosed to the order book, interacts with other orders in accordance with the rules applicable to orders of that kind at the time of disclosure.

2. Orders held in an order management facility of a trading venue pending disclosure for which pre-trade transparency obligations may be waived shall, at the point of entry and following any amendment, have one of the following sizes:

(a) in the case of a reserve order, a size that is greater than or equal to EUR 10 000;

(b) for all other orders, a size that is greater than or equal to the minimum tradable quantity set in advance by the system operator under its rules and protocols.

3. A reserve order as referred to in paragraph 2(a) shall be considered a limit order consisting of a disclosed order relating to a portion of a quantity and a non-disclosed order relating to the remainder of the quantity where the non-disclosed quantity is capable of execution only after ~~its release to the order book as a new~~ the execution of the disclosed order.

Q11: Do you agree with the proposed amendments to Article 8 of RTS 1? Please explain.

4.2 Pre-trade transparency for systematic internalisers

Articles 14 to 17a of MiFIR

4.2.1 Mandate

81. The text below provides the amended text of the ESMA mandates in the area of pre-trade transparency for systematic internalisers (SIs) highlighting the changes in light-blue:

Obligation for systematic internalisers to make public firm quotes – Article 14

Recital (13)

In order to reinforce the price formation process and to maintain a level playing field between trading venues and systematic internalisers, Article 14 of Regulation (EU) No 600/2014 requires systematic internalisers to make public all quotes in equity instruments where those systematic internalisers deal in sizes of up to the standard market size. Systematic internalisers are free to decide at which sizes they quote, provided that they quote at a minimum size of 10 % of the standard market size. That possibility, however, has led to very low levels of pre-trade transparency provided by systematic internalisers in equity instruments, and has hampered the achievement of a level playing field. It is therefore necessary to require systematic internalisers to make public firm quotes on the basis of a minimum quote size to be determined by means of regulatory technical standards. When developing those regulatory technical standards, it is appropriate for ESMA to consider the following objectives: increasing the pre-trade transparency of equity instruments for the benefit of end-investors; maintaining *a level playing field between trading venues and systematic internalisers; providing end investors with an adequate choice of trading options; and ensuring that the trading landscape in the Union remains attractive and competitive both domestically and internationally. In order to increase the competitiveness of systematic internalisers, they should be allowed to match orders of any size at midpoint.*

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

a) ~~further~~ the arrangements for the publication of a firm quote as referred to in paragraph 1;

(b) the determination of the threshold referred to in paragraph 2, which shall take into account the international best practices, the competitiveness of Union firms, the significance of the market impact and the efficiency of the price formation and which shall not be below twice the standard market size;

(c) the determination of the minimum quote size as referred to in paragraph 3, which shall not exceed 90 % of the threshold referred to in paragraph 2and which shall not be below the standard market size;

(d) the determination of whether prices reflect prevailing market conditions as referred to in paragraph 3, and

(e) the standard market size as referred to in paragraph ~~paragraphs 2 and~~ 4.'

ESMA shall submit those draft regulatory technical standards to the Commission by 29 March 2025.

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.

<u>Execution of client orders – Article 15</u>

82. The new mandate under Article 15(5) of MiFIR is analysed in Section 5.

4.2.2 Background

Obligation for systematic internalisers to make public firm quotes – Article 14

83. Article 14 of MiFIR sets out the pre-trade transparency requirements for SIs. The framework prior to the MiFIR review, and still in place until the application of the new/amended L2 acts, requires investment firms to make public firm quotes up to a certain size (the requirement in the text prior to the MiFIR review, was that sizes up to the standard market size (SMS) are subject to the pre-trade transparency obligations) in respect of those shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue for which they are SIs and for which there is a liquid market.

84. Furthermore, SIs also have certain quoting obligations: a minimum quoting size (equivalent to 10% of the SMS prior to the MiFIR review), quotes have to include a firm bid and offer price for a size up to the SMS, and the price should reflect the prevailing market conditions for that share, depositary receipt, ETF, certificate or other similar financial instrument.

85. In this regard, the amended text of MiFIR mandates ESMA to (re)define two thresholds: 1) determining the quoting size up to which SIs are subject to the pre-trade transparency obligations in Articles 14 to 17 of MiFIR, and 2) determining the minimum quoting size that SIs have to comply with.

86. To recall, pending the application of the RTS specifying these two thresholds, the approach as specified in Article 14 of MiFIR prior to the MiFIR review and as further specified in current RTS 1 applies.

Execution of client orders – Article 15 and Access to quotes – Article 17

87. Articles 15 and 17 of MiFIR set out rights and obligation of SIs in relation to the provision of their quotes in the market and to the access to their quotes, respectively.

88. In this context, Article 17 of MiFIR empowers the EC to adopt delegated acts specifying several criteria while Article 15 of MiFIR requires ESMA to establish a list of all SIs in the Union on the basis of the notifications received from the NCAs. The amended text of MiFIR mandates ESMA to develop draft implementing technical standards (ITS) to determine the content and format of the notification received from the NCAs. This mandate is analysed in section 5.

Obligations of competent authorities – Article 16

89. Article 16 of MiFIR sets out the duty of NCAs to check the compliance of SIs with respect to the obligations in Articles 14 and 15(2) of MiFIR. The amended MiFIR now requests the monitoring of the compliance with Article 15(1) and (2) of MiFIR.

90. There is no mandate in this respect for ESMA.

Tick sizes – Article 17a

91. Article 17a of MiFIR requires Sis to comply with the tick size regime in relation to quotes, price improvements on those quotes and execution prices.

92. The revised MiFIR extends the possibility for SIs of matching orders at midpoint within the current bid and offer prices to any type of order, while until now RTS 1 limited such execution at midpoint to orders above the LIS threshold. To recall, this amendment to MiFIR applies since 28 March 2024.

4.2.3 Analysis and Proposals

4.2.3.1 Obligation for systematic internalisers to make public firm quotes – Article 14

93. Article 9 of RTS 1 further specifies the arrangements for the publication of a firm quote as referred to in paragraph 1 of Article 14 of MiFIR. In this regard, ESMA does not propose amendments apart from necessary updates of the cross-references in points (b) and (d) referring to RTS 13 and RTS 25, i.e. the RTS on organisational requirements for data reporting services provider (DRSP, RTS 13) and the RTS on the level of accuracy of business clocks respectively (RTS 25).

94. Article 10 of RTS 1 further specifies whether prices of the quotes of SIs reflect the prevailing market conditions. Since no changes were made to relevant related provisions ESMA does not consider it necessary to amend Article 10 of RTS 1.

95. Article 11 of RTS 1 defines, as mandated in Article 14(7)(e) of MiFIR, the methodology to define the SMS which was the parameter used by SIs to determine up to which size pre-trade transparency applied for liquid instruments and their minimum quoting size.

96. Article 14(7)(b) and (c) of MiFIR requires ESMA to re-determine these thresholds and sets out some minimum expectations to be met. More specifically:

- the quote size of SI (new threshold #1) below which pre-trade transparency requirements under Articles 14, 15, 16 and 17 of MiFIR apply, shall:

  - take into account the international best practices, the competitiveness of Union firms, the significance of the market impact and the efficiency of the price formation; and

  - not be below twice the SMS.

- the minimum quote sizes of SIs (new threshold #2) shall:

  - not exceed 90 % of the threshold determined under point (b); and

  - not be below the SMS.

97. For the determination of those thresholds ESMA has performed a data analysis using FITRS data. The outcome is presented in the following.

4.2.3.2 Quote size of SIs below which pre-trade transparency requirements under Articles 14, 15, 16 and 17 of MiFIR apply

98. To set the thresholds, ESMA has analysed the evolution of the AVT over the past three years in order to identify any major changes and trends that should be considered for the related SMS and the quoting and transparency obligations for SIs.

99. Such analysis allows to take into account the significance of market impact and the efficiency of price formation as required by Level 1 to set the new threshold. ESMA has also analysed the approach taken by the UK on those thresholds. Concerning the first threshold, no changes are proposed compared to the previous requirements. Concerning the minimum quoting size, the UK has proposed to increase it from 10% to 100% of the SMS (threshold #2). Therefore, ESMA seeks views from stakeholders on how to better consider international best practices and competitiveness for the determination of the new parameter.

Q12: How could ESMA take into account international best practices and competitiveness for the determination of the threshold up to which SIs have to be pre-trade transparent? Please explain.

4.2.3.2.1 Shares

100. In figure 5, the AVT for liquid shares is analysed across the different execution venues (regulated markets, MTFs, SIs and OTC). The AVT is calculated as the volume (excluding post-trade LIS transactions) executed on a specific execution venue across all liquid shares over each month of the years 2021, 2022 and 2023 divided by the corresponding number of trades. Figure 6 replicates figure 5 for illiquid shares.

101. From the analysis of the data, it is inferred that the AVT for transactions executed off-venue is much larger than that executed on-venue (4.82x and 5.24x times higher for liquid and illiquid shares respectively) due to the much higher number of transactions on venue which lowers the total AVT to a value closer to that on-venue across years. Lastly, it can be inferred that SIs execute a larger (8x) volume (excluding post-trade LIS transactions) in liquid shares than illiquid shares.

102. Finally, from figure 7 it is evident that the total AVT (i.e. not split by execution venue and calculated across ISINs) for both liquid and illiquid shares was slightly increasing over time. However, the AVT calculated on a per ISIN basis results to be stable over time.

FIGURE 5 – AVT FOR LIQUID SHARES IN 2021, 2022 AND 2023, PER TYPE OF EXECUTION VENUE

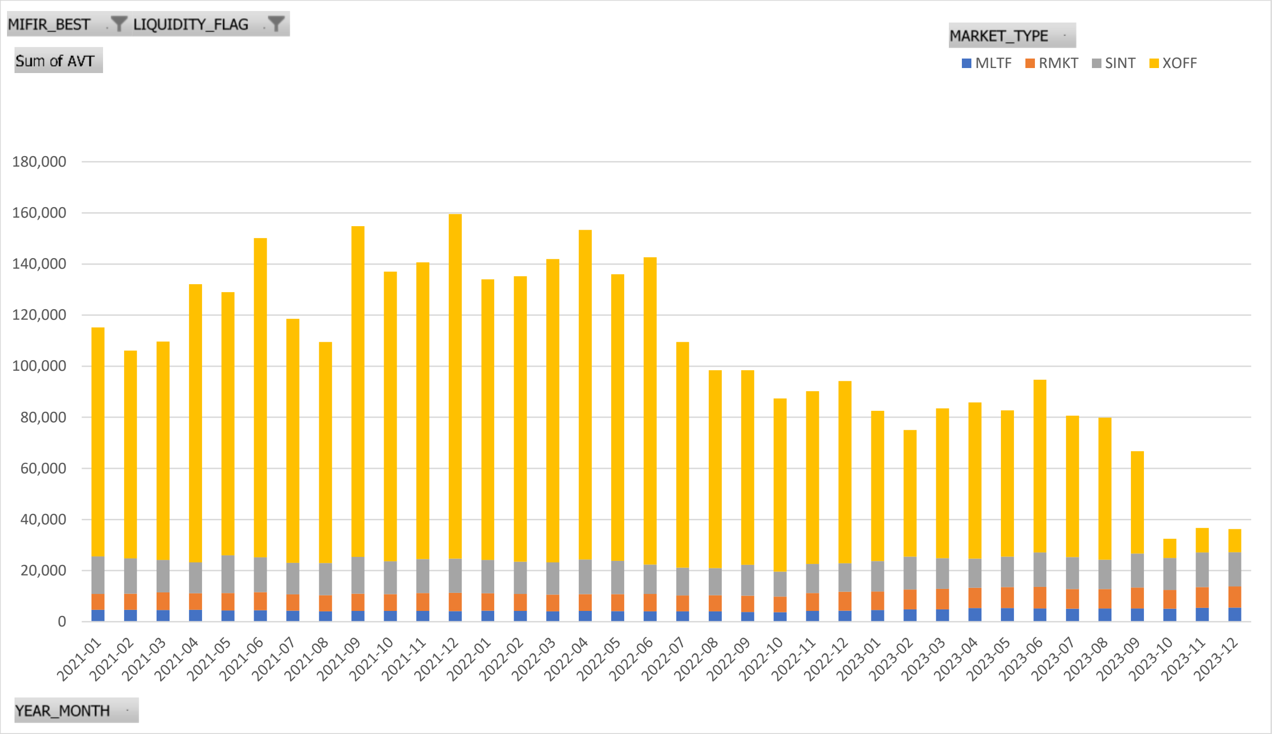

Figure 6 – AVT for illiquid shares in 2021, 2022 and 2023, per type of execution venue

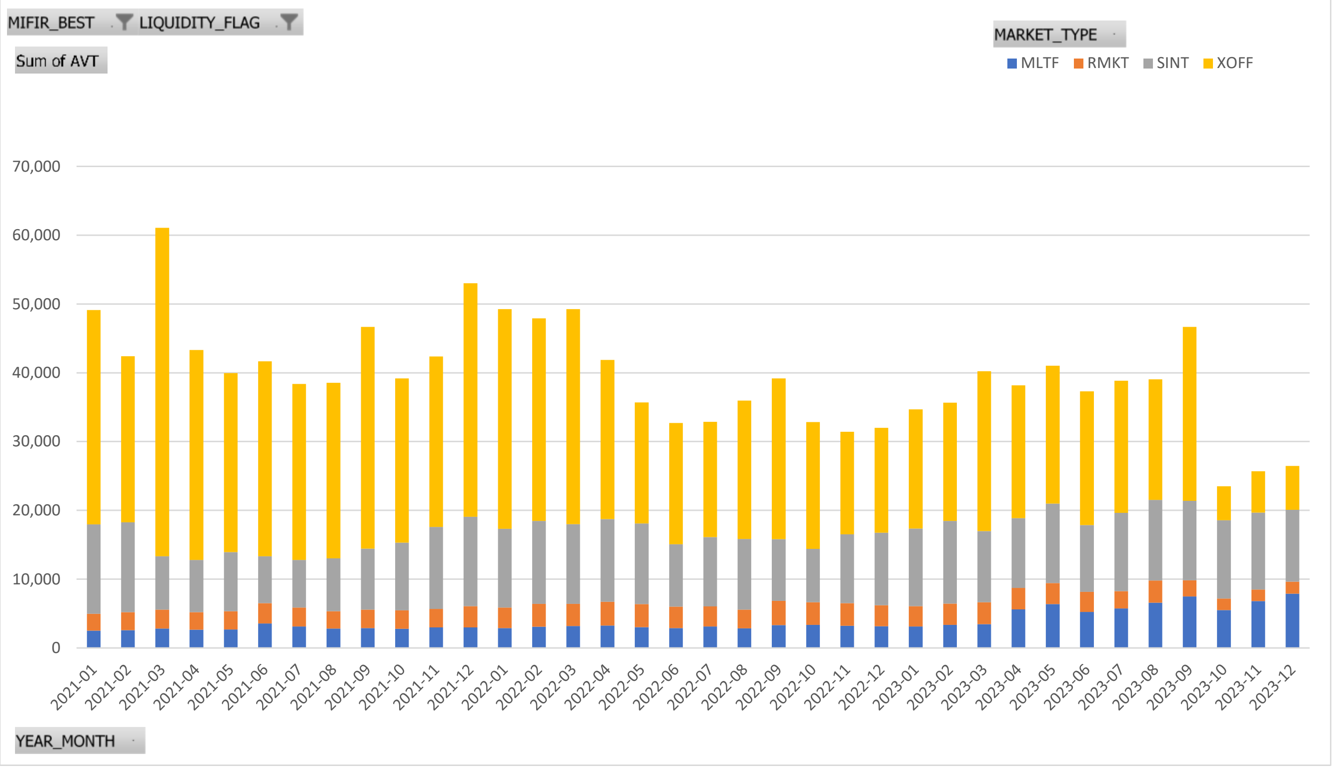

FIGURE 7 – AVT FOR LIQUID AND ILLIQUID SHARES IN 2021, 2022 AND 2023

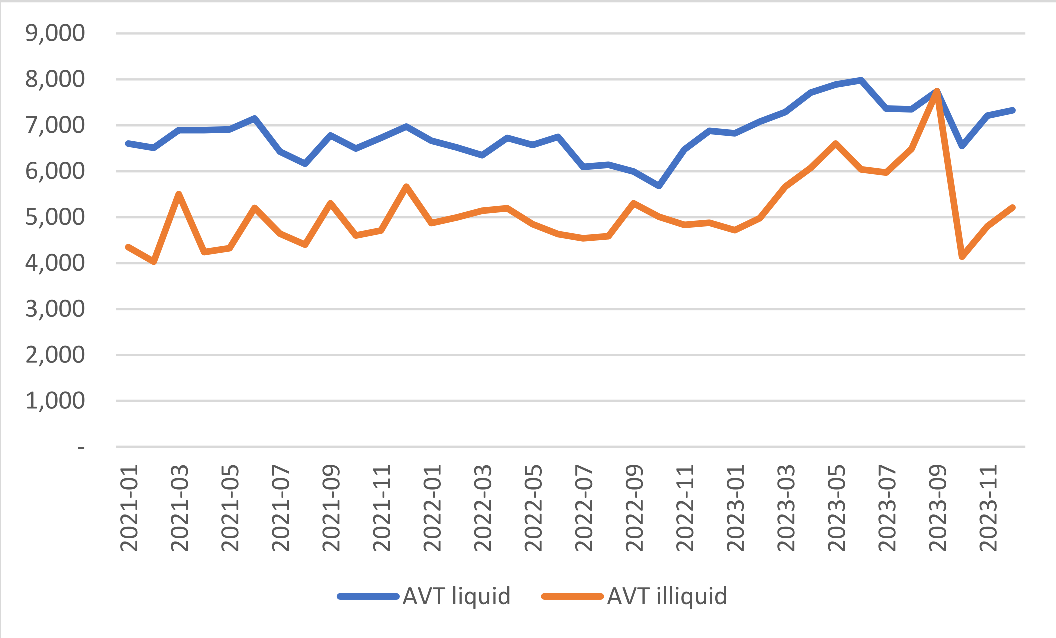

TABLE 3 - AVT FOR LIQUID AND ILLIQUID SHARES CALCULATED ON A PER ISIN BASIS, YEAR 2021, 2022 AND 2023

	2023	2022	2021
Average AVT of liquid shares (calculated on a per ISIN basis)	5,405.83	5,406.80	5,907.82
Average AVT of illiquid shares (calculated on a per ISIN basis)	6,294.22	6,923.34	7,433.59

103. The following table presents the percentage of annual turnover and transactions (not excluding the post-trade LIS threshold) executed by SIs in liquid shares for each AVT bucket covering the years 2021-23. From this table, it is evident that 100% of the trading is in the smallest AVT bucket ([0-20000)).

TABLE 4 - SIS, TURNOVER AND NUM OF TRANSACTIONS IN EACH AVT BUCKET – LIQUID SHARES, YEAR 2021, 2022 AND 2023

Instrument	SHRS				
Liquidity	T				
% of turnover	AVT bucket [0-20000)		AVT bucket [0-20000)		AVT bucket [0-20000)
2021-01	6.79%	2022-01	9.90%	2023-01	8.10%
2021-02	7.37%	2022-02	9.37%	2023-02	8.92%
2021-03	9.54%	2022-03	11.09%	2023-03	9.63%
2021-04	7.75%	2022-04	8.90%	2023-04	6.32%
2021-05	11.14%	2022-05	10.29%	2023-05	7.82%
2021-06	8.91%	2022-06	7.36%	2023-06	8.58%
2021-07	7.07%	2022-07	6.50%	2023-07	7.63%
2021-08	7.11%	2022-08	6.97%	2023-08	7.85%
2021-09	8.89%	2022-09	8.54%	2023-09	8.86%
2021-10	7.91%	2022-10	6.46%	2023-10	8.26%
2021-11	9.45%	2022-11	8.07%	2023-11	9.60%
2021-12	8.06%	2022-12	6.55%	2023-12	8.43%
TOTAL	**100.00%**	**TOTAL**	**100.00%**	**TOTAL**	**100.00%**

Instrument	SHRS				
Liquidity	T				
% of transactions	AVT bucket [0-20000)		AVT bucket [0-20000)		AVT bucket [0-20000)
2021-01	6.33%	2022-01	9.21%	2023-01	9.28%
2021-02	7.21%	2022-02	9.13%	2023-02	9.33%
2021-03	9.98%	2022-03	10.81%	2023-03	10.88%
2021-04	8.14%	2022-04	7.59%	2023-04	7.41%
2021-05	8.30%	2022-05	8.66%	2023-05	8.77%
2021-06	8.55%	2022-06	7.88%	2023-06	8.35%
2021-07	8.32%	2022-07	7.30%	2023-07	7.58%
2021-08	7.79%	2022-08	7.65%	2023-08	7.73%
2021-09	8.59%	2022-09	8.13%	2023-09	7.73%
2021-10	8.44%	2022-10	8.10%	2023-10	8.01%
2021-11	10.07%	2022-11	8.37%	2023-11	7.87%
2021-12	8.29%	2022-12	7.15%	2023-12	7.05%
TOTAL	**100.00%**	**0**	**100.00%**	**TOTAL**	**100.00%**

104. Similar results are found when the AVT is computed on a per ISIN basis instead of across liquid shares. See table XX below.

TABLE 5 - SIs, TURNOVER AND NUM OF TRANSACTIONS IN EACH AVT BUCKET – LIQUID SHARES, YEAR 2021, 2022 AND 2023

Instrument	SHRS				
Liquidity	T				
	AVT bucket [0-20000)	**AVT bucket [20000-40000)**	**AVT bucket [40000-60000)**	**AVT bucket [60000-80000)**	**AVT bucket [80000-100000)**
% of Turnover					
2021	96.53%	2.21%	0.84%	0.00%	0.24%
2022	96.44%	2.47%	0.48%	0.18%	0.00%
2023	97.24%	2.28%	0.13%	0.34%	0.00%
% of Transactions					
2021	90.04%	0.25%	0.06%	0.00%	0.01%
2022	91.76%	0.35%	0.03%	0.01%	0.00%
2023	89.95%	0.50%	0.01%	0.02%	0.00%
% of ISINs					
2021	97.18%	1.76%	0.70%	0.00%	0.18%
2022	97.63%	1.52%	0.57%	0.09%	0.00%
2023	98.38%	1.14%	0.19%	0.19%	0.00%

Instrument	SHRS				
Liquidity	T				
	AVT bucket [100000-120000)	AVT bucket [120000-140000)	AVT bucket [140000-160000)	AVT bucket [160000-180000)	AVT bucket [220000-240000)
% of Turnover					
2021	0.00%	0.00%	0.17%	0.00%	0.00%
2022	0.00%	0.43%	0.00%	0.00%	0.00%
2023	0.0030%	0.00%	0.00%	0.00%	0.00%
% of Transactions					
2021	0.00%	0.00%	0.01%	0.00%	0.00%
2022	0.00%	0.02%	0.00%	0.00%	0.00%
2023	0.0002%	0.00%	0.00%	0.00%	0.00%
% of ISINs					
2021	0.00%	0.00%	0.09%	0.00%	0.00%
2022	0.00%	0.19%	0.00%	0.00%	0.00%
2023	0.10%	0.00%	0.00%	0.00%	0.00%

105. Therefore, it seems appropriate to divide the smallest bucket into six new buckets to properly calibrate the thresholds.

106. The percentage of turnover and transactions (not excluding the post-trade LIS threshold) executed by SIs in liquid shares in the proposed new AVT buckets is presented in Table 6 below.

Table 6 – SIs, turnover, num of transactions and num of ISINs in each new AVT[6] bucket – Liquid shares, year 2021, 2022 and 2023[7]

	AVT bucket [0-10000)	AVT bucket [10000-12000)	AVT bucket [12000-14000)	AVT bucket [14000-16000)	AVT bucket [16000-18000)
% of Turnover					
2021	70.20%	13.02%	8.18%	3.43%	1.13%
2022	74.33%	11.93%	5.63%	3.65%	0.50%
2023	59.52%	21.22%	10.72%	4.68%	0.83%
% of Transactions					
2021	85.71%	8.08%	4.16%	1.36%	0.22%
2022	88.26%	6.97%	2.73%	1.45%	0.08%
2023	77.58%	13.56%	5.70%	2.20%	0.33%
% of ISINs					
2021	90.31%	2.91%	1.76%	1.23%	0.62%
2022	90.06%	2.94%	2.37%	1.04%	0.66%
2023	89.90%	4.38%	2.29%	1.14%	0.48%

	AVT bucket [18000-20000)	AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)	AVT bucket [80000-100000)
% of Turnover					
2021	0.58%	2.21%	0.84%	0.00%	0.24%
2022	0.41%	2.47%	0.48%	0.18%	0.00%
2023	0.28%	2.28%	0.13%	0.34%	0.00%
% of Transactions					
2021	0.10%	0.28%	0.07%	0.00%	0.02%
2022	0.06%	0.38%	0.04%	0.01%	0.00%
2023	0.05%	0.55%	0.02%	0.02%	0.00%
% of ISINs					
2021	0.35%	1.76%	0.70%	0.00%	0.18%
2022	0.57%	1.52%	0.57%	0.09%	0.00%
2023	0.19%	1.14%	0.19%	0.19%	0.00%

[6] The AVT is calculated on a per ISIN basis.
[7] The turnover for other buckets not included in the table is zero.

	110,000	130,000	150,000	170,000
	AVT bucket [100000-120000)	AVT bucket [120000-140000)	AVT bucket [140000-160000)	AVT bucket [160000-180000)
% of Turnover				
2021	0.00%	0.00%	0.17%	0.00%
2022	0.00%	0.43%	0.00%	0.00%
2023	0.00%	0.00%	0.00%	0.00%
% of Transactions				
2021	0.00%	0.00%	0.01%	0.00%
2022	0.00%	0.02%	0.00%	0.00%
2023	0.00%	0.00%	0.00%	0.00%
% of ISINs				
2021	0.00%	0.00%	0.09%	0.00%
2022	0.00%	0.19%	0.00%	0.00%
2023	0.10%	0.00%	0.00%	0.00%

107. After having defined the new AVT buckets the new SMS should be set to determine the new thresholds #1 and 2. It is proposed to set the new SMS to the mid-point of each bound as per the current methodology.

Threshold #1

108. Considering the new SMS values, threshold #1 would appear to be sufficiently high using the lower bound set in Level 1 (2x SMS). Furthermore, considering that no changes are foreseen in other jurisdictions around this parameter, that the AVT buckets have been further split on the lower end, it is considered appropriate to propose to set threshold #1 to 2x SMS.

Threshold #2

109. Similarly for threshold #2 and, considering that also the UK has proposed to increase such parameter to 100% of the current SMS, it seems appropriate to use also here the lower bound set in level 1 and define this threshold to 100% of the SMS.

Current buckets	AVT bucket [0-20000)						AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)	…
New buckets	**AVT bucket [0-10000)**	**AVT bucket [10000-12000)**	**AVT bucket [12000-14000)**	**AVT bucket [14000-16000)**	**AVT bucket [16000-18000)**	**AVT bucket [18000-20000)**	**AVT bucket [20000-40000)**	**AVT bucket [40000-60000)**	**AVT bucket [60000-80000)**	**…**
New SMS	5,000	11,000	13,000	15,000	17,000	19,000	30,000	50,000	70,000	…
Threshold #1 = SMS x 2	10,000	22,000	26,000	30,000	34,000	38,000	60,000	100,000	140,000...	…
Threshold #1 = 100% SMS	5,000	11,000	13,000	15,000	17,000	19,000	30,000	50,000	70,000	…
% of turnover in 2023	59.52%	21.22%	10.72%	4.68%	0.83%	0.28%	2.28%	0.13%	0.34%...	…
Current SMS	10,000						30,000	50,000	70,000	…

110. ESMA considers that the proposed more granular calibration of the AVT buckets more accurately reflects the trading patterns of SIs in today's environment and allows for a more tailored approach on the quoting obligations for SIs while avoiding unnecessary complexity.

Q13: Do you agree with the new AVT buckets and related SMS? Would you set a higher SMS for the AVT bucket [0-10000) (e.g. 10,000)? Please explain.

Q14: Do you agree with ESMA's proposal of the new threshold#1 for shares? Please explain.

Q15: Do you agree with ESMA's proposal of the new threshold#2 for shares? Please explain.

4.2.3.2.2 DRs

111. In figure 8, the AVT for liquid DRs is analysed across the different execution venues (regulated markets, MTFs, SIs and OTC). The AVT is calculated as the volume (excluding post-trade LIS transactions) executed on a specific venue across all liquid shares over each month of years 2021, 2022 and 2023. Figure 9 replicates figure 8 for illiquid DRs.

112. From the analysis of the data, it is inferred that, as opposed to shares, the AVT for liquid DRs is on average very close to that of illiquid DRs. Furthermore, the AVT for transactions executed off-venue is slightly larger than that executed on-venue (2.17x and 1.92x times higher for liquid and illiquid shares respectively). In addition, it can be inferred that SIs execute a larger (1.34x) volume (excluding post-trade LIS transactions) in liquid DRs than illiquid DRs.

113. Finally, from figure 10 it is evident that the total AVT (i.e. not split by execution venue and calculated across ISINs). both liquid and illiquid DRs has been decreasing over time. In the case of the AVT calculated on a per ISIN basis results the trend is also decreasing for liquid but more volatile for illiquid DRs.

FIGURE 8 – AVT FOR LIQUID DRS IN 2021, 2022 AND 2023, PER TYPE OF EXECUTION VENUE

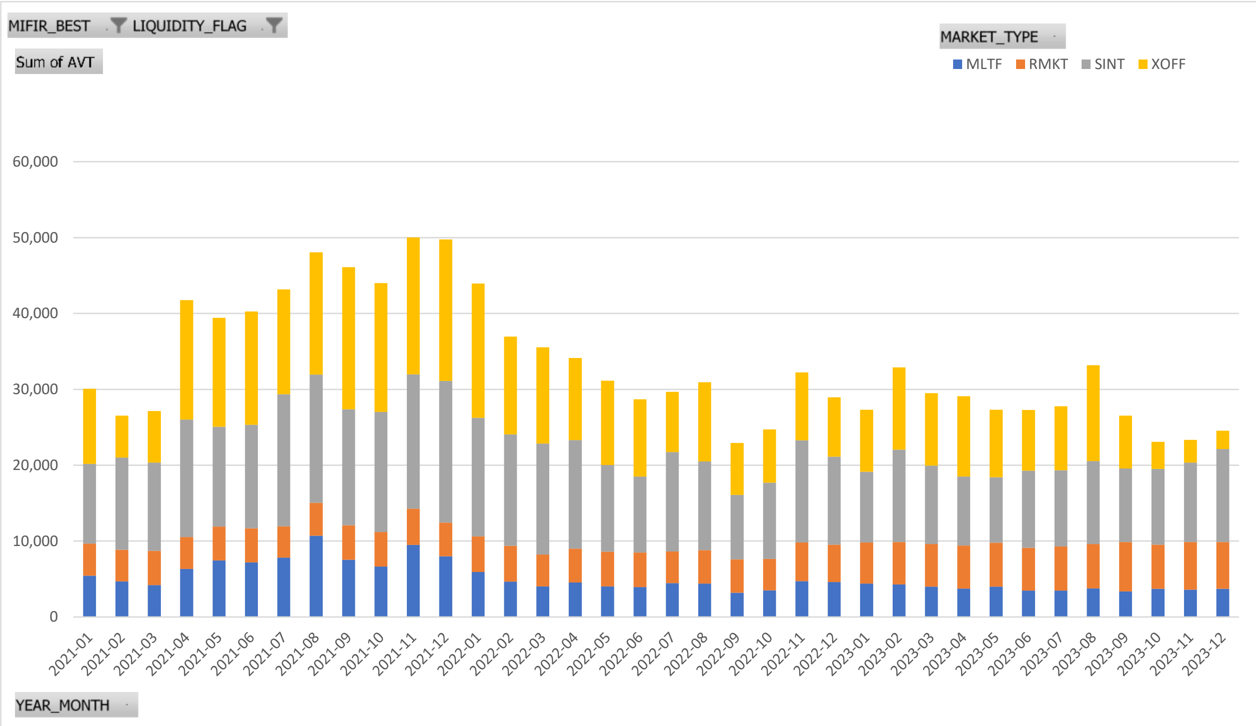

FIGURE 9 – AVT FOR ILLIQUID DRS IN 2021, 2022 AND 2023, PER TYPE OF EXECUTION VENUE

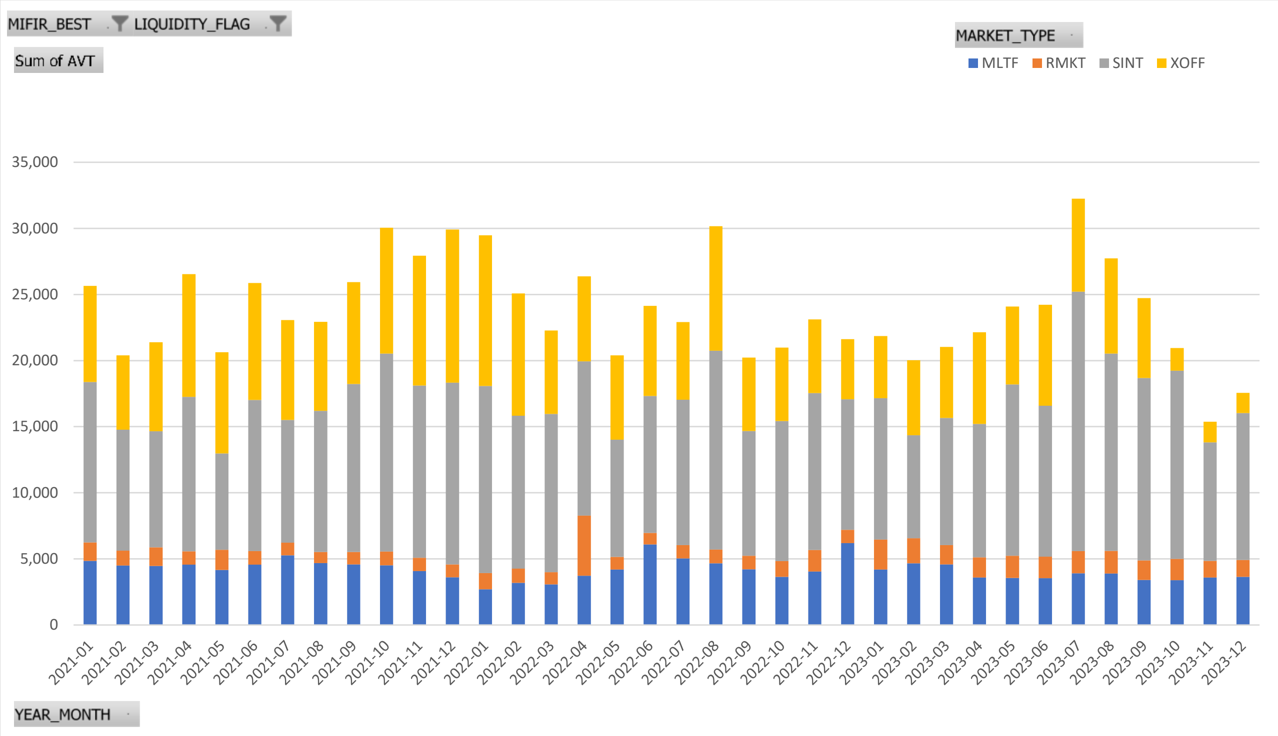

FIGURE 10 – AVT FOR LIQUID AND ILLIQUID DRS IN 2021, 2022 AND 2023

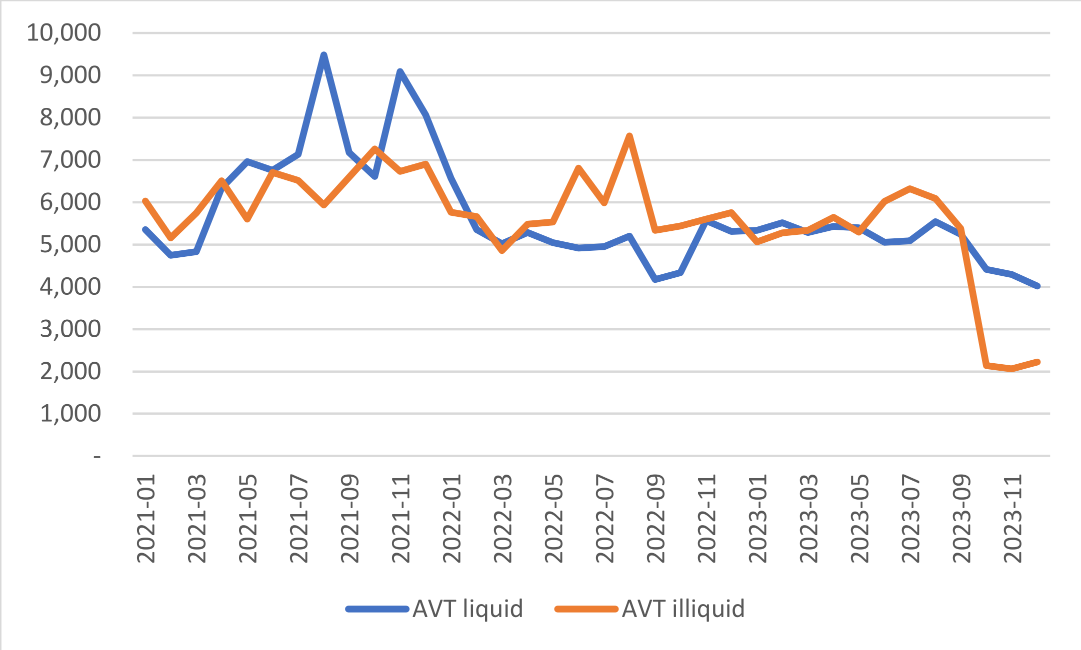

TABLE 7 - AVT FOR LIQUID AND ILLIQUID DRS CALCULATED ON A PER ISIN BASIS, YEAR 2021, 2022 AND 2023

	2023	2022	2021
Average AVT of liquid DRs (calculated on a per ISIN basis)	4,812.10	5,387.35	6,192.15
Average AVT of illiquid DRs (calculated on a per ISIN basis)	10,494.07	4,225.28	7,020.60

114. The following table presents the percentage of turnover and transactions (not excluding the post-trade LIS threshold) executed by SIs in liquid DRs for each AVT bucket. From this table, it is evident that 100% of the trading is in the smallest AVT bucket.

TABLE 8 – SIS, TURNOVER AND NUM OF TRANSACTIONS IN EACH AVT BUCKET – LIQUID DRS, YEAR 2021, 2022 AND 2023

Instrument	DPRS				
Liquidity	T				
% of turnover	AVT bucket [0-20000)		AVT bucket [0-20000)		AVT bucket [0-20000)
2021-01	5.85%	2022-01	16.99%	2023-01	7.83%
2021-02	5.28%	2022-02	8.77%	2023-02	12.28%
2021-03	4.71%	2022-03	10.67%	2023-03	9.71%
2021-04	7.84%	2022-04	11.07%	2023-04	12.11%
2021-05	7.64%	2022-05	7.17%	2023-05	6.13%
2021-06	6.99%	2022-06	6.66%	2023-06	6.01%
2021-07	13.80%	2022-07	7.09%	2023-07	5.23%
2021-08	12.51%	2022-08	9.66%	2023-08	11.57%
2021-09	7.42%	2022-09	4.18%	2023-09	10.61%
2021-10	6.90%	2022-10	4.54%	2023-10	5.77%
2021-11	11.56%	2022-11	7.35%	2023-11	6.04%
2021-12	9.50%	2022-12	5.85%	2023-12	6.72%
TOTAL	100.00%	TOTAL	100.00%	TOTAL	100.00%

Instrument	DPRS				
Liquidity	T				
% of transactions	AVT bucket [0-20000)		AVT bucket [0-20000)		AVT bucket [0-20000)
2021-01	5.02%	2022-01	14.99%	2023-01	8.75%
2021-02	5.03%	2022-02	9.32%	2023-02	8.84%
2021-03	7.04%	2022-03	11.02%	2023-03	10.71%
2021-04	8.57%	2022-04	6.96%	2023-04	8.86%
2021-05	10.25%	2022-05	7.97%	2023-05	9.09%
2021-06	7.21%	2022-06	8.07%	2023-06	7.69%
2021-07	8.17%	2022-07	6.82%	2023-07	7.00%
2021-08	12.57%	2022-08	8.57%	2023-08	9.00%
2021-09	7.46%	2022-09	6.30%	2023-09	8.90%
2021-10	7.29%	2022-10	6.34%	2023-10	7.42%
2021-11	12.84%	2022-11	7.24%	2023-11	7.12%
2021-12	8.54%	2022-12	6.40%	2023-12	6.61%
TOTAL	100.00%	0	100.00%	TOTAL	100.00%

115. The same results are found when the AVT is computed on a per ISIN basis instead of across liquid DRs. See table XX below.

TABLE 9 - SIS, TURNOVER AND NUM OF TRANSACTIONS IN EACH AVT BUCKET – LIQUID SHARES, YEAR 2021, 2022 AND 2023

Instrument	DPRS				
Liquidity	T				
	AVT bucket [0-20000)	**AVT bucket [20000-40000)**	**AVT bucket [40000-60000)**	**AVT bucket [60000-80000)**	**AVT bucket [80000-100000)**
SMS =>	10000	30000	50000	70000	90000
% of Turnover					
2021	100.00%	0.00%	0.00%	0.00%	0.00%
2022	100.00%	0.00%	0.00%	0.00%	0.00%
2023	100.00%	0.00%	0.00%	0.00%	0.00%
% of Transactions					
2021	100.00%	0.00%	0.00%	0.00%	0.00%
2022	100.00%	0.00%	0.00%	0.00%	0.00%
2023	100.00%	0.00%	0.00%	0.00%	0.00%
% of ISINs					
2021	100.00%	0.00%	0.00%	0.00%	0.00%
2022	100.00%	0.00%	0.00%	0.00%	0.00%
2023	100.00%	0.00%	0.00%	0.00%	0.00%

116. Therefore, it seems appropriate to divide the smallest bucket into 6 new buckets to properly calibrate the thresholds as it was done for shares. The percentage of turnover and transactions (not excluding the post-trade LIS threshold) executed by SIs in liquid DRs in the new AVT buckets is presented in Table 10 below.

TABLE 10 – SIS, TURNOVER IN EACH NEW AVT BUCKET – LIQUID DRS, YEAR 2021, 2022 AND 2023[8]

	7,500	11,000	13,000	15,000	17,000
	AVT bucket [0-10000)	AVT bucket [10000-12000)	AVT bucket [12000-14000)	AVT bucket [14000-16000)	AVT bucket [16000-18000)
% of Turnover					
2021	43.66%	4.40%	49.12%	0.00%	0.00%
2022	98.15%	0.00%	1.85%	0.00%	0.00%
2023	100.00%	0.00%	0.00%	0.00%	0.00%
% of Transactions					
2021	69.94%	2.07%	27.00%	0.00%	0.00%
2022	99.27%	0.00%	0.73%	0.00%	0.00%
2023	100.00%	0.00%	0.00%	0.00%	0.00%
% of ISINs					
2021	82.61%	8.70%	4.35%	0.00%	0.00%
2022	95.45%	0.00%	4.55%	0.00%	0.00%
2023	100.00%	0.00%	0.00%	0.00%	0.00%

[8] The turnover for other buckets not included in the table is zero.

	19,000	30,000	50,000	70,000	90,000
	AVT bucket [18000-20000)	AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)	AVT bucket [80000-100000)
% of Turnover					
2021	2.82%	0.00%	0.00%	0.00%	0.00%
2022	0.00%	0.00%	0.00%	0.00%	0.00%
2023	0.00%	0.00%	0.00%	0.00%	0.00%
% of Transactions					
2021	0.99%	0.00%	0.00%	0.00%	0.00%
2022	0.00%	0.00%	0.00%	0.00%	0.00%
2023	0.00%	0.00%	0.00%	0.00%	0.00%
% of ISINs					
2021	4.35%	0.00%	0.00%	0.00%	0.00%
2022	0.00%	0.00%	0.00%	0.00%	0.00%
2023	0.00%	0.00%	0.00%	0.00%	0.00%

117. After having defined the new AVT buckets the new SMS should be set to determine the new thresholds #1 and 2. It is proposed to set the new buckets for AVT as per below. The new SMS is set to of the mid-point of each new bucket.

Threshold #1 and Threshold #2

118. As in the case of shares, threshold #1 will be set to 2x SMS and threshold #2 to 100% of the SMS.

Current buckets	**AVT bucket [0-20000)**						**AVT bucket [20000-40000)**	**AVT bucket [40000-60000)**	**…**
New buckets	**AVT bucket [0-10000)**	**AVT bucket [10000-12000)**	**AVT bucket [12000-14000)**	**AVT bucket [14000-16000)**	**AVT bucket [16000-18000)**	**AVT bucket [18000-20000)**	**AVT bucket [20000-40000)**	**AVT bucket [40000-60000)**	**…**
New SMS	5,000	11,000	13,000	15,000	17,000	19,000	30,000	50,000	…
Threshold #1 = SMS x 2	10,000	22,000	26,000	30,000	34,000	38,000	60,000	100,000	…
Threshold #1 = 100% SMS	5,000	11,000	13,000	15,000	17,000	19,000	30,000	50,000	…
% of turnover in 2023	100%	0%	0%	0%	0%	0%	0%	0%	…
Current SMS	10,000						30,000	50,000	…

Q16: Do you agree with the new AVT buckets and related SMS? Would you set a lower SMS for the AVT bucket [0-10000) (e.g. 5,000)? Please explain.

Q17: Do you agree with ESMA's proposal of the new threshold#1 for DRs? Please explain.

Q18: Do you agree with ESMA's proposal of the new threshold#2 for DRs? Please explain.

4.2.3.2.3 ETFs

119. In figure 11, the AVT for liquid ETFs is analysed across the different execution venues (regulated markets, MTFs, SIs and OTC). The AVT is calculated as the volume (excluding post-trade LIS transactions) executed on a specific venue across all liquid ETFs over each month of years 2021, 2022 and 2023. Figure 12 replicates figure 11 for illiquid ETFs.

120. From the analysis of the data, a few conclusions can be drawn. Firstly, as opposed to shares and like DRs, the AVT for liquid ETFs is on average lower than that of illiquid ones. More specifically, the AVT of liquid ETFs is on average ~EUR 15,000 - 20,000 lower than that of illiquid ETFs across the years. Secondly, the AVT for transactions executed off-venue is much larger than that executed on-venue as in the case of shares even if, such discrepancy is much less pronounced at the end of the observation period. Lastly, it can be inferred that SIs execute a larger (2.80x) volume (excluding post-trade LIS transactions) in liquid ETFs than illiquid ETFs.

121. Finally, from figure 12 it is evident that the total AVT (i.e. not split by execution venue and calculated across ISINs) both liquid and illiquid ETFs was stable over time. Similarly, the AVT calculated on a per ISIN basis results was stable over time and decreasing in 2023.

122. Third, the AVT for transactions executed off-venue is much larger than that executed on-venue as in the case of shares even if, such discrepancy is much less pronounced for liquid ETFs at the end of the observation period. This result is due to the large number of transactions on venue (7x and 2x times higher for liquid and illiquid ETFs respectively) which therefore lower the total AVT to a value closer to that on-venue across years.

FIGURE 11 – AVT FOR LIQUID ETFS IN 2021, 2022 AND 2023, PER TYPE OF EXECUTION VENUE

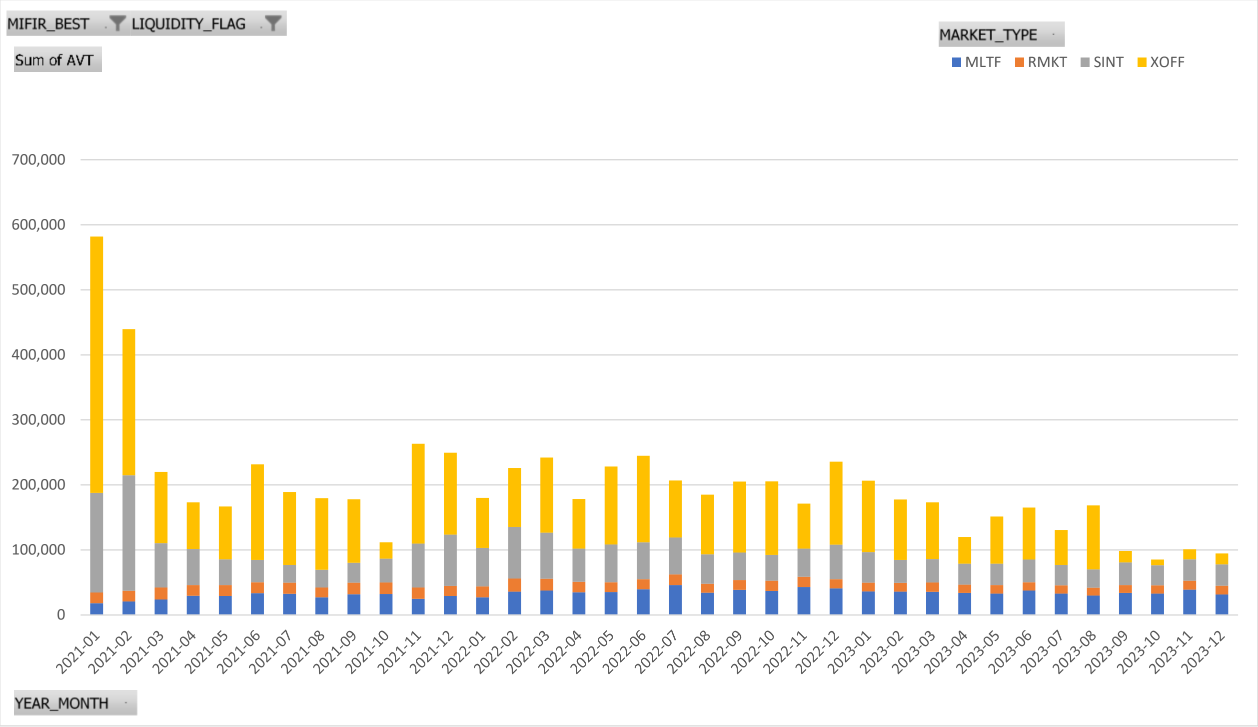

FIGURE 12 – AVT FOR ILLIQUID ETFS IN 2021, 2022 AND 2023, PER TYPE OF EXECUTION VENUE

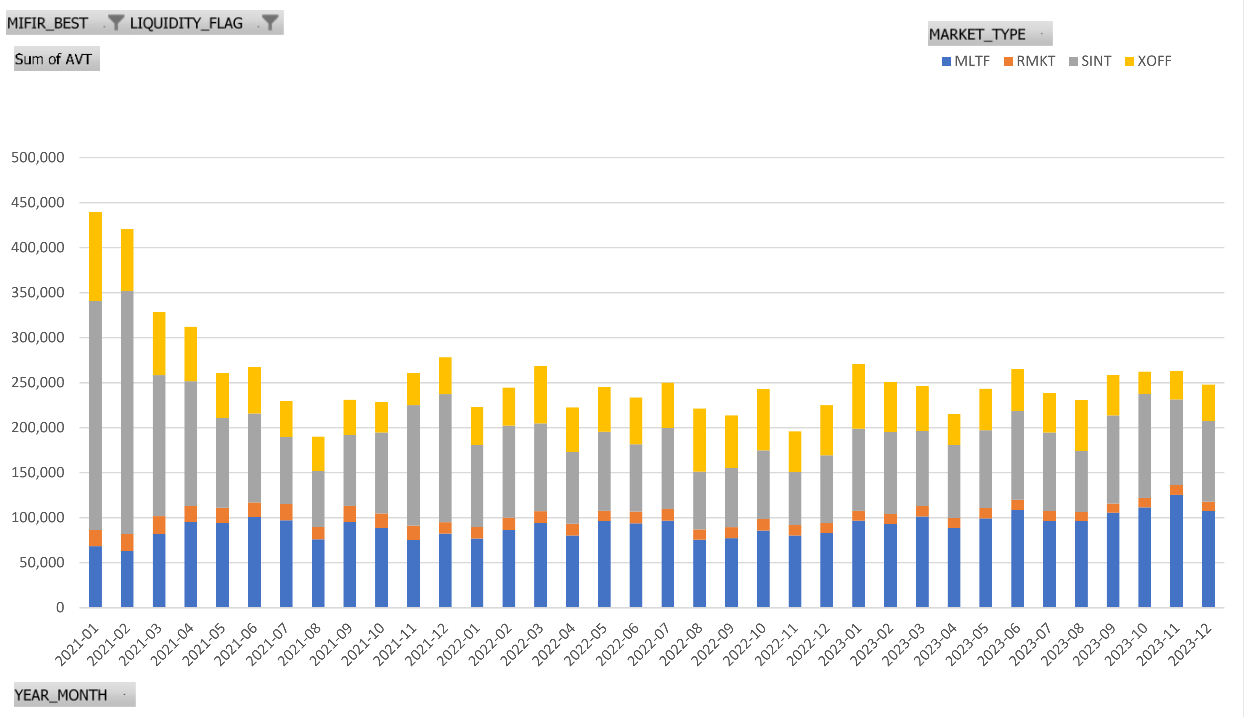

FIGURE 13 – AVT FOR LIQUID AND ILLIQUID ETFS IN 2021, 2022 AND 2023

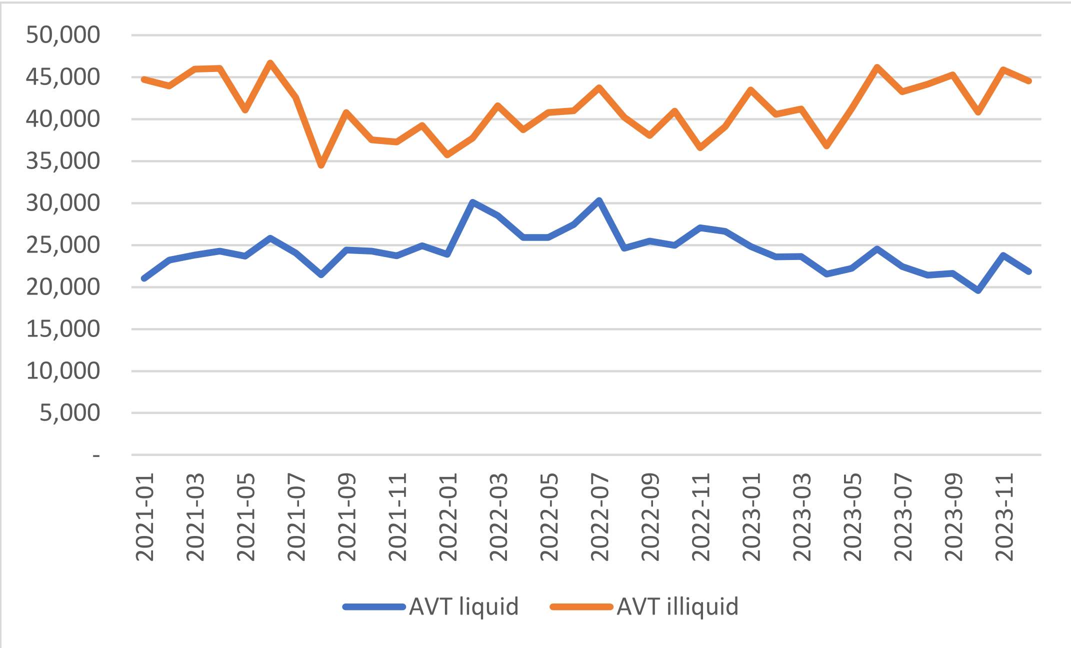

TABLE 11 - AVT FOR LIQUID AND ILLIQUID SHARES CALCULATED ON A PER ISIN BASIS, YEAR 2021, 2022 AND 2023

	2023	2022	2021
Average AVT of liquid ETFs (calculated on a per ISIN basis)	35,012.73	40,856.93	40,086.19
Average AVT of illiquid ETFs (calculated on a per ISIN basis)	96,585.01	104,234.65	114,870.66

123. The following table presents the percentage of turnover and transactions (not excluding the post-trade LIS threshold) executed by SIs in liquid ETFs for each AVT bucket. From this table, it is evident that most of the trading is concentrated in the buckets from EUR 20,000 to EUR 80,000, with a move of high concentration between the second and the third bucket over the three years.

Table 12 – SIs, turnover in each AVT bucket – Liquid ETFs, year 2021, 2022 and 2023[9]

Instrument	ETFS			
Liquidity	**T**			
% of turnover	**AVT bucket [0-20000)**	**AVT bucket [20000-40000)**	**AVT bucket [40000-60000)**	**AVT bucket [60000-80000)**
2021-01	0.00%	0.00%	0.00%	0.00%
2021-02	0.00%	0.00%	0.00%	0.00%
2021-03	0.00%	0.00%	0.00%	12.62%
2021-04	0.00%	0.00%	7.32%	0.00%
2021-05	0.00%	6.91%	0.00%	0.00%
2021-06	0.00%	10.90%	0.00%	0.00%
2021-07	0.00%	8.20%	0.00%	0.00%
2021-08	0.00%	7.10%	0.00%	0.00%
2021-09	0.00%	6.94%	0.00%	0.00%
2021-10	0.00%	6.86%	0.00%	0.00%
2021-11	0.00%	0.00%	0.00%	7.60%
2021-12	0.00%	0.00%	0.00%	8.77%
TOTAL	0.00%	**46.92%**	**7.32%**	**28.98%**

[9] The turnover for other buckets not included in the table is zero.

Instrument	ETFS			
Liquidity	T			
% of turnover	AVT bucket [0-20000)	AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)
2022-01	0.00%	0.00%	9.04%	0.00%
2022-02	0.00%	0.00%	0.00%	11.57%
2022-03	0.00%	0.00%	0.00%	11.69%
2022-04	0.00%	0.00%	8.72%	0.00%
2022-05	0.00%	0.00%	9.25%	0.00%
2022-06	0.00%	0.00%	8.74%	0.00%
2022-07	0.00%	0.00%	8.12%	0.00%
2022-08	0.00%	0.00%	6.99%	0.00%
2022-09	0.00%	0.00%	7.09%	0.00%
2022-10	0.00%	5.92%	0.00%	0.00%
2022-11	0.00%	0.00%	6.31%	0.00%
2022-12	0.00%	0.00%	6.56%	0.00%
TOTAL	0.00%	5.92%	70.83%	23.26%

Instrument	ETFS			
Liquidity	T			
% of turnover	AVT bucket [0-20000)	AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)
2023-01	0.00%	0.00%	10.08%	0.00%
2023-02	0.00%	8.35%	0.00%	0.00%
2023-03	0.00%	9.41%	0.00%	0.00%
2023-04	0.00%	7.65%	0.00%	0.00%
2023-05	0.00%	7.55%	0.00%	0.00%
2023-06	0.00%	7.76%	0.00%	0.00%
2023-07	0.00%	7.61%	0.00%	0.00%
2023-08	0.00%	6.65%	0.00%	0.00%
2023-09	0.00%	8.46%	0.00%	0.00%
2023-10	0.00%	8.28%	0.00%	0.00%
2023-11	0.00%	8.09%	0.00%	0.00%
2023-12	0.00%	10.12%	0.00%	0.00%
TOTAL	0.00%	89.92%	10.08%	0.00%

TABLE 13 – SIS, NUM OF TRANSACTIONS IN EACH AVT BUCKET – LIQUID ETFS, YEAR 2021, 2022 AND 2023

Instrument	ETFS			
Liquidity	T			
% of transactions	AVT bucket [0-20000)	AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)
2021-01	0.00%	0.00%	0.00%	0.00%
2021-02	0.00%	0.00%	0.00%	0.00%
2021-03	0.00%	0.00%	0.00%	26.85%
2021-04	0.00%	0.00%	23.29%	0.00%
2021-05	0.00%	8.08%	0.00%	0.00%
2021-06	0.00%	13.12%	0.00%	0.00%
2021-07	0.00%	14.71%	0.00%	0.00%
2021-08	0.00%	13.05%	0.00%	0.00%
2021-09	0.00%	12.45%	0.00%	0.00%
2021-10	0.00%	9.08%	0.00%	0.00%
2021-11	0.00%	0.00%	0.00%	27.86%
2021-12	0.00%	0.00%	0.00%	24.54%
TOTAL	0.00%	70.50%	6.87%	17.94%

Instrument	ETFS			
Liquidity	T			
% of transactions	AVT bucket [0-20000)	AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)
2022-01	0.00%	0.00%	10.04%	0.00%
2022-02	0.00%	0.00%	0.00%	46.34%
2022-03	0.00%	0.00%	0.00%	53.66%
2022-04	0.00%	0.00%	8.81%	0.00%
2022-05	0.00%	0.00%	9.52%	0.00%
2022-06	0.00%	0.00%	8.77%	0.00%
2022-07	0.00%	0.00%	7.73%	0.00%
2022-08	0.00%	0.00%	9.79%	0.00%
2022-09	0.00%	0.00%	9.98%	0.00%
2022-10	0.00%	8.35%	0.00%	0.00%
2022-11	0.00%	0.00%	8.94%	0.00%
2022-12	0.00%	0.00%	7.43%	0.00%
TOTAL	0.00%	8.35%	74.24%	17.41%

Instrument	ETFS			
Liquidity	T			
% of transactions	AVT bucket [0-20000)	AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)
2023-01	0.00%	0.00%	100.00%	#DIV/0!
2023-02	0.00%	6.99%	0.00%	#DIV/0!
2023-03	0.00%	8.14%	0.00%	#DIV/0!
2023-04	0.00%	6.20%	0.00%	#DIV/0!
2023-05	0.00%	7.44%	0.00%	#DIV/0!
2023-06	0.00%	8.23%	0.00%	#DIV/0!
2023-07	0.00%	8.47%	0.00%	#DIV/0!
2023-08	0.00%	8.99%	0.00%	#DIV/0!
2023-09	0.00%	9.23%	0.00%	#DIV/0!
2023-10	0.00%	10.02%	0.00%	#DIV/0!
2023-11	0.00%	8.77%	0.00%	#DIV/0!
2023-12	0.00%	10.40%	0.00%	#DIV/0!
TOTAL	0.00%	**92.90%**	**7.10%**	0.00%

124. Similar results are found when the AVT is computed on a per ISIN basis instead of across liquid ETFs. See table 14 below.

Table 14 - SIs, turnover and num of transactions in each AVT bucket – Liquid shares, year 2021, 2022 and 2023

Instrument	ETFS				
Liquidity	T				
	AVT bucket [0-20000)	AVT bucket [20000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)	AVT bucket [80000-100000)
% of Turnover					
2021	22.47%	27.19%	24.10%	9.59%	5.33%
2022	21.09%	30.71%	16.17%	10.39%	9.91%
2023	29.64%	29.08%	18.22%	11.28%	4.81%
% of Transactions					
2021	56.57%	25.85%	11.31%	3.40%	1.27%
2022	54.17%	29.20%	8.49%	3.79%	2.58%
2023	63.87%	22.88%	7.94%	3.32%	1.05%
% of ISINs					
2021	29.85%	35.13%	18.43%	7.54%	3.77%
2022	29.22%	36.50%	16.08%	7.89%	4.75%
2023	34.92%	36.23%	15.61%	6.91%	2.98%

Instrument	ETFS				
Liquidity	T				
	AVT bucket [100000-120000)	AVT bucket [120000-140000)	AVT bucket [140000-160000)	AVT bucket [160000-180000)	AVT bucket [220000-240000)
% of Turnover					
2021	3.66%	1.85%	0.63%	0.71%	0.00%
2022	3.17%	2.91%	1.38%	0.34%	1.40%
2023	1.20%	1.52%	2.46%	0.41%	0.15%
% of Transactions					
2021	0.67%	0.35%	0.08%	0.11%	0.00%
2022	0.60%	0.48%	0.22%	0.05%	0.15%
2023	0.23%	0.26%	0.28%	0.05%	0.02%
% of ISINs					
2021	2.05%	0.75%	0.54%	0.00%	0.00%
2022	1.92%	1.01%	0.71%	0.00%	0.00%
2023	1.31%	0.95%	0.36%	0.00%	0.00%

Instrument	ETFS			
Liquidity	T			
	AVT bucket [240000-260000)	AVT bucket [260000-280000)	AVT bucket [380000-400000)	AVT bucket [440000-460000)
% of Turnover				
2021	0.17%	0.42%	0.40%	0.00%
2022	0.49%	0.46%	0.00%	0.00%
2023	0.00%	0.43%	0.00%	0.00%
% of Transactions				
2021	0.01%	0.02%	0.01%	0.00%
2022	0.06%	0.04%	0.00%	0.00%
2023	0.00%	0.03%	0.00%	0.00%
% of ISINs				
2021	0.00%	0.00%	0.00%	0.00%
2022	0.00%	0.00%	0.00%	0.00%
2023	0.00%	0.00%	0.00%	0.00%

125. Therefore, it seems appropriate to split those buckets further to properly calibrate the thresholds as it was done for shares and DRs. The percentage of turnover and transactions (not excluding the post-trade LIS threshold) executed by SIs in liquid ETFs in the new AVT buckets is presented in Table 15.

TABLE 15 – SIs, TURNOVER IN EACH NEW AVT BUCKET – LIQUID ETFs, YEAR 2021, 2022 AND 2023[10]

	AVT bucket [0-10000)	AVT bucket [10000-15000)	AVT bucket [15000-20000)	AVT bucket [20000-25000)	AVT bucket [25000-30000)
% of Turnover					
2021	5.30%	8.81%	8.36%	6.71%	9.80%
2022	5.03%	4.05%	12.01%	6.62%	9.56%
2023	6.97%	10.51%	12.17%	7.61%	7.69%
% of Transactions					
2021	22.93%	20.63%	13.01%	7.83%	9.77%
2022	22.01%	10.72%	21.44%	7.90%	9.92%
2023	26.93%	20.29%	16.65%	8.26%	6.23%
% of ISINs					
2021	7.54%	11.42%	10.88%	10.99%	10.67%
2022	8.90%	8.39%	11.93%	11.32%	9.40%
2023	10.25%	10.85%	13.83%	11.20%	10.25%

[10] The turnover for other buckets not included in the table is zero.

	32,500	37,500	50,000	70,000	90,000
	AVT bucket [30000-35000)	AVT bucket [35000-40000)	AVT bucket [40000-60000)	AVT bucket [60000-80000)	AVT bucket [80000-100000)
% of Turnover					
2021	4.51%	6.17%	24.10%	9.59%	5.33%
2022	7.28%	7.25%	16.17%	10.39%	9.91%
2023	9.46%	4.32%	18.22%	11.28%	4.81%
% of Transactions					
2021	3.97%	4.28%	11.31%	3.40%	1.27%
2022	6.10%	5.27%	8.49%	3.79%	2.58%
2023	6.34%	2.05%	7.94%	3.32%	1.05%
% of ISINs					
2021	7.87%	5.60%	18.43%	7.54%	3.77%
2022	7.89%	7.89%	16.08%	7.89%	4.75%
2023	9.30%	5.48%	15.61%	6.91%	2.98%

	110,000	130,000	150,000	170,000
	AVT bucket [100000-120000)	AVT bucket [120000-140000)	AVT bucket [140000-160000)	AVT bucket [160000-180000)
% of Turnover				
2021	3.66%	1.85%	0.63%	0.71%
2022	3.17%	2.91%	1.38%	0.34%
2023	1.20%	1.52%	2.46%	0.41%
% of Transactions				
2021	0.67%	0.35%	0.08%	0.11%
2022	0.60%	0.48%	0.22%	0.05%
2023	0.23%	0.26%	0.28%	0.05%
% of ISINs				
2021	2.05%	0.75%	0.54%	0.22%
2022	1.92%	1.01%	0.71%	0.20%
2023	1.31%	0.95%	0.36%	0.24%

Threshold #1 and Threshold #2

126. As in the case of shares and DRs, threshold #1 is suggested to be set to 2x SMS and threshold #2 to 100% of the SMS.

Current buckets whenever different	AVT bucket [0-20000)			AVT bucket [20000-40000)				AVT bucket [40000-60000)	AVT bucket [60000-80000)	AVT bucket [80000-100000)	AVT bucket [100000-120000)	AVT bucket [120000-140000)	AVT bucket [140000-160000)	AVT bucket [160000-180000)	…
New buckets	**AVT bucket [0-10000)**	**AVT bucket [10000-15000)**	**AVT bucket [15000-20000)**	**AVT bucket [20000-25000)**	**AVT bucket [25000-30000)**	**AVT bucket [30000-35000)**	**AVT bucket [35000-40000)**	**AVT bucket [40000-60000)**	**AVT bucket [60000-80000)**	**AVT bucket [80000-100000)**	**AVT bucket [100000-120000)**	**AVT bucket [120000-140000)**	**AVT bucket [140000-160000)**	**AVT bucket [160000-180000)**	…
New SMS	5,000	12,500	17,500	22,500	27,500	32,500	37,500	50,000	70,000	90,000	110,000	130,000	150,000	170,000	…
Threshold #1 = SMS x 2	10,000	15,000	35,000	45,000	55,000	65,000	75,000	100,000	140,000	180,000	220,000	260,000	300,000	340,000	…
Threshold #1 = 100% SMS	5,000	12,500	17,500	22,500	27,500	32,500	37,500	50,000	70,000	90,000	110,000	130,000	150,000	170,000	…

Current buckets whenever different	AVT bucket [0-20000)			AVT bucket [20000-40000)				AVT bucket [40000-60000)	AVT bucket [60000-80000)	AVT bucket [80000-100000)	AVT bucket [100000-120000)	AVT bucket [120000-140000)	AVT bucket [140000-160000)	AVT bucket [160000-180000)	…
New buckets	**AVT bucket [0-10000)**	**AVT bucket [10000-15000)**	**AVT bucket [15000-20000)**	**AVT bucket [20000-25000)**	**AVT bucket [25000-30000)**	**AVT bucket [30000-35000)**	**AVT bucket [35000-40000)**	**AVT bucket [40000-60000)**	**AVT bucket [60000-80000)**	**AVT bucket [80000-100000)**	**AVT bucket [100000-120000)**	**AVT bucket [120000-140000)**	**AVT bucket [140000-160000)**	**AVT bucket [160000-180000)**	**…**
% of turnover in 2023	6.97%	10.51%	12.17%	7.61%	7.69%	9.46%	4.32%	18.22 %	11.28 %	4.81%	1.20%	1.52%	2.46%	0.41%	
Current SMS	10,000			30,000				50,000							

Q19: Do you agree with the new AVT buckets and related SMS? Please explain.

Q20: Do you agree with ESMA's proposal of the new threshold#1 for ETFs? Please explain.

Q21: Do you agree with ESMA's proposal of the new threshold#2 for ETFs? Please explain.

127. The proposed amendments to Article 11 and additional Articles 11a and 11b on the new thresholds are presented in red below.

Article 11a

Quote size below which pre-trade transparency requirements under Articles 14, 15, 16 and 17 of MiFIR apply (Article 14(2) of Regulation (EU) No 600/2014)

1. The obligation to make public firm quotes in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments shall apply to systematic internalisers when they deal in sizes up to twice the standard market size as determined in Article 11.

Article 11b

Minimum Quote size

(Article 14(3) of Regulation (EU) No 600/2014)

1. The Minimum Quote size for a particular share, depositary receipt, ETF, certificate and other similar financial instrument traded on trading venue shall be equal to the standard market size as determined in Article 11.

Q22: Do you agree with the proposed amendments to Article 11 of RTS 1? Please explain.

Q23: Do you agree with the proposed new Article 11a of RTS 1? Please explain.

Q24: Do you agree with the proposed new Article 11b of RTS 1? Please explain.

4.3 Post-trade transparency

Articles 6 and 7 of MiFIR (for trading venues) and Article 20 of MiFIR (for systematic internalisers)

4.3.1 Mandate

128. The text below provides the text of Article 20 of MiFIR highlighting the changes in light-blue:

Article 20 of MiFIR

1. Investment firms which, either on own account or on behalf of clients, conclude transactions in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, shall make public the volume and price of those transactions and the time at which they were concluded. That information shall be made public through an APA.

1a. Each individual transaction shall be made public once through a single APA.

2. The information which is made public in accordance with paragraph 1 of this Article and the time-limits within which it is published shall comply with the requirements adopted pursuant to Article 6, including the regulatory technical standards adopted in accordance with Article 7(2)(a). Where the measures adopted pursuant to Article 7 provide for deferred publication for certain categories of transaction in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, that possibility shall also apply to those transactions when undertaken outside trading venues.

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.

4.3.2 Background

129. Article 6 of MiFIR sets out the post-trade transparency requirements for trading venues. Article 7 of MiFIR provides for the circumstances where the publication of post-trade information can be deferred.

130. No amendments were made to the post-trade transparency framework in the reviewed MiFIR. Therefore, ESMA proposes that such requirements should not be amended.

131. Article 20 of MiFIR sets out the post-trade transparency requirements for investment firms including SIs requiring them to publish the OTC-transactions they execute in equity and equity-like instruments that are traded on a trading venue (TOTV) through APAs.

132. The amendments to Article 20 are limited: 1) the new paragraph 1a aligns the approach for equity and non-equity instruments by requiring each individual transaction to be made public once through a single APA; and 2) the mandate in Article 20(3)(c) of MiFIR does no longer require specifying 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 since this is now specified in the new article 21a on designated publishing entities. Therefore, ESMA proposes to amend Article 12 of RTS 1 to reflect such changes.

4.3.3 Analysis and Proposals

133. As mentioned above, the mandate in Article 20(3)(c) of MiFIR for specifying the party that has to make the transaction public if both parties to the transaction are investment firms has been removed. Indeed, Article 21a of MiFIR firstly introduces the concept of the designate publishing entity (DPE) and, secondly, provides that when both or neither of the two parties involved in the transactions are a DPE, the seller shall be responsible for the publication of post-trade transparency information. As a result, ESMA proposes that the current provisions in RTS 1 addressing the removed mandate, i.e. that paragraphs 4 and 5 of Article 12, are deleted.

134. In addition, and in order to facilitate the usage of post-trade reports and to aggregate them ESMA proposes to include a new paragraph requiring the standardisation on the use of the names of the fields in Table 3 of Annex I as finally proposed in the RTS 1 and 2 review but not reflected in the legal provisions. The same approach is proposed for post-trading transparency requirements of non-equity instruments set out in RTS 2.

4.3.3.1 Post-trade transparency obligations – Article 12 of RTS 1

Article 12

Post-trade transparency obligations for trading venues

(Article 6(1) and Article 20(1) and (2) of Regulation (EU) No 600/2014)

1. Market operators and investment firms operating a trading venue, and investment firms trading outside the rules of a trading venue shall make public the details of each transaction by applying reference Tables 2, 3 and 4 of Annex I.

The field names in Table 3 of Annex I shall be made public using the same naming conventions as defined in the field identifier of the Table.

2. Where a previously published trade report is cancelled, investment firms trading outside a trading venue and market operators and investment firms operating a trading venue shall make public a new trade report which contains all the details of the original trade report and the cancellation flag specified in Table 4 of Annex I.

3. Where a previously published trade report is amended, market operators and investment firms operating a trading venue, and investment firms trading outside a trading venue shall make the following information public:

(a) a new trade report that contains all the details of the original trade report and the cancellation flag specified in Table 4 of Annex I;

(b) a new trade report that contains all the details of the original trade report with all necessary details corrected and the amendment flag specified in Table 4 of Annex I.

~~4. Where a transaction between two investment firms is concluded outside the rules of a trading venue, either on own account or on behalf of clients, only the investment firm that sells the financial instrument concerned shall make the transaction public through an APA.~~

~~5. By way of derogation from paragraph 4, where only one of the investment firms party to the transaction is a systematic internaliser in the given financial instrument and it is acting as the buying firm, only that firm shall make the transaction public through an APA, informing the seller of the action taken.~~

6. Investment firms shall take all reasonable steps to ensure that the transaction is made public as a single transaction. For that purpose, two matching trades entered at the same time and for the same price with a single party interposed shall be considered to be a single transaction.

Article 12a

Post-trade transparency obligations for APAs

(Article 6(1) and Article 20(1) and (2) of Regulation (EU) No 600/2014)

An APA shall make public (a) for transactions executed in respect of shares, depositary receipts, exchange-traded funds (ETFs), certificates and other similar financial instruments, the details of a transaction specified in Table 2 of Annex I and, use the appropriate flags listed in Table 3 of Annex I.

Q25: Do you agree with the proposed amendments to Article 12 of RTS 1? Please explain.

4.3.3.2 Post-trade transparency obligations - Reports

135. As regards the mandate in Article 7(2)(a) of MiFIR which requires the definition of the details of transactions to be made public, ESMA does not deem it necessary to introduce changes to the current Table 2 of Annex I of RTS 1.

136. Regarding Table 3, ESMA proposes a targeted change to the price field, reflecting the explicit possibility for reporting in basis points in the case of certificates and other equity-like financial instruments. Furthermore, a field for the flags is added. Indeed, while flags are specified in a specific table in Table 3 of Annex I of RTS 1, there is currently no field for flags in Table 4 of Annex I. To ensure harmonisation of reporting of this field, in line with the approach in RTS 2, a unique field to report flags separated by commas consistently with the Manual on Post-Trade Transparency (Section 4.2.5) is added.

137. In addition, and similarly to the pre-trade transparency reports described in section 4.1.3.1, Table 3 also specifies the data fields that trading venues and APAs should provide to the CTP for the purpose of the post-trade CTP for shares and ETFs under Article 22b of MiFIR (see section 8.2.3).

Table 3

List of details for the purpose of post-trade transparency

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
1	Trading date and time	Date and time when the transaction was executed. 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. 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, as specified in fields 31, 34 and 44 of 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. Where the transaction results from an order transmitted by the executing firm on behalf of a client to a third party where the	Regulated Market (RM), Multilateral Trading Facility (MTF), Organised Trading Facility (OTF) Approved Publication Arrangement (APA) ~~Consolidated tape provider (CTP)~~	{DATE_TIME_FORMAT}

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		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.		
2	Instrument identification code	Code used to identify the financial instrument	RM, MTF, APA, ~~CTP~~	{ISIN}
3	Price	Traded price of the transaction excluding, where applicable, commission and accrued interest. Where price is reported in monetary terms, it shall be provided in the major currency unit. Where price is currently not available but pending (“PNDG”) or not applicable (“NOAP”), this field shall not be populated.	RM, MTF, 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 {DECIMAL-18/17} when the price is expressed as basis points in the case of certificates and other equity-like financial instruments

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
4	Missing Price	Where price is currently not available but pending, the value shall be "PNDG". Where price is not applicable, the value shall be "NOAP".	RM, MTF APA, ~~CTP~~	"PNDG" in case the price is not available "NOAP" in case the price is not applicable
5	Price currency	Major currency unit in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF APA, ~~CTP~~	{CURRENCYCODE_3}
6	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

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
				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
7	Quantity	Number of units of the financial instruments. The nominal or monetary value of the financial instrument.	RM, MTF, APA, ~~CTP~~	{DECIMAL-18/17} in case the quantity is expressed as number of units {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value
8	Venue of execution	Identification of the venue where the transaction was executed.	RM, MTF, APA, ~~CTP~~	{MIC} – EU trading venues or

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		Use the ISO 10383 segment MIC for transactions executed on an EU trading venue Where the segment MIC does not exist, use the operating MIC. 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. Use MIC code “XOFF” for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is neither executed on an EU trading venue nor executed on a systematic internaliser. If the transaction is executed on an organised trading platform outside of the EU then in addition to the MIC code “XOFF” also the population of the field “Third-country trading venue of execution” is required.		“SINT” — systematic internaliser “XOFF” — otherwise
9	Third-country trading venue of execution	Identification of the third-country trading venue where the transaction was executed. Use the ISO 10383 segment MIC.	APA~~, CTP~~	{MIC}

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		Where the segment MIC does not exist, use the operating MIC. Where the transaction is not executed on a third-country trading venue, the field shall not be populated.		
10	Trading system	Type of trading system on which the transaction was executed. When the field 'Venue of execution' is populated with "SINT" or "XOFF", this field shall not be populated.	RM, MTF	"CLOB' -- central limit order book trading systems. A continuous auction order book trading system as defined in Table 1 of Annex I and a trading system combining elements of a continuous auction order book trading defined in Table 1 of Annex I and of periodic auction trading system defined in Table 1 of Annex I.

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
				'QDTS' -- quote driven trading systems. As defined in Table 1 of Annex I. 'PATS' -- periodic auction trading systems. As defined in Table 1 of Annex I. 'RFQT' -- request for quote trading systems. As defined in Table 1 of Annex I. 'HYBR' -- hybrid trading systems. As defined in Table 1 of Annex I. A trading system combining elements of a continuous auction order book trading defined in Table 1 of Annex I and of periodic auction trading system defined in Table 1 of Annex shall not be

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
				considered a hybrid system but a CLOB. 'OTHR' -- for any other trading system. As defined in Table 1 of Annex I.
11~~10~~	Publication date and time	Date and time when the transaction was published by a trading venue or APA. 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. For transactions not executed on a trading venue, the date and time shall be granular to at least the nearest second.	RM, MTF, APA~~, CTP~~	{DATE_TIME_FORMAT}
12~~11~~	Venue of Publication	Code used to identify the trading venue or APA publishing the transaction.	RM, MTF, APA ~~CTP~~	trading venue: {MIC} ~~APA: ISO 10383 segment MIC (4 characters) where available.~~

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
				~~Otherwise, 4-character code as published in the list of data reporting services providers on ESMA's website.~~
13~~12~~	Transaction identification code	Alphanumerical 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. 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. Where the APA does not use MICs, it shall be unique, consistent and persistent per 4-character code used to identify the APA per trading day.	RM, MTF, APA~~, CTP~~	{ALPHANUM-52}

Field num	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		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.		
14	Flags	This field should be populated with the list of all applicable flags as described in Table 4 of Annex 1. Where none of the specified circumstances apply, the transaction should be published without a flag. Where a combination of flags is possible, the flags should be reported separated by commas.	RM, MTF, APA~~, CTP~~	As per Table 4 of Annex 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).

Q26: Do you agree with the proposed amendments to Table 3 of Annex I of RTS 1? Please explain.

4.3.3.3 Post-trade transparency obligations – Flags

138. Further to the previous section on post-trade transparency reports, based on the mandate in Article 7(2)(a) of MiFIR, ESMA does not deem it necessary to introduce new flags to the current list in Table 4 of Annex I of RTS 1 as no substantial amendments were introduced to MiFIR in this regard.

139. It is suggested to delete the flag 'DUPL' in view of the change to Article 20 of MiFIR providing that each individual transaction shall be made public once through a single APA.

140. Additionally, feedback from market participants is looked for the removal of certain flags in line with the UK changes made, more specifically those related to SI (SIZE, ILQD, RPRI flags) and the agency crossed flag (ACTX flag). As also presented in the previous RTS 1 and 2 review, it appeared the limited use of those flags. SIs themselves noted that their flags were rarely used and that there were questions on the accuracy of the use of these flags. As far as the agency-cross flag transactions is concerned, it seemed that 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. Furthermore, the practical use case of the ACTX flag appeared limited since Article 23(2) of MiFIR requires firms that operate an internal matching system to be authorised as an MTF. ESMA therefore suggested deleting those flags. Considering the MiFIR review ESMA still aims to streamline the regime of flags. Therefore, ESMA seeks feedback on whether to remove the ACTX flag and the SI flags of 'SIZE', 'ILQD' and 'RPRI'.

141. Finally, the reference to the CTP is removed from the table as integrated in the dedicated input / output RTS.

142. The amendments to Table 4 are presented in red below.

Table 4

List of flags for the purpose of post-trade transparency

Flag	Name	Type of execution or publication venue	Description
"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.
"NPFT"	Non-price forming transactions flag	RM, MTF ~~CTP~~	Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590.
"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.
"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.
"ACTX"	Agency cross transactions flag	APA ~~CTP~~	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.
"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

Flag	Name	Type of execution or publication venue	Description
"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.
"RFPT"	Reference price transaction flag	RM, MTF ~~CTP~~	Transactions which are executed under systems operating in accordance with Article 4(1), point (a), of Regulation (EU) No 600/2014.
"NLIQ"	Negotiated transaction in liquid financial instruments flag	RM, MTF ~~CTP~~	Transactions executed in accordance with Article 4(1), point (b)(i), of Regulation (EU) No 600/2014.
"OILQ"	Negotiated transaction in illiquid financial instruments flag	RM, MTF ~~CTP~~	Transactions executed in accordance with Article 4(1), point (b)(ii), of Regulation (EU) No 600/2014.
"PRIC"	Negotiated transaction subject to conditions other than the current market price flag	RM, MTF ~~CTP~~	Transactions executed in accordance with Article 4(1), point (b)(iii), of Regulation (EU) No 600/2014 and as set out in Article 6.
"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), point (39), of Directive 2014/65/EU
"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 twice the standard market size as determined in accordance with Article 11a.
"ILQD"	Illiquid instrument transaction flag	APA ~~CTP~~	Transactions in illiquid instruments as determined in accordance with Articles 1 to 5 of Commission Delegated Regulation (EU) 2017/567 (1) executed on a systematic internaliser.

Flag	Name	Type of execution or publication venue	Description
"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.
"CANC"	Cancellation flag	RM, MTF APA ~~CTP~~	When a previously published transaction is cancelled
"AMND"	Amendment flag	RM, MTF APA ~~CTP~~	When a previously published transaction is amended
~~"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~~.

Q27: Do you agree with the proposed amendments to Table 4 of Annex I of RTS 1? Please explain.

Q28: Would you consider that the SIZE, ILQD, RPRI flags could be removed? Please, explain.

Q29: Would you consider that the ACTX flag could be removed? Please, explain.

4.3.3.4 Exemption of post-trade transparency to certain transactions executed outside a trading venue – Article 13 of RTS 1

143. Article 20(1) of Regulation (EU) No 600/2014 sets out the general obligation for investment firms which, either on own account or on behalf of clients, conclude transactions in shares, or equity-like instruments, to publish post-trade data though an APA.

144. Article 13 of RTS provides for the list of transactions to which Article 20(1) of MiFIR does not apply. No amendments were made to the specific paragraph in the reviewed MiFIR. Therefore, ESMA proposes that such requirements should not be amended.

4.3.3.5 Real-time publication of transactions – Article 14 of RTS 1

145. Article 14 of RTS provides for the circumstances when post-trade information shall be made public. No amendments were made to the relevant provisions in the reviewed MiFIR. Therefore, ESMA proposes that such requirements should not be amended. However, in light of the analysis in section 3.2.2.1 in the MiFIR Review Package Consultation, ESMA would like to receive feedback from stakeholders on the possibility to further reduce the time to be considered as close as to real time as technically possible below 1 minute.

Q30: Would you further reduce the maximum time for disclosing pre-trade transparency "as close to real-time as technically possible"? If so, what maximum limit would you suggest? Please explain.

4.3.3.6 Deferred publication of transactions – Article 15 of RTS 1

146. Article 15 of RTS 1 provides for the post-trade transparency details to be made public and the conditions for deferred publication. Since the relevant MiFIR provisions have not been amended, ESMA does not propose amendments to Article 15 of RTS 1 if not an update of a cross-reference to reflect that DPEs are now the entities in charge of the publication of post-trade transparency reports. See the amendment in Annex 10.4.2.

Q31: Do you agree with the proposed amendments to Article 15 of RTS 1? If not, please explain.

4.3.3.7 References to trading day and daily trading hours – Article 16 of RTS 1

147. No amendments were made to the specific paragraph in the reviewed MiFIR. Therefore, ESMA proposes that such requirements should not be amended.

4.4 Trading obligation for investment firms with respect to shares

Article 23 of MiFIR

4.4.1 Mandate

148. The text below provides the amended text of Article 23 of MiFIR, highlighting the changes introduced by MiFIR Review in light-blue:

Article 23 of MiFIR

1. An investment firm shall ensure the trades it undertakes in shares ~~admitted to trading on a regulated market or~~ which have a European Economic Area (EEA) International Securities Identification Number (ISIN) and which are traded on a trading venue ~~shall~~ take place on a regulated market, MTF a ~~or~~ systematic internaliser, or a third-country trading venue assessed as equivalent in accordance with Article 25(4), point (a) of Directive 2014/65/EU, as appropriate, unless ~~their characteristics include that they:~~

(a) ~~are non-systematic, ad-hoc, irregular and infrequent;~~ those shares are traded on a third-country venue in the local currency or in a non-EEA currency; or

(b) ~~–~~those trades are carried out between eligible counterparties, between professional counterparties or between eligible and~~/or~~ professional counterparties and do not contribute to the price discovery process.

2. An investment firm that operates an internal matching system which executes client orders in shares, depositary receipts, ETFs, certificates and other similar financial instruments on a multilateral basis must ensure it is authorised as an MTF under Directive 2014/65/EU and comply with all relevant provisions pertaining to such authorisations.

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.;

4.4.2 Background

149. Article 23 of MiFIR provides for the obligation to trade shares on an EU trading venue or on an equivalent third-country trading venue and specifies the cases when the Share Trading Obligation (STO) does not apply.

150. The MiFIR review introduces amendments to Article 23 of MiFIR, aiming to further specify the scope of the STO by requiring to:

- apply the STO only to shares with EEA ISINs (i.e. starting with a country code corresponding to an EU Member State, Iceland, Liechtenstein or Norway), in line with previous public statements from ESMA; and

- exclude from the STO shares traded on a third-country venue in the local currency or in a non-EEA currency (but not if they are traded in EUR or in an EEA-currency). This provision replaces the previous point (a) of Article 23(1). Therefore, investment firms trading a share in a non-systematic, ad-hoc, irregular and infrequent basis are no longer exempted from the STO in that share.

151. In addition, the MiFIR review further clarifies the wording of Article 23(1)(b), i.e. the exclusion from the scope of the STO of transactions in shares that do not contribute to the price discovery process, without, however, affecting the substance of the provision.

4.4.3 Analysis and Proposals

152. Article 2 of RTS 1 further specifies the characteristics of transactions not contributing to the price discovery process, and therefore excluded from the scope of the STO. As no substantial amendments to the relevant provisions in article 23 of MiFIR were introduced, ESMA does not deem it necessary to amend Article 2 of RTS 1, which was already revised in the previous review of RTS 1.

4.5 Provisions common to pre-trade and post-trade transparency calculations

Article 22 of MiFIR

4.5.1 Mandate

153. The text below provides the amended text of Article 22 of MiFIR highlighting the changes in light-blue:

Article 22 of MiFIR

1. In order to carry out calculations for determining the requirements for the pre- and post-trade transparency and the trading obligation regimes referred to in Articles 3 to 11a, ~~Articles~~ 14 to 21 and Article 32, which are applicable to financial instruments and to prepare reports to the Commission in accordance with Article 4(4), Article 7(1), Article 9(2), Article 11(3) and Article 11a(1) ~~for determining whether an investment firm is a systematic internaliser~~, ESMA and competent authorities may require information from:

(a) trading venues;

(b) APAs; and

(c) CTPs.

2. Trading venues, APAs and CTPs shall store the necessary data for a sufficient period.

3. 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 are to respond to data requests referred to in paragraph 1, the type of data that is *to be stored, and the minimum period for which trading venues, APAs and CTPs are to store data in order to be able to respond to data requests in accordance with paragraph 2.*

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

4.5.2 Background

154. The provisions common to pre-trade and post-trade transparency calculations are set out in Articles 17 to 20 of RTS 1.

155. More specifically, Articles 17 and 18 of RTS 1 further specify parts of the mandate in Article 22 of MiFIR. Such articles give NCAs and ESMA the possibility to require information from trading venues, APAs and CTPs to carry out, among others, the pre-trade and post-trade transparency calculations. In this regard, paragraph 3 of Article 22 of MiFIR gives ESMA the mandate to develop draft RTS specifying (i) the content and frequency of data requests and (ii) the formats and the timeframe in which trading venues, APAs and CTPs are to respond to those data requests, (iii) the type of data that is to be stored, and (iv) the minimum period for which trading venues, APAs and CTPs are to store data in order to be able to respond to those data requests.

156. These requirements to provide information for the purpose of the pre-trade and post-trade transparency calculations are further specified in Articles 4 and 5 of RTS 3 with regard to (ii), (iii) and (iv), in Articles 1 to 3 of RTS 3 with regard to (i) and (iv) by cross-referring to RTS 1 which, in turn, further defines in Articles 17 and 18 as well as in Annexes III and IV) the content (i) and format (ii) of the information to be provided.

157. Finally, Articles 19 and 20 of RTS 1 specify the dates of entry into force and application of RTS 1 including transitional provisions.

158. Last but not least, the MiFIR review introduces an explicit mandate for ESMA and NCAs to request information in order to prepare annual reports to the Commission on the application of waivers under Articles 4(4) and 9(2) of MiFIR, and on the application of deferrals under Articles 7(1), 11(3), and 11a(1) of MiFIR.

4.5.3 Analysis and Proposals

159. The MiFIR review does not introduce substantial amendments on the content and frequency of the requirements to provide information to NCAs and to ESMA. As a result, ESMA does not deem it necessary to amend the substance of Articles 17 and 18. Furthermore, the new provisions covered in Article 22 allow ESMA to specifically require data to perform a thorough assessment of the use of the waivers and deferrals. In the annual reports on waivers and deferrals performed in the past years, ESMA reiterated the need to report such data to FITRS for non-equity instruments, for which an ad-hoc data collection had to be made but proved to be lacking the sufficient data quality for a thorough assessment. However, on the equity side, this issue was experienced to a limited extent since ESMA could rely on FITRS data which benefitted from an annual data quality program that would have ensured the possibility for a proper assessment of the regimes[11]. As a result, ESMA considers three different options:

- [**OPTION A**] ESMA does not propose changes to Annex IV;

- [**OPTION B**] ESMA proposes to add a layer in the reporting by introducing a flag to identify non-price forming transactions. This additional information would allow ESMA to further improve data quality by doing more in-depth analysis of the data and to ensure a consistent treatment of technical trades during the preformation of the transparency calculations;

- **[OPTION C]** ESMA proposes to add, as in option B, a layer in the reporting by introducing a flag to identify non-price forming transactions and, in addition, to collect the turnover and number of transactions granularly on a per waiver type. This additional information would allow ESMA to further improve data quality by doing more in-depth analysis of the data and to ensure a consistent treatment of technical trades during the performance of the transparency calculations as well as it would allow ESMA to use FITRS for the purpose of the volume cap calculations and for a more in-depth analysis for the monitoring of the use of the waivers for the purpose of the annual report on waivers and deferrals.

[11] esma70-156-2401_annual_report_2020_-_equity_waivers_and_deferrals.pdf (europa.eu)
esma70-156-4474_annual_report_2021_waivers_and_deferrals.pdf (europa.eu)
esma70-156-6093_annual_report_2022_waivers_and_deferrals.pdf (europa.eu)

160. The proposed targeted amendments to Articles 17, to take into account the new thresholds, and the amendments to Annex IV under Option B and C are presented below. No amendments are proposed to Article 18 on the identification of the competent authority.

Article 17

Methodology, date of publication and date of application of the transparency calculations

(Article 22(1) of Regulation (EU) No 600/2014)

1. ~~At the latest 14 months after the date of the entry into application of Regulation (EU) No 600/2014 and by~~ By 1 March of each year ~~there~~ following the date of application of this Regulation, competent authorities shall, in relation to each financial instrument for which they are the competent authority, collect the data, calculate and ensure publication of the following information:

(a) the trading venue which is the most relevant market in terms of liquidity, as set out in Article 4(2);

(b) the average daily turnover, for the purpose of identifying the size of orders that are large in scale as set out in Article 7(3);

(c) the average value of transactions, for the purpose of determining the standard market size as set out in Article 11(2) and the thresholds as set out in Articles 11a and 11b.

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 of this Article for the purposes of Article 4(1), points (a) and (c) and Article 14(2), (3) and (4)of Regulation (EU) No 600/2014, for the period 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.

3. Competent authorities shall ensure that the information to be made public pursuant to paragraph 1 is updated on a regular basis for the purposes of Regulation (EU) No 600/2014 and that all changes to a specific share, depositary receipt, ETF, certificate or other similar

financial instrument which significantly affects the previous calculations and the published information are included in such updates.

4. For the purposes of the calculations referred to in paragraph 1, the turnover in relation to a financial instrument shall be calculated by summing the results of multiplying, for each transaction executed during a defined period of time, the number of units of that instrument exchanged between the buyers and sellers by the unit price applicable to such transaction.

5. After the end of the trading day, but before the end of the day, trading venues shall submit to competent authorities the details set out in Tables 1 and 2 of Annex III whenever the financial instrument is admitted to trading or first traded on that trading venue or whenever those previously submitted details have changed.

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 information in accordance with Annex IV to this Regulation.

7. Where the trade size determined for the purposes of Article 7(1) and (2), Article 8 (2), point (a), Article 11(1), 11a and 11b and Article 15(1) 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.

8. For the purposes of the calculations referred to in paragraph 1, the first day of trading shall be that as set out in the third subparagraph of Article 5(1) of Commission Delegated Regulation (EU) 2017/567.

ANNEX IV

Data to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT ~~and~~ the AVT and to prepare reports to the Commission in accordance with Article 4(4) and Article 9(2)

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 shall 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 ***– [OPTION A and OPTION B]***

Details to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT and the AVT and to prepare reports to the Commission in accordance with Article 4(4) and Article 9(2)

~~**(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	Execution date	Date on which the trades are executed.	RM, MTF, APA, CTP	{DATEFORMAT}

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
3	Execution venue	Segment MIC for the EU trading venue or systematic internaliser, where available, otherwise operating MIC. MIC XOFF in the case the transaction is executed by investment firms which are not systematic internalisers and is not executed on a trading venue.	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 on the execution date. As a consequence of an instrument being suspended for the whole trading day, fields 5 to 10 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 execution date (*2). (3) (4)	RM, MTF, APA, CTP	{INTEGER-18}
6	Total turnover	The total turnover executed on the execution date, expressed in EUR (*1) (*2). (3) (4)	RM, MTF, APA, CTP	{DECIMAL-18/5}

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
7	Transactions executed, excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and(c), of Regulation (EU) No 600/2014.	The total number of transactions executed on the execution date excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014 on the same day (*2).	RM, MTF, CTP	{INTEGER-18}
8	Total turnover executed, excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014.	The total turnover executed on the execution date excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014 on the same day (*1) (*2).	RM, MTF, CTP	{DECIMAL-18/5}

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
9	Total number of transactions excluding those executed under the post-trade LIS deferral.	Total number of transactions executed on the execution date, excluding those transactions executed under Large-In-Scale ~~waiver~~ ~~(~~post-trade deferral~~)~~ (*2) (4). For shares and depositary receipts only the highest threshold for the related average daily turnover (ADT) band in Table 4 of Annex II shall be used to identify those transactions. For certificates and other similar financial instruments only the highest threshold in Table 6 of Annex II shall be used to identify those transactions For ETFs only the highest threshold in Table 5 of Annex II shall be used to identify those transactions.	RM, MTF, APA, CTP	{INTEGER-18}
10	Total turnover executed, excluding transactions executed under the post-trade LIS deferral.	Total volume of transactions executed on the execution date, excluding those transactions executed under Large-In-Scale ~~waiver~~ ~~(~~post-trade deferral~~)~~ (*1) (*2) (4).	RM, MTF, APA, CTP	{DECIMAL-18/5}

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
		For shares and depositary receipts only the highest threshold for the related average daily turnover (ADT) band in Table 4 of Annex II shall be used to identify those transactions. For certificates and other similar financial instruments only the highest threshold in Table 6 of Annex II shall be used to identify those transactions For ETFs only the highest threshold in Table 5 of Annex II shall be used to identify those transactions.		
11 [Field added only in case of OPTION B]	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 empty otherwise

(*1) 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.

*Table 2 – [**OPTION C**]*

Details to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT and the AVT and to prepare reports to the Commission in accordance with Article 4(4) and Article 9(2)

~~**(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)	{ISIN}

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
			Consolidated tape provider (CTP)	
2	Execution date	Date on which the trades are executed.	RM, MTF, APA, CTP	{DATEFORMAT}
3	Execution venue	Segment MIC for the EU trading venue or systematic internaliser, where available, otherwise operating MIC. MIC XOFF in the case the transaction is executed by investment firms which are not systematic internalisers and is not executed on a trading venue.	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 on the execution date. As a consequence of an instrument being suspended for the whole trading day, fields 5 to 10 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

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
5	Total number of transactions	The total number of transactions executed on the execution date ~~(*2).~~ (3) (4)	RM, MTF, APA, CTP	{INTEGER-18}
6	Total turnover	The total turnover executed on the execution date, expressed in EUR ~~(*1) (*2).~~ (3) (4)	RM, MTF, APA, CTP	{DECIMAL-18/5}
~~7~~	~~Transactions executed, excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and(c), of Regulation (EU) No 600/2014.~~	~~The total number of transactions executed on the execution date excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014 on the same day (*2).~~	~~RM, MTF, CTP~~	~~{INTEGER-18}~~
~~8~~	~~Total turnover executed, excluding all transactions executed under pre-trade waivers of Article 4(1), points~~	~~The total turnover executed on the execution date excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014 on the same day (*1) (*2).~~	~~RM, MTF, CTP~~	~~{DECIMAL-18/5}~~

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
	~~(a), (b) and (c), of Regulation (EU) No 600/2014.~~			
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. (*2)	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. (*1) (*2)	RM, MTF, CTP	{DECIMAL-18/5}
9	Total number of transactions executed under negotiated	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. (*2)	RM, MTF, CTP	{INTEGER-18}

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
	transaction waiver of type 1			
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. (*1) (*2)	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. (*2)	RM, MTF, CTP	{INTEGER-18}
12	Total turnover of transactions executed under negotiated	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. (*1) (*2)	RM, MTF, CTP	{DECIMAL-18/5}

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
	transaction waiver of type 2			
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. (*2)	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. (*1) (*2)	RM, MTF, CTP	{DECIMAL-18/5}
15	Total number of transactions executed under	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. (*2)	RM, MTF, CTP	{INTEGER-18}

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
	large in scale waiver			
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. ([*1]) ([*2])	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. ([*2])	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. ([*1]) ([*2])	RM, MTF, CTP	{DECIMAL-18/5}

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
19~~9~~	Total number of transactions excluding those executed under the post-trade LIS deferral.	Total number of transactions executed on the execution date, excluding those transactions executed under Large-In-Scale ~~waiver~~ ~~(~~post-trade deferral~~)~~ (*2) (4). For shares and depositary receipts only the highest threshold for the related average daily turnover (ADT) band in Table 4 of Annex II shall be used to identify those transactions. For certificates and other similar financial instruments only the highest threshold in Table 6 of Annex II shall be used to identify those transactions For ETFs only the highest threshold in Table 5 of Annex II shall be used to identify those transactions.	RM, MTF, APA, CTP	{INTEGER-18}
20~~10~~	Total turnover executed, excluding transactions executed under the post-trade LIS deferral.	Total volume of transactions executed on the execution date, excluding those transactions executed under Large-In-Scale ~~waiver~~ ~~(~~post-trade deferral~~)~~ (*1) (*2) (4).	RM, MTF, APA, CTP	{DECIMAL-18/5}

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
		For shares and depositary receipts only the highest threshold for the related average daily turnover (ADT) band in Table 4 of Annex II shall be used to identify those transactions. For certificates and other similar financial instruments only the highest threshold in Table 6 of Annex II shall be used to identify those transactions For ETFs only the highest threshold in Table 5 of Annex II shall be used to identify those transactions.		
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 empty otherwise

(*1) 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.

(*2) Transactions that have been cancelled shall be excluded from the reported figures. 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

(3) 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.

(4) Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date

Q32: Which option do you prefer: Option A (status quo), Option B (add layer for technical trades), Option C (add layer for technical trades and waivers)? Please explain.

Q33: Do you agree with the proposed amendments to Annex IV of RTS 1 in relation to Option B and Option C? Please explain.

161. As far as Articles 19 and 20 of RTS 1 are concerned, considering that the arrangements for transparency calculations are already established by all relevant stakeholders and should remain in force until both the MiFIR review and the revised RTS 1 apply, ESMA proposes to adapt all transitional provisions included in Article 19 of RTS 1 to clarify that the results published under the current RTS 1 will be valid until the first regular period to carry out the new calculations under the revised RTS 1.

162. In addition, ESMA proposes targeted elements of Articles 17 and to amend Article 20 of RTS 1. For the application dates, ESMA notes the need to have certain provisions relevant for the CTP applying in time for the start of the selection procedure of the CTP, the provisions linked to the new field 6b in RTS 23 instead should apply when such field is available.

163. The proposals of such modifications are presented in Articles 17 to 20 of RTS 1 in red below. ESMA proposes to delete Article 19.

Article 20

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.

It shall apply from the date of entry into force of this Regulation. ~~3 January 2018.~~

Article 3(1) second subparagraph and Article 12(1)~~Article 19~~ shall apply from [1 May 2025] ~~the date of entry into force of this Regulation~~ and Article 4(4), 4(6) and 7(7) shall apply from [please insert date 18 months after the date of entry into force of RTS 23].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Q34: Do you agree with the proposed amendments to Articles 16 to 19 of RTS 1? Please explain.

Q35: Do you agree with the proposed different application dates for the different provisions in Article 20 of RTS 1? Please explain.

5 New Commission Implementing Regulation (ITS on the content and format of the Systematic Internaliser Notification)

5.1 Background and relevant provisions

Article 15(5) of MiFIR

164. The text below provides the amended text of MiFIR highlighting the changes in light-blue:

Article 15 of MiFIR

1. Systematic internalisers shall make public their quotes on a regular and continuous basis during normal trading hours. They may update their quotes at any time. They shall be allowed, under exceptional market conditions, to withdraw their quotes.

Member States shall require that firms that meet the definition of systematic internaliser notify their competent authority. Such notification shall be transmitted to ESMA. ESMA shall establish a list of all SIs in the Union.

The quotes shall be made public in a manner which is easily accessible to other market participants on a reasonable commercial basis.

Systematic internalisers shall establish and implement transparent and non-discriminatory rules and objective criteria for the efficient execution of orders. They shall have arrangements for the sound management of their technical operations, including the establishment of effective contingency arrangements to cope with risks of systems disruption.

[…]

5. ~~The Commission shall be empowered to adopt delegated acts in accordance with Article 50, clarifying what constitutes a reasonable commercial basis to make quotes public as referred to in paragraph 1~~ESMA shall develop draft implementing technical standards to determine the content and format of the notification referred to in paragraph 1, second subparagraph.

ESMA shall submit those draft implementing technical standards to the Commission by 29 March 2025.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010

5.2 Analysis

165. Article 15(5) of revised MiFIR mandates ESMA to develop draft implementing technical standards (ITS) to determine the content and format of the notification for firms that meet the definition of a Systematic Internaliser (SI).

166. The SI regime is a part of the Directive 2014/65/EU (MiFID II). So far, the SI regime applied to firms that execute client orders over the counter (OTC) on an organised, frequent, and systematic, and substantial basis. This means that these firms are trading in financial instruments without the use of a formal exchange, and they do so regularly and systematically.

167. In this respect, following the amendments to MiFID II (Amending Directive (EU) 2024/790)[12], an investment firm is considered to be an SI only where it is deemed to perform its activities on an organised, frequent and systematic basis or where it chooses to opt-in under the SI regime, i.e. the substantial basis is no longer a prerequisite once the amendments to MiFID II starts applying (18 months after entry into force).

168. A frequent and systematic basis will going forward be determined only by a qualitative assessment. Taking into account that Regulation (EU) No 600/2014 is amended to exclude SIs from the scope of the pre-trade transparency requirements for non-equity instruments, the qualitative assessment of SIs should apply only to equity instruments. It should, however, be possible for an investment firm to opt-in to become an SI for non-equity instruments.

[12] Directive (EU) 2024/790 of the European Parliament and of the Council of 28 February 2024 amending Directive 2014/65/EU on markets in financial instruments - Directive - EU - 2024/790 - EN - EUR-Lex (europa.eu)

169. In view of the above, the changes in amended MiFID II text are linked to the mandate set out in Article 15(5) of MiFIR, therefore, when developing the draft ITS ESMA also reflected on the MiFID II changes.

170. Article 15(1) of MiFIR lays down the obligation for investment firms to notify their NCA if they meet the definition of an SI. In turn, the NCA shall transmit such notification to ESMA, which will establish and maintain a list of all the SIs established within the territories of the European Union.

171. Such notification should include all the information used by NCAs to inform ESMA and update the ESMA SI Register.

172. In the Questions and Answers on MiFID II and MiFIR transparency topics (ESMA70-1562901-35) ESMA explained that the notification from SIs to their NCAs should contain information that is at least provided at the level of the MiFIR identifier for the instruments and classes of instruments for which the investment firm is a SI, as specified:

a. in field 4 of table 2 of Annex III of RTS 1 (i.e. shares, depositary receipts, exchange traded funds, certificates and other equity-like financial instruments), and

b. in field 3 of table 2 of Annex IV of RTS 2 (i.e. bonds, ETNs, ETCs, structured finance products, securitised derivatives, derivatives, and emission allowances).

173. This is without prejudice of the possibility for NCAs to require the submission of more granular information if considered appropriate (Answer to the Question 6 updated on 31 May 2017).

5.3 Proposal

174. The aim of the mandate is to establish a standard template to be used by firms for the notification to their NCA when they meet the definition of an SI. In this regard, a first notification is to be submitted to the NCA when a firm commences activities as an SI in one or more classes of financial instrument or decides to opt-in.

175. To outline the content of the ITS, ESMA has therefore performed a first assessment on the information that should be exchanged between investment firms and NCAs. In this context, ESMA is proposing to prefer an electronic format for the submission of the notification.

176. Moreover, in the drafting process of the new template, ESMA has taken into account *inter alia* existing guidelines outlining the minimum content of the notification, the current version of the ESMA's SI Register, the various national notification templates and the information requested by NCAs, different stakeholders' needs, the amended SI regime following the MiFIR/MiFID Review and the newly introduced regime for Designated Publishing Entities (DPE).

177. The proposed new template covers 4 sections:

a. An introductive part will allow the NCAs to quickly understand the type of notification, whether the investment firm is submitting a notification for the first time (i) because it met the SI definition; or (ii) because it decided to opt-in; (iii) because the investment firm needs to update a previously submitted notification; or (iv) because the investment firm ended all its SI activities;

b. A section including information to be populated with the details of the Investment Firm, its Compliance Officer and the person authorised to represent it;

c. The core section where the investment firm indicates details of the SI activities at the date of the submission and whether the company is acting also as a DPE;

d. Lastly, a section for the signature of the person authorised to represent the entity.

178. ESMA has reflected also on the possibility of incorporating a designated field for the Market Identifier Code (MIC) of the Approved Publication Arrangement (APA) utilized by the SI when submitting notifications. This addition aims to determine if such information would be beneficial for the relevant NCA, however, the inclusion of this field has been deemed unnecessary because transparency publications will be handled by the new DPEs. Conversely, it is considered appropriate for the DPE notification to include this information.

179. With regard to the points in time when such notifications should be submitted, ESMA is proposing that, following the first notification, a new one is needed when:

a. There is a change in the activities carried out as an SI, both in case an investment firm ceases to act as an SI in one or more of the classes of financial instruments it has previously notified, or where it extends its activity to other classes of instruments; or

b. An investment firm has ceased all the activities as an SI.

180. Moreover, ESMA expects that SIs update their NCAs in case of any change in the activities carried out as SIs or any changes in the contact details provided in the previous notification form.

181. Due to the relevant changes introduced to the SI regime by the amendments to MiFID II (Amending Directive (EU) 2024/790)[13], ESMA is of the view that creating a new register would be the most suitable solution to ensure an up-to-date register.

182. Therefore, ESMA expects that all the investment firms that intend to continue/start carrying out activities as SIs in any class of financial instruments submit as soon as technically possible a new notification in accordance with the new template included in Section 10.4.7 of this document.

Q36: Do you agree with the ESMA's proposed approach? Please elaborate.

Q37: Do you think the fields included in the new form are exhaustive? If not, which other information are missing for the purpose of the template? Do you consider all requested fields to be needed? What is your perspective on the potential inclusion of a dedicated field for entering the MIC of the APA utilized by the SI during the notification submission process? Please elaborate.

Q38: Do you think that two weeks would be a processing time long enough for the investment firms that intend to continue/start carrying out activities as SIs in any class of financial instruments to submit the new notification to the respective NCAs? Please elaborate.

Q39: Are there any other suggestions you would like to propose? Please elaborate.

[13] Directive (EU) 2024/790 of the European Parliament and of the Council of 28 February 2024 amending Directive 2014/65/EU on markets in financial instruments - Directive - EU - 2024/790 - EN - EUR-Lex (europa.eu)

6 Commission Delegated Regulation 2017/577 (RTS 3)

6.1 Mandate

183. The text below provides the amended text of Article 5 of MiFIR highlighting the changes in light-blue:

Article 5

Volume Cap ~~Mechanism~~

1. Trading venues shall suspend their use of the waiver referred to in Article 4(1), point (a), where the percentage of trading in a financial instrument in the Union carried out under the waiver exceeds 7 % of the total volume of trading in that financial instrument in the Union. Trading venues shall base their decision to suspend the use of that waiver on the data published by ESMA in accordance with paragraph 4 of this Article, and shall take such decision within two working days after the publication of those data and for a period of three months.

~~1. In order to ensure that the use of the waivers provided for in Article 4(1)(a) and 4(1)(b)(i) does not unduly harm price formation, trading under those waivers is restricted as follows:~~

~~(a) the percentage of trading in a financial instrument carried out on a trading venue under those waivers shall be limited to 4 % of the total volume of trading in that financial instrument on all trading venues across the Union over the previous 12 months.~~

~~(b) overall Union trading in a financial instrument carried out under those waivers shall be limited to 8 % of the total volume of trading in that financial instrument on all trading venues across the Union over the previous 12 months.~~

~~That volume cap mechanism shall not apply to negotiated transactions which are in a share, depositary receipt, ETF, certificate or other similar financial instrument for which there is not a liquid market as determined in accordance with Article 2(1)(17)(b) and are dealt within a percentage of a suitable reference price as referred to in Article 4(1)(b)(ii), or to negotiated transactions that are subject to conditions other than the current market price of that financial instrument as referred to in Article 4(1)(b)(iii).~~

~~2. When the percentage of trading in a financial instrument carried out on a trading venue under the waivers has exceeded the limit referred to in paragraph 1(a), the competent authority~~

~~*that authorised the use of those waivers by that venue shall within two working days suspend their use on that venue in that financial instrument based on the data published by ESMA referred to in paragraph 4, for a period of six months.*~~

~~*3. When the percentage of trading in a financial instrument carried out on all trading venues across the Union under those waivers has exceeded the limit referred to in paragraph 1(b), all competent authorities shall within two working days suspend the use of those waivers across the Union for a period of six months.*~~

4. ESMA shall publish within ~~five~~ seven working days of the end of March, June, September and December of each calendar ~~month~~ year, the total volume of ~~Union~~ trading in the Union per financial instrument in the previous 12 months, the percentage of trading in a financial instrument carried out across the Union under ~~those waivers and on each trading venue in the previous 12 months~~ the waiver referred to in Article 4(1), point (a), and the methodology that is used to derive those percentages of trading in each financial instrument.

~~*5. In the event that the report referred to in paragraph 4 identifies any trading venue where trading in any financial instrument carried out under the waivers has exceeded 3,75 % of the total trading in the Union in that financial instrument, based on the previous 12 months' trading, ESMA shall publish an additional report within five working days of the 15th day of the calendar month in which the report referred to in paragraph 4 is published. That report shall contain the information specified in paragraph 4 in respect of those financial instruments where 3,75 % has been exceeded.*~~

~~*6. In the event that the report referred to in paragraph 4 identifies that overall Union trading in any financial instrument carried out under the waivers has exceeded 7,75 % of the total Union trading in the financial instrument, based on the previous 12 months' trading, ESMA shall publish an additional report within five working days of the 15th on the day of the calendar month in which the report referred to in paragraph 4 is published. That report shall contain the information specified in paragraph 4 in respect of those financial instruments where 7,75 % has been exceeded.*~~

7. In order to ensure a reliable basis for monitoring the trading taking place under ~~those waivers~~ the waiver referred to in Article 4(1), point (a), and for determining whether the limits referred to in paragraph 1 have been exceeded, operators of trading venues shall ~~be obligated to~~ have in place systems and procedures to~~: (a)~~ enable the identification of all trades which have taken place on ~~its~~ their venue under ~~those waivers; and (b) ensure it does not exceed the~~

~~permitted percentage of trading allowed under those waivers as referred to in paragraph 1(a) under any circumstances~~ that waiver.

8. The period for the publication of trading data by ESMA, and for which trading in a financial instrument under those waivers is to be monitored shall start on ~~3 January 2017~~ 29 September 2025. ~~Without prejudice to Article 4(5), competent authorities shall be empowered to suspend the use of those waivers from the date of application of this Regulation and thereafter on a monthly basis~~.

9. ESMA shall develop draft regulatory technical standards to specify the method, including the flagging of transactions, by which it collates, calculates and publishes the transaction data, as outlined in paragraph 4, in order to provide an accurate measurement of the total volume of trading per financial instrument and the percentages of trading that use ~~those waivers~~ the waiver across the Union ~~and per trading venue~~.

ESMA shall submit those draft regulatory technical standards to the Commission by ~~3 July 2015~~ 29 March 2025.

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.

10. By 29 September 2027, and every year thereafter, ESMA shall submit to the Commission a report assessing the volume-cap threshold set in paragraph 1, taking into account financial stability, international best practices, the competitiveness of Union firms, the significance of the market impact and the efficiency of price formation.

The Commission is empowered to adopt delegated acts in accordance with Article 50 to amend this Regulation by adjusting the volume-cap threshold set in paragraph 1 of this Article. For the purposes of this subparagraph, the Commission shall take into account the report from ESMA referred to in the first subparagraph of this paragraph, international developments and standards agreed at Union or international level.

6.2 Background

184. Article 5 of MiFIR provides for a suspension of the use of waivers for equity instruments when the volume of trading in those instruments reaches set thresholds, also known as volume cap.

185. The MiFIR review introduces amendments to Article 5 of MiFIR, aiming to simplify the use of the volume cap, in particular:

- Shift from double volume cap (DVC) to single volume cap (SVC), with the removal of the trading venue specific threshold, and the lowering of the threshold for total trading volume in the Union (from 8% for the DVC to 7% for the SVC).

- Removal from the scope of the volume cap of transactions carried out under the negotiated trade waiver (NT1), i.e. the SVC only covers transactions carried out under the Reference Price Waiver (RPW).

- Application of suspensions by trading venues based on the publication by ESMA of trading data, i.e. removing the intermediary step of suspension by the NCA that authorised the use of the waivers in scope of the DVC.

- Shift from monthly to quarterly publication by ESMA of trading data, with a set calendar (March, June, September, December), within the 7th working day after the end of the previous month rather than the 5th, and a reduced duration of the suspension decisions (from 6 months for the DVC to 3 months for the SVC).

186. In addition, the MiFIR review introduces a specific transitional provision for the application of the new provisions on the volume cap, providing that '*the period for the publication of trading data by ESMA, and for which trading in a financial instrument under the waiver is to be monitored, shall start on 29 September 2025'*.

187. Notwithstanding the amendments to the key features of the volume cap in MiFIR and of this specific transition provision. the current double volume cap (DVC), as well as ongoing suspensions, will continue applying until the publications and suspensions under the new single volume cap 18 months after the entry into force of MiFIR review (see ESMA's Public statement on the Transition for the application of the MiFID II/MiFIR review [14] for more details). Hence, ESMA will continue to collect trading data in accordance with the existing RTS 3.

188. Finally, ESMA is required to produce a yearly report as of the end of 2027 to assess the threshold of the volume cap, on the basis of which the Commission may adjust the 7% threshold current set in the Level 1 text. In due course, ESMA will explore the synergies

[14] https://www.esma.europa.eu/sites/default/files/2024-03/ESMA74-2134169708-7163_Public_statement_on_specific_revised_MiFIR_provisions.pdf

between this report and the annual report on waivers and deferrals in accordance with Articles 7(1), 9(2), 11(3) and 11a(1) of MiFIR, aiming to assess the impact on market transparency of the switch between the DVC and the SVC.

6.3 Analysis and Proposals

189. Articles 1 to 5 of RTS 3 specify the general principles applicable to the provision of information for the purposes of transparency and other calculations.

190. In order to minimise disruptions in the transition from the current to the new reporting regime, ESMA proposes some targeted changes to Articles 1 and 5 of RTS 3, reflecting the changes stemming from the MiFIR review.

191. In addition to technical changes linked to the removal of the quantitative test for SIs, the deletion of the SSTI waiver for non-equity instruments, and the removal of the negotiated trade waiver from the scope of the volume cap, a more substantial amendment to article 5 entails the lengthening of the obligation to maintain records from three years to five years, in line with Articles 25(2), 27g(4b) 27ha(3), and 27i(4b) of MiFIR.

192. Furthermore, based on the assessment of JSON as one of the most appropriate formats for regulatory reporting purposes and its relative advantages compared to XML, ESMA is considering a gradual transition towards JSON for several reporting regimes currently envisaging XML requirements, such as MiFIR transaction and reference data reporting, as well as position reporting for commodity derivatives. To keep consistency also with requirements applicable to the provision of information for the purpose of transparency calculations, ESMA proposes a change to the format mandated in article 4 of RTS 3, from XML to JSON, and is seeking specific feedback on the costs and benefits implied by this change.

193. More details on the benefits of JSON as an alternative data format to XML are available in section 14.7 of the consultation package covering the amendment to RTS 23 (MiFIR reference data)[15] and in section 3.2.1.6 of the consultation paper on the amendments to ITS 4[16] (position reporting for commodity derivatives). If applicable, stakeholders are invited

[15] https://www.esma.europa.eu/sites/default/files/2024-05/ESMA74-2134169708-7241_CP_Package_on_the_MiFIR_Review_-_RTS_2__RCB_and_Reference_Data.pdf
[16] ESMA74-2134169708-7006 Consultation paper on the amendments to certain technical standards for commodity derivatives (europa.eu)

to also share their feedback to the respective questions on a transition from XML to JSON provided by these two consultation papers.

194. Articles 6 and 8 of RTS 3 further specify the reporting requirements necessary for the application of the volume cap, supplementing the key features of the volume cap set out in article 5 of MiFIR, and for the application of the Derivatives Trading Obligation (DTO) set out in Article 23 of MiFIR.

195. Firstly, ESMA proposes to reflect in RTS 3 the direct reporting from trading venues to ESMA implemented since 2021, removing the intermediary step whereby trading venues previously reported data to NCAs that, in turn, reported data to ESMA. The relevant changes in respect of the application of the volume cap and of the DTO are introduced in amendments to articles 6 and 7 of RTS 3.

196. ESMA also proposes technical amendments to Articles 6 and 8 of RTS 3, and to its Annex, reflecting further changes stemming from the MiFIR review, notably removing of the negotiated trade waiver from the scope of the volume cap, and reflecting the possibility for certain data contributors not to contribute to the equity consolidated tape. These technical amendments also align the definition of 'machine-readable format' with the one provided in the European Single Access Point (ESAP) Regulation[17], itself a reference to the Open Data Directive[18], while the current definition of human-readable format is maintained.

197. In addition to changes adapting the timeframe of ESMA publications to the changes introduced in MiFIR, i.e. shift from monthly to quarterly publications, with a 7 working days window after the end of March, June, September and December, ESMA suggests to explore two options:

a. continue to apply the existing approach to reporting requirements, i.e. bi-weekly reporting from trading venues, and from CTPs upon request, to ESMA; or

b. decrease the frequency of reporting from trade venues and CTPs to ESMA, from bi-weekly to monthly.

---

[17] Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023, http://data.europa.eu/eli/reg/2023/2859/oj
[18] Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019, http://data.europa.eu/eli/dir/2019/1024/oj

198. Based on the feedback from the consultation and, taking due account of the cost and data quality implications of the implementation of all changes linked to transparency calculations, ESMA will decide on the preferred option and propose amendments to paragraphs 6, 7 and 8 of article 6, with reporting on the sixteenth day of each calendar month for the previous month in case of a switch to monthly reporting.

199. ESMA does not consider that the clarifications introduced in the Q&As related to the volume cap[19] should be integrated in RTS 3 and, will update the relevant Q&A ahead of the application of the revised RTS 3.

200. These proposed amendments to RTS 3 are included in the draft Amending Regulation in Annex VI.

Q40: Do you agree with the proposed amendments to RTS 3, including the Annex? If not, please explain.

Q41: Do you foresee any challenges with the use of JSON format compared to XML? Please provide estimates of the costs, timelines of implementation and benefits (short- and long term) related to potential transition to JSON.

Q42: What is your preferred option for the frequency of reporting of data to ESMA from trading venues, and CTPs upon request: a) maintain bi-weekly reporting as present or b) switch to monthly reporting, on the 16th day of the month for the previous month? Please justify your answer and provide examples and data on the costs and benefits of your preferred approach.

[19] Section 6 of the Questions and Answers on MiFID II and MiFIR transparency topics: https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-35_qas_transparency_issues.pdf

7 Recast of Commission Delegated Regulation 2017/584 (RTS 7) - new requirements on Circuit Breakers and amendments due to DORA framework

7.1 Circuit Breakers

Article 48 of MiFID II

7.1.1 Mandate

201. The text below provides the amended text of the ESMA mandates in the area of circuit breakers highlighting the changes in light-blue:

Article 48(5) of MiFID II: Systems resilience, circuit breakers and electronic trading

Member States shall require a regulated market to be able to temporarily halt or constrain trading in emergency situations or in the event of a significant price movement in a financial instrument on that market or a related market during a short period and, in exceptional cases, to be able to cancel, vary or correct any transaction. Member States shall require a regulated market to ensure that the parameters for halting trading are appropriately calibrated in a way which takes into account the liquidity of different asset classes and sub-classes, the nature of the market model and the types of users and is sufficient to avoid significant disruptions to the orderliness of trading.

Member States shall ensure that a regulated market reports the parameters for halting trading and any material changes to those parameters to the competent authority in a consistent and comparable manner, and that the competent authority shall in turn report them to ESMA. Member States shall require that where a regulated market which is material in terms of liquidity in that financial instrument halts trading, in any Member State, that trading venue has the necessary systems and procedures in place to ensure that it will notify competent authorities in order for them to coordinate a market-wide response and determine whether it is appropriate to halt trading on other venues on which the financial instrument is traded until trading resumes on the original market.

Member States shall require a regulated market to publicly disclose on its website information about the circumstances leading to the halting or constraining of trading and on the principles for establishing the main technical parameters used to do so.

Member States shall ensure that, where a regulated market does not halt or constrain trading as referred to in the first subparagraph, despite the fact that a significant price movement in a financial instrument or related financial instruments has lead to disorderly trading conditions on one or several markets, competent authorities are able to take appropriate measures to re-establish the normal functioning of the markets, including the supervisory powers referred to in Article 69(2) points (m)to (p).

12. ESMA shall develop draft regulatory technical standards further specifying:

(…)

(h) the principles that regulated markets are to consider when establishing their mechanisms to halt or constrain trading in accordance with paragraph 5, taking into account the liquidity of different asset classes and sub-classes, the nature of the market model and the types of users, and without prejudice to the discretion of regulated markets in setting those mechanisms.

(i) the information that regulated markets are to disclose, including the parameters for halting trading that regulated markets are to report to competent authorities, pursuant to paragraph 5.

ESMA shall submit those draft regulatory technical standards to the Commission by 29 March 2025 ~~3 July 2015~~

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

~~13. ESMA shall, by 3 January 2016, develop guidelines on the appropriate calibration of trading halts under paragraph 5, taking into account the factors referred to in that paragraph.~~

7.1.2 Background

202. Circuit breakers are used by trading venues as a way of protecting markets and maintaining orderly trading in case of episodes of high volatility materialising affecting specific instruments or the whole market. The requirement for regulated markets (RM) to have in place circuit breakers was already included in Article 48(5) of previous MiFID II. Such requirement was extended by Article 18(5) to MTFs and OTFs, hence hereafter we will refer more generally to trading venues.

203. According to the mandate in Article 48(13) of previous MiFID II, ESMA developed Guidelines on the calibration of circuit breakers and publication of trading halts[20] (hereafter 'Guidelines'). The purpose of these Guidelines was to achieve common standards for the calibration of circuit breakers by trading venues and to ensure consistent application of the relevant provisions. Moreover, the Guidelines clarified the expectation that trading venues should make some information public upon triggering of trading halts.

204. Considering episodes of volatility affecting financial markets in recent years, circuit breakers have played an important role. In its second Report on Trends, Risks and Vulnerabilities of 2020 (TRV Report 2020)[21] ESMA noted, referring to the volatility events linked to the COVID-19 pandemic, that "trading venues proved to be broadly resilient, despite the surge in trading activity, message traffic and market movements. Circuit breakers were widely and efficiently used, and trading capacity was tested by volumes reaching all-time highs, with few operational issues."

205. However, the extreme volatility that energy and commodity derivatives markets experienced during the energy crisis of 2022 and the market disorders associated to the May 2022 flash crash, subjected circuit breakers to further scrutiny. As an immediate response and in order to address the extreme volatility during the energy crisis, the Council introduced a specific intraday volatility management mechanism (IVM) on trading venues trading energy derivatives to complement existing circuit breakers mechanisms.

[20] https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-63_mifid_ii_guidelines_on_trading_halts.pdf
[21] https://www.esma.europa.eu/sites/default/files/library/esma_50-165-1287_report_on_trends_risks_and_vulnerabilities_no.2_2020.pdf

206. As a follow up to the introduction of IVMs, ESMA published a Report on the implementation and functioning of the Intra-day Volatility Management Mechanism[22] (hereafter 'Final Report on IVM'). In the report ESMA noted that the introduction of IVMs might have had a positive impact by requiring trading venues to review and, where necessary, slightly recalibrate existing circuit breakers.

207. In the report ESMA also expressed the view that any mechanism aimed at curbing volatility (in the form of appropriately calibrated IVMs or circuit breakers) could play a role in limiting dramatic price fluctuations and smoothen price patterns in highly volatile markets.

208. At the same time, ESMA noted that it cannot not be the objective of IVMs or circuit breakers to make episodes of protracted volatility, resulting from market participants' uncertainty regarding fundamentals, disappear. Both mechanisms can help reduce volatility in prices by triggering halts to temporarily stop trading thereby giving market participants time to reflect on their assessment of fundamentals, or by rejecting orders which would lead to sharp price changes. However, none of those mechanisms is designed to prevent or stop disorderly trading as a consequence of very volatile prices. In order to achieve the latter, it may be necessary to suspend trading, which is something that both trading venues and competent authorities can do/request under Articles 52 and 69(2) of MiFID II.

209. In the Report ESMA also stressed the importance of ensuring the appropriate calibration and review of mechanisms aimed at managing volatility based on evolving market conditions as such mechanisms could have detrimental effects to the price discovery process and hamper price reliability.

210. In this sense, ESMA committed to provide guidance to market participants to ensure that (i) both static and dynamic circuit breakers are in place, (ii) the mechanisms are updated and recalibrated at regular intervals and that (iii) information on the functioning of the mechanisms is made public.

[22] https://www.esma.europa.eu/sites/default/files/2023-06/ESMA70-156-6509_Final_Report_Intra-day_Volatility_Management_Mechanism.pdf

211. To follow up, in October 2023 ESMA issued a Supervisory briefing on the calibration of circuit breakers[23] (hereafter 'Supervisory Briefing'). The Supervisory Briefing clarified certain concepts used in the Guidelines on circuit breakers through principle-based guidance. It further provided some guidance to NCAs regarding their role in the supervision of circuit breakers to enhance supervisory convergence and minimise the risks of divergent application of the existing requirements.

212. It should be noted that the 2022 energy crisis raised concerns related to (i) the deployment of different types of mechanisms from trading venues with significant differences in calibration and (ii) a possible lack of transparency around the circumstances of activation of circuit breakers in the EU.

213. In light of such considerations Article 48(5) of revised MiFID II has been amended to require: (i) trading venues to halt or constrain trading also in case of "emergency situations"; (ii) require trading venues to disclose publicly information both about the circumstances leading to the halting or constraining of trading and on the principles underpinning the main technical parameters governing the functioning of circuit breakers; and (iii) Member States to intervene using the relevant powers under MiFID II if trading venues do not halt or contain trading in the relevant circumstances.

214. Additionally, Article 48(12) of revised MiFID II has been amended to mandate ESMA to develop RTS specifying: (i) the principles to be considered by trading venues when establishing their mechanisms to halt or constrain trading and (ii) the information trading venues should make available to the public and to NCAs with respect to the circuit breakers as established. At the same time, the mandate in Article 48(13) of MiFID II for ESMA to draft Guideline for the calibration of circuit breakers has been removed from the Level 1.

7.1.3 Analysis and Proposals

215. ESMA notes that the new mandates in Article 48(12)(h) and (i) of revised MiFID II could be developed as a new stand-alone RTS. Nevertheless, considering that the provisions in Article 48 of MiFID II related to organisational requirements of trading venues are specified

[23] https://www.esma.europa.eu/sites/default/files/2023-10/ESMA74-2134169708-6975_Supervisory_Briefing_Circuit_Breakers.pdf

in CDR 2017/584 (RTS 7) it is proposed to integrate the new mandate on circuit breakers in RTS 7 through its recast.

216. Additionally, Directive 2022/2556[24] has amended Article 48 of MiFID II to ensure consistency with the DORA framework to bring legal clarity and consistency in relation to the application of various digital operational resilience requirements.

217. In this respect, also the mandates in Article 48(12) points (a) and (g) of MiFID II have been amended to exclude digital operational resilience and testing from the scope of RTS 7. Hence ESMA notes that some provisions currently contained in RTS 7 have become duplicative or conflicting with the requirements which are contained in DORA[25] which will start applying in January 2025. Hence, ESMA proposes some revisions of some of the provisions in RTS 7 in the context of this recast. Such amendments are discussed in the upcoming sections of this CP.

218. With respect to the mandate in Article 48(12)(h) of revised MiFID II, ESMA is required to establish the "principles that regulated markets are to consider when establishing their mechanisms to halt or constrain trading in accordance with paragraph 5".

219. Reading this new mandate, considering what is discussed in Recital 13 of the MiFID review, it appears that while the RTS should specify the principles that the regulated markets are to consider for establishing the main technical parameters, discretion should be left to market operators on which mechanisms to use and how to calibrate them on the basis of their specific trading environment.

220. In light of the above considerations, ESMA proposes to develop in the RTS principle-based requirements with the aim of leaving a certain degree of discretion to trading venues in their calibration of circuit breakers. Therefore, the proposed requirements are largely based on the guidelines on Calibration of circuit breakers and the Supervisory briefing on the calibration of circuit breakers.

[24] Directive (EU) 2022/2556 of the European Parliament and of the Council of 14 December 2022 amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 as regards digital operational resilience for the financial sector (Text with EEA re,levance)

[25] Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (Text with EEA relevance) https://eur-lex.europa.eu/eli/reg/2022/2554/oj

221. The mandate in Article 48(12)(i) of revised MiFID II indicates that ESMA should establish the information that trading venues should disclose to the public and to NCAs. ESMA interprets the revised wording as implying that while trading venues are expected to disclose information on circuit breakers to the public in a homogenous manner, they do not have to necessarily disclose publicly the specific technical parameters on which they must instead report to the relevant NCAs.

222. In line with the above, ESMA proposes to set homogenous standards for public disclosure of information by trading venues on the circumstances leading to trading being halted or constrained and to specify a template for the purpose of reporting to competent authorities including further details on the parameters related to the calibration of circuit breakers.

223. The next sections detail further the proposed approach on each mandate. The drafting proposal regarding the new Articles to be included in the recast of RTS 7 (i.e. RTS 7a) is presented in the Annex, Section 10.4.6).

224. As a general consideration, ESMA proposes to delete Article 19 ('Mechanisms to manage volatility') of the current RTS 7 as most of the provisions included have become redundant. ESMA proposes to integrate the provisions in Article 19 that are still considered relevant into the new articles. More details are provided in the next sections.

7.1.4 Proposal – Articles 1 and 17 – Definitions and General principles for the establishment of circuit breakers

225. The aim of mandating circuit breakers for EU trading venues is to ensure that short term high volatility episodes are adequately managed. The latter can be achieved by (i) triggering trading halts to temporarily stop trading, thus giving market participants time to reflect on their assessment of fundamentals (circuit breakers taking the form of trading halts), or by (ii) constraining the execution of orders, which would lead to large price changes, based on certain conditions (circuit breakers taking the form of price collars).

226. Both trading halts and price collars can have the effect of reducing temporarily increased market volatility and preventing dramatic price changes. Article 17 of the draft RTS establishes that trading venues can deploy circuit breakers in the form of trading halts or price collars by choosing the mechanism that they consider suits best their market conditions. Such requirement is based on the fact that the evidence gathered from the application of the supervisory briefing suggests that if trading halts and price collars are

appropriately calibrated, they can be used as interchangeable. In this sense the proposed approach in the draft RTS diverges from the approach taken in the Supervisory Briefing, as the latter envisaged the use of both mechanisms for liquid instruments.

227. Article 17 refers only to circuit breakers and does not affect the requirement for trading venues to have in place price collars for the purpose of rejecting erroneous orders (i.e. pre-trade controls) which remains mandatory for trading venues, as prescribed by Article 20 of RTS 7. The Supervisory Briefing discusses in further details the different aim, and consequently the different calibration requirements, of price collars when they are intended to serve as pre-trade controls or as circuit breakers. It is proposed to include a clarification on this aspect in the recitals of the draft RTS.

228. It should be noted that both trading halts and price collars should be subject to appropriate set up and calibration to ensure their effectiveness. The draft RTS requires that trading venues, independently from their choice to deploy trading halts or price collars, establish both static and dynamic circuit breakers. The two types of mechanisms differ on the basis of the price on which they are calibrated: dynamic circuit breakers should be calibrated using a dynamic reference price, intended as a reference price which evolves over the course of a trading day according to market conditions, while static circuit breakers using a static reference price intended as a price that is updated less often compared to the dynamic one and at least on a daily basis.

229. The requirement to have in place both static and dynamic circuit breakers is motivated by the fact that they serve different purposes. While static circuit breakers appear more suited to manage intraday price volatility by preventing excessive price variations within a trading day, dynamic circuit breakers are more suited to prevent sharp price changes which can occur suddenly, and which are usually followed by a rapid price reversion (commonly known as flash crash phenomena). When deciding the frequency of updates of the static and dynamic reference price, trading venues should consider the different purpose of the two types of circuit brakers and choose appropriately intervals for recalibration.

230. Nevertheless, ESMA acknowledges that there might be instances where the use of only static or only dynamic circuit breakers can have merits due to the specificities of the market. As an example, in case of illiquid markets it could be argued that the use of both static and dynamic circuit breakers might constrain price formation by triggering circuit breakers in case of price changes which are linked to fundamentals and appear large in magnitude due to low trading activity.

231. Hence, the draft RTS proposes, in line with previous ESMA guidance, that in principle both types of circuit breakers should be in place, unless the trading venue demonstrates to its NCA that due to market-specific and duly justified circumstances volatility is adequately managed deploying only a static or a dynamic reference price.

232. The draft RTS further includes a requirement for trading venues to periodically reassess the adequacy of the type of circuit breakers established. This approach was already proposed in the Supervisory Briefing and considers the necessity to regularly re-assess market developments to ensure the mechanisms deployed are best suited to evolving market conditions. This is particularly relevant in instances where trading venues have chosen to deploy only static or dynamic circuit breakers as the mechanisms might need to be adapted to changes in market conditions.

233. Additionally, ESMA proposes to maintain the current requirement under Article 19(1) of RTS 7 mandating trading venues to ensure that circuit breakers shall be operational at all times during trading hours in the proposed Article 17(1) of RTS 7a. It is also proposed to move the requirement of testing circuit breakers before implementation in Article 18(2)(a) of RTS 7 and the monitoring and allocation of resources requirements in Articles 18(2)(b) and (c) of RTS 7 in the proposed new draft of Article 17 of RTS 7a.

234. ESMA's proposals can be found in section 10.4.6 of this CP, under the new Article 1 ('Definitions') and new Article 17 ('General Principles in the Establishment of Circuit Breakers') of the draft RTS.

Q43: Do you agree with the proposed Article 1 – Definitions? Please explain.

Q44: Do you agree with the proposed Article 17 – General principles in the establishment of Circuit Breakers)? Please explain.

7.1.5 Proposal – Article 18 – General principles in the establishment of the parameters underpinning circuit breakers

235. The appropriate calibration of circuit breakers is essential to ensure these mechanisms have an effective role in curbing market volatility. As noted in the Final Report on IVMs the characteristics of each trading venue, and notably the liquidity of the financial instruments traded, are key factors when implementing and calibrating mechanisms to manage volatility.

236. In line with Article 48(5) of revised MiFID II, the proposed approach mandates trading venues to consider the specificities of their markets and of the financial instruments traded on those markets to ensure appropriate calibration. To ensure that all the elements which are relevant for the calibration of circuit breakers are considered, Article 18 of the draft RTS mandates trading venues to establish a methodology for the calibration of circuit breakers and further specifies which elements the methodology should consider.

237. With respect to the methodology itself, Article 18 of the draft RTS proposes that such methodology should be documented. Additionally, the Article includes a requirement to envisage periodic reviews of the methodology, at least on a yearly basis, which should take into account statistical data available to the venue and evolving market conditions.

238. The requirement mandating periodic reviews of the methodology is motivated by the fact that some key parameters such as market liquidity or the volatility profile of an instrument could be subject to periodic changes. In this respect, such changes should be regularly accounted for in terms of calibration.

239. With respect to the elements to be taken into account when developing the methodology, it is proposed, in line with Article 48 of revised MiFID II and previous ESMA guidance, that trading venues consider (i) the liquidity profile and the quotation level of the financial instrument, (ii) the volatility profile of the financial instrument, (iii) the trading venue system and rules, (iv) the internal references, i.e. prices determined inside the venue which are then available to calibrate circuit breakers for the specific instrument, (v) any relevant external references (i.e. cross-asset and cross-market conditions) and (vi) the number of times the mechanism was used in the previous years on their platforms.

240. Additionally, Article 18 of the draft RTS includes the requirement that the methodology should specify the planned intervals for updating the static and dynamic reference price and that the methodology should provide a non-exhaustive list of circumstances in which extraordinary updates of the reference price could take place.

241. ESMA proposes to include the requirement in Article 19(4) of RTS 7 regarding the possibility to manually override the parameters underpinning circuit breakers in case of necessity in the new Article 18(2)(iii) of RTS 7a.

242. ESMA's proposals can be found in section 10.4.6 of this CP, under Article 18 ('General principles in the establishment of the methodology for the calibration of circuit breakers') of the draft RTS.

Q45: Do you agree with the proposed Article 18 – General principles in the establishment of the methodology for the calibration of Circuit Breakers? Please explain.

7.1.6 Proposal – Article 19 – parameters to be made public and information to be disclosed to NCAs

243. The mandate in Article 48(12)(i) of the revised MiFID II indicates that ESMA should establish the information that trading venues should disclose to the public and the parameters for halting or constraining trading that regulated markets are to report to competent authorities.

244. Recital 13 of the MiFID Review highlights that the energy crisis of 2022 has led to further scrutiny of the mechanisms deployed by trading venues to halt or constrain trading, showing that there might be a lack of transparency around the activation of those mechanisms. The same recital further states that market participants would benefit from further information and more transparency on the circumstances that led to the halting or constraining of trading.

245. ESMA notes that transparency with respect to circuit breakers allows market participants to anticipate potential trading disruptions and to make informed decisions during episodes of market volatility. In this respect, Article 19 of the draft RTS proposes the scope of the information which trading venues should publish on their website, with the goal to ensure a balance between the need to inform market participants about the functioning of circuit breakers and the possibility for trading venues to keep certain technical parameters confidential and retain the flexibility to act swiftly when required by market conditions.

246. The draft RTS proposes that the information to be disclosed to market participants should broadly encompass the design and functioning of the mechanisms deployed and the effects which would result from the triggering of such mechanisms. Nevertheless, the draft does not propose mandatory disclosure of the parameters underpinning the activation of trading halts, as it could be argued that such granular disclosure could entail unwanted effects on trading behaviours affecting orderly trading or even be potentially misused by market participants (e.g. to artificially trigger a circuit breaker).

247. With respect to price collars ESMA notes that the range of the collars (i.e. the allowed price deviation within which transactions will not be rejected) should be disclosed to market

participants to enable them to understand and have sufficient information regarding the interval beyond which transactions will be rejected.

248. Article 19 of the draft RTS further proposes that when trading venues apply diverse types of circuit breakers, e.g. for different financial instruments, the information regarding each type of circuit breaker should be published separately to ensure clarity and should include a specific mentioning of the type of financial instrument to which the circuit breaker applies.

249. ESMA also deems relevant that if trading venues envisage the possibility of intervening on the parameters underpinning the functioning of circuit breakers when the market conditions so require, the trading venue should state so in the published information to raise awareness amongst market participants of the fact that changes could take place without the possibility to timely update the website. While it is important that trading venues can act swiftly to adapt circuit breakers to evolving market conditions and to possible sudden volatility episodes, market participants should be made aware of the eventuality of such ad hoc changes occurring.

250. Article 48(5) of the revised MiFID II additionally mandates trading venues to reports the parameters for halting trading and any material changes to those parameters to the competent authority in a consistent and comparable manner. Such information should in turn be reported to ESMA.

251. As per the mandate in Article 48(12)(i) of the revised MiFID II and, in order to ensure comparability of the parameters reported to NCAs, ESMA proposes in the draft RTS to include the duty for trading venues to report yearly information to NCAs as per the format further specified in the Annex. Comparability of the information regarding the calibration and functioning of circuit breakers is crucial to ensure that volatility is adequately managed by all trading venues in the Union in case of excess market volatility episodes.

252. ESMA's proposals for the information to be made public by trading venues can be found in section 10.4.7 of this CP, under the new Article 19 ('Disclosure requirement regarding circuit breakers') of the draft RTS.

253. ESMA's proposal for the information to be reported to NCAs on implemented circuit breakers can be found in Section 10.4.6 - Annex II ('Information to be reported to NCAs on implemented circuit breakers')

Q46: Do you agree with the proposed Article 19 – Disclosure requirement regarding circuit breakers? Please explain.

Q47: Article 19(1)(f) mandates trading venues to disclose "information on the triggering of circuit breakers, with at least an annual frequency". Do you support such disclosure, and do you think ESMA should further specify the type of information that should be disclosed? Please explain.

Q48: Do you agree with the proposed template to report information to NCAs? Please explain.

7.1.7 Proposal – Amendments to RTS 7 in light of DORA provisions

254. DORA, which will start applying on 17 January 2025, is lex specialis and therefore supersedes all sectoral legislation in the domain of digital operational resilience. Directive 2022/2556 has amended Article 48 of MiFID II to ensure consistency with the DORA framework and more specifically to bring legal clarity and consistency in relation to the application of various digital operational resilience requirements.

255. In this respect, the mandates in Article 48(12) points (a) and (g) of MiFID II have been amended to exclude requirements on digital operational resilience and digital operational resilience testing from the scope of RTS 7. For this reason, it is necessary to revise the requirements in RTS 7 which are related to digital operational resilience and testing. The proposed amendments are discussed in this section.

256. It should be noted that a number of RTS 7 provisions which reference operational resilience are specific for trading venues and their scope is broader than ensuring digital operational resilience and testing.

257. In order to fulfil the amended mandate in Article 48(12)(a) and (g) of MiFID 2 ESMA proposes to amend RTS 7 by i) removing any provisions that regulate exclusively digital operational resilience and digital operational resilience testing and ii) amending provisions that contain references to digital operational resilience and testing but have a broader scope than digital operational resilience and digital operational resilience testing.

258. Considering the above, ESMA proposes to delete Article 15 of RTS 7 ('Business continuity arrangements'). ESMA notes that Article 11 of DORA requires financial entities to put in place a comprehensive ICT business continuity policy allowing entities to ensure continuity of critical and important functions and quickly, appropriately and effectively respond and resolve all ICT-related incidents. Additionally, Article 24(4)(a) and (b) of the draft DORA RTS specifying ICT risk management tools, methods, processes, and policies and the simplified ICT risk management framework, contains specific provisions targeting trading venues regarding the business continuity policy, which are more encompassing than the ones contained in Article 15 of RTS 7. For these reasons ESMA proposes deletion of Article 15 of RTS 7.

259. Article 8 of RTS 7 ('Testing of trading systems') regulates mostly digital operational resilience testing, except for the requirement in paragraph 2 of the same Article which require trading venues to be able to demonstrate at all times that they have taken all reasonable steps to avoid that their trading systems contribute to disorderly trading conditions. Hence it is proposed to delete Article 8(1) of RTS 7 while retaining the obligation of Article 8(2) of RTS. The latter would be included in the revised Article 9 of RTS 7a which would be amended to encompass 'Testing obligations to avoid disorderly trading conditions'.

260. With respect to Article 23 of RTS 7 ('Security and limits to access'), ESMA notes that Article 6 of DORA ('ICT risk management framework'), Article 8 of DORA ('Identification'), Article 10 of DORA ('Detection') and Article 17 of DORA ('ICT related incident management process') contain provisions to ensure the resilience of ICT systems including access and integrity of data. However, Article 23(3) of RTS 7 requires reporting of all incidents whether small or major, while DORA requires reporting of only 'major' incidents. For this reason, ESMA proposes to amend Article 23 of RTS 7 by deleting Article 23 paragraph 1 and 2 and include in RTS 7a only the requirement in Article 23(3) of RTS 7.

261. With respect to the provisions of RTS 7 that could be subject to amendments as having a broader scope than digital operational resilience, ESMA proposes to amend Article 6 ('Outsourcing and procurement'), Article 16 ('Business continuity plan') and Article 17 of RTS 7 ('Periodic review of business continuity arrangements').

262. Considering Article 6 of RTS 7, several requirements are duplicative of the requirements in Articles 28, 29 and 30 of DORA and in the draft DORA RTS specifying 'the elements which a financial entity needs to determine and assess when subcontracting ICT services supporting critical or important functions'.

263. ESMA proposes to remove duplicative requirements from Article 6 of RTS 7 and to broaden the definition of critical operational functions in Article 6(5)(b) of RTS 7 to include critical or important functions as defined in article 3(22) of DORA, keeping the requirement for trading venues to request prior authorization only in case of outsourcing of critical operational functions.

264. Considering Article 16 of RTS 7 ('Business continuity plan'), ESMA notes that despite some requirements might appear duplicative of DORA requirements, the DORA provisions refer only to the ICT business continuity plan, hence have a narrower scope than the requirements in RTS 7. On balance, ESMA proposes to amend Article 16 of RTS 7 by deleting the sentence in Article 16(4) which reads: "For this purpose, any decision by the trading venue not to take into account an identified risk of unavailability of the trading system in the business continuity plan shall be adequately documented and explicitly approved by the management body of the trading venue."

265. Considering Article 17 of RTS 7 ('Periodic review of business continuity arrangements'), ESMA believes that the scope of this provision goes beyond the requirements related to digital operational resilience testing. Hence it is proposed not to amend this provision.

Q49: Do you agree with the proposal to delete Articles 15 of RTS 7 ('Business continuity arrangements')? Please explain.

Q50: Do you agree with the proposed way forward on Article 8 of RTS 7 ('Testing of trading systems')? Please explain.

Q51: Do you agree with the proposed way forward on Article 23 of RTS 7 ('Security and limits to access')? Please explain.

Q52: Do you agree with the proposed amendments to Article 6 of RTS 7 ('Outsourcing and procurement'), Article 16 ('Business continuity plan') and Article 17 ('Periodic review of business continuity arrangements')? Please explain.

Q53: Do you suggest the deletion of other RTS 7 provisions due to the amendments to Article 48 of MiFID II? Please explain.

Q54: Do you suggest the amendment to other provisions of RTS 7, due the amendments to Article 48 of MiFID II? Please explain.

7.1.8 Transition period prior to entry into force of RTS 7a

266. ESMA reminds stakeholders that pending the MiFID II changes being transposed by Member States and RTS 7a entering into force and applying, the requirements in RTS 7, the Guidelines and the Supervisory Briefing will continue applying.

267. Once RTS 7a starts applying the Guidelines will be repealed and the Supervisory Briefing amended to remove guidance that has been integrated in RTS 7a requirements.

8 New RTS on input/output data for shares and ETFs CTP)

268. As explained in section 3.1 of the CP on input/output data for the bond CTP, the part related to the input/output data for the equity CTP is included in this CP to ensure a comprehensive analysis together with the review of RTS 1 since the RTS on input/output data will cross refer to RTS 1.

269. Moreover, whenever the same analysis and proposal on input/output data as for the bond CTP are made for the equity CTP, a reference to the CP on RTS on input/output data for the bond CTP is made.

8.1 Mandate

Article 22b – Data quality

1. The data transmitted to the CTP pursuant to Article 22a(1) and the data disseminated by the CTP pursuant to Article 27h(1), point (d), shall comply with the regulatory technical standards adopted pursuant to Article 4(6), point (a), Article 7(2), point (a), Article 11(4), point (a), and Article 11a(3), point (a), unless provided otherwise in the regulatory technical standards adopted pursuant to paragraph 3, points (b) and (d), of this Article.

2. The Commission shall establish an expert stakeholder group by 29 June 2024 to provide advice on the quality and the substance of data and the quality of the transmission protocol referred to in Article 22a(1). The expert stakeholder group and ESMA shall work closely together. The expert stakeholder group shall make its advice public.

The expert stakeholder group shall be composed of members with a sufficiently wide range of expertise, skills, knowledge and experience to provide adequate advice.

The members of the expert stakeholder group shall be selected following an open and transparent selection procedure. In selecting the members of the expert stakeholder group, the Commission shall ensure that they reflect the diversity of market participants across the Union.

The expert stakeholder group shall elect a Chair from among its members, for a term of two years. The European Parliament may invite the Chair of the expert stakeholder group to make a statement before it and to answer any questions from its members whenever so requested.

3. ESMA shall develop draft regulatory technical standards to specify the quality of the transmission protocol, measures to address erroneous trade reporting and enforcement standards in relation to data quality, including arrangements regarding cooperation between data contributors and the CTP, and, where necessary, the quality and the substance of the data for the operation of the consolidated tape.

Those draft regulatory technical standards shall in particular specify all of the following:

(a) the minimum requirements for the quality of the transmission protocols referred to in Article 22a(1);

(b) the presentation of the core market data to be disseminated by the CTP, in accordance with prevailing industry standards and practices;

(c) what constitutes the transmission of data as close to real time as technically possible

d) where necessary, the data needed to be transmitted to the CTP in order for it to be operational, taking into account the advice of the expert stakeholder group established pursuant to paragraph 2, including the substance and the format of those data, in accordance with prevailing industry standards and practices.

For the purposes of the first subparagraph of this paragraph, ESMA shall take into account the advice from the expert stakeholder group established pursuant to paragraph 2 of this Article, international developments, and standards agreed at Union or international level. ESMA shall ensure that the draft regulatory technical standards take into account the transparency requirements laid down in Articles 3, 6, 8, 8a, 8b, 10, 11, 11a, 14, 20, 21 and 27g.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 29 December 2024.

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

8.2 Data to be transmitted to the CTP to be operational (input) and data disseminated by the CTP (output)

270. To develop the proposals on the input/output data for the shares and ETFs CTP, the same general approach and principles defined in the CP for the bond CTP in section 3.2.2.3.1 are applied. More specifically:

- Parsimony: the input data to the CTP should only be specified where necessary, i.e. where the data is not already specified in RTS 1; and

- Consistency: where the data is already specified in RTS 1, the RTS on input/output should be drafted in such a way that the same information is not present in both RTS (via cross-references). This approach ensures that future changes to RTS 1 are automatically applied to the CTP fields defined in the CTP RTS on input/output.

8.2.1 Regulatory data

8.2.1.1 Background

271. The concept of 'regulatory data' was introduced by the MiFIR review. As a result, there is no existing specification of this data in RTS 1. Regulatory data is defined in Article 2(36c) of MiFIR as data related to the status of systems matching orders in financial instruments and data related to the trading status of individual financial instruments.

272. In addition, Recital (13) of the regulation amending MiFIR explains that "Data contributors should also provide regulatory data to keep investors informed of the status of the system matching orders, for example in the event of a market outage, and of the status of the financial instrument, for example in the event of suspensions or trading halts."

8.2.1.2 Analysis and Proposal

273. ESMA examines below some characteristics of regulatory data:

- **Granularity**: while core market data are granular at the level of one transaction, regulatory data are granular at the level of one trading system ("data related to the status of systems matching orders in financial instruments") and at the level of one instrument ("data related to the status of individual financial instruments").

* **Scope of instruments**: the definition of regulatory data in Article 2(36c) of MiFIR does not refer to a specific asset class, indicating that CTPs are expected to disseminate regulatory data for all asset classes.

274. Finally, regulatory data should be provided to the CTP only by trading venues because regulatory data are not relevant for APAs: the status of systems matching orders only concerns trading venues and the status of financial instruments is understood to be the one on the trading venue.

275. In conclusion, two types of regulatory data are defined in MiFIR: one is related to financial instruments, and one is related to trading systems. Given the difference in granularity of the messages, it is proposed to specify the regulatory data in two tables, one for each type of data.

Data related to the status of individual financial instruments

276. Regarding the first table related to the status of financial instruments, ESMA proposes to require the CTP to disseminate information on the status of a financial instrument at the level of one trading venue and one financial instrument. As a default status a financial instrument should be 'available for trading'. However, where this status changes, the following situations should be covered:

* suspended from trading: a financial instrument can be suspended from trading on any type of trading venue when that instrument no longer complies with the rules of the trading venue (Article 32 of MiFID II for MTFs; Article 52 of MiFID II for regulated markets); or

* removed from trading: a financial instrument can be removed from trading on any type of trading venue when that instrument no longer complies with the rules of the trading venue (Article 32 of MiFID II for MTFs; Article 52 of MiFID II for regulated markets); or

* subject to a trading halt: trading venues can temporarily halt or constrain trading in financial instruments if there is a significant price movement in a financial instrument on that market or a related market during a short period (Article 48(5) of MiFID II for regulated market, which article is extended to apply also to MTFs via Article 18(5) of MiFID II).

277. The instrument should be identified with an ISIN and the trading venue with a MIC. In addition, the CTP should disseminate information on the validity period of the instrument

status to the extent possible (date and time from which the instrument status is valid and date and time from which the instrument status is no longer valid).

278. Based on the above, ESMA suggest that the following table should be disseminated by the CTP:

#	Field identifier	Description	Format
1	Instrument identification code	Code used to identify the financial instrument	{ISIN}
2	Instrument status start date and time	Date and time from which the instrument status is valid	{DATE_TIME_FORMAT}
3	Instrument status end date and time	Date and time from which the instrument status is no longer valid	{DATE_TIME_FORMAT}
4	Instrument status dissemination date and time	Date and time on which the instrument status is disseminated by the CTP	{DATE_TIME_FORMAT}
5	Instrument status	Description of the status of the financial instrument. The status of the financial instrument can be: (1) suspended from trading, on the trading venue identified in the field "Trading venue", in accordance with Article 32 and 52 of **Directive 2014/65/EU** (2) removed from trading, on the trading venue identified in the field "Trading venue", in accordance with Article 32 and 52 of **Directive 2014/65/EU** (3) subject to a trading halt, on the trading venue identified in the field "Trading venue", in accordance with Articles 18(5) and 48(5) of **Directive 2014/65/EU** **Empty otherwise**	'SUSP' – the instrument is suspended 'RMOV' – the instrument is removed 'HALT' – the instrument is subject to a trading halt
6	Trading venue	Identification of the trading venue on which the instrument status is valid (segment MIC where available, otherwise operating MIC). The trading venue is a regulated market or an MTF.	{MIC}
7	Most Relevant Market in terms of liquidity	Identification of the trading venue in Field 6 being the most relevant market	TRUE – Yes FALSE - No

Q55. Do you agree with the proposal for the data related to the status of individual financial instruments? If not, please explain.

Data related to the status of systems matching orders

279. In accordance with Recital (16) of MiFIR, data contributors should provide regulatory data to keep investors and market participants informed of the status of the system matching orders, for example in the event of a market outage.

280. Given the reference to "system matching orders" in Article 2(36c) of MiFIR, this type of information is only relevant for trading venues, hence excluding SI and OTC trading.

281. Information on the current trading phase (e.g. pre-trading, opening, trading, closing auction, closed) could also be valuable information for investors, as the type of order that can be placed on a trading venue depends on the trading phase.

282. One difficulty with displaying information on the status of systems matching orders pertains to the identification of such trading system. Trading venues may identify themselves with a MIC but that would be insufficiently granular because there could be several trading systems under the same MIC.

283. As a result, it is suggested to identify the trading system using a combination of the MIC and the type of trading system, relying on the same list of trading systems as the one proposed in the field "Type of trading system" in the core market data (see section 8.2.2 and 8.2.3). ESMA is seeking stakeholders' view on whether other identifiers for the trading system may be used.

#	Field identifier	Description	Format
1	Trading venue	Identification of the trading venue on which the instrument status is valid (segment MIC where available, otherwise operating MIC). The trading venue is a regulated market, an MTF or an OTF.	{MIC}
2	Trading system type	Type of trading system on which the system status is provided	'CLOB' -- central limit order book trading systems

#	Field identifier	Description	Format
			'QDTS' -- quote driven trading systems 'PATS' -- periodic auction trading systems 'RFQT' -- request for quote trading systems 'HYBR' – hybrid trading system 'OTHR' – any other trading system
3	System status start date and time	Date and time from which the system status is valid	{DATE_TIME_FORMAT}
4	System status end date and time	Date and time from which the system status is no longer valid	{DATE_TIME_FORMAT}
5	System status dissemination date and time	Date and time on which the system status is disseminated by the CTP	
6	System status	Description of the status of the trading system. The trading system can be: (1) subject to an outage; or (2) in one of the following trading phase: pre-opening, opening auction, trading, closing auction, trading-at-last, closed.	[Code to be determined]

Q56. Do you agree with the proposal for the data related to the status of status of systems matching orders? Would you consider that other identifiers of the trading system type should be used? Please explain.

8.2.2 Core market data pre-trade CTP

8.2.2.1 Background

284. If RTS 1 provides in Table 2 of Annex I the list of fields that should be published in relation to executed transactions that are the basis for the input/output data of the post-trade CTP, this is currently not the case for the pre-trade data. However, the revised MiFIR text now mandates ESMA to define the pre-trade details to be made public. As a result, in

section 4.1.3.1 of this CP, a proposal of the pre-trade transparency information is included, which would then also serve as the basis of the information to be transmitted to the CTP for the purpose of publishing the European best bid and offer and the relevant data for auctions trading systems.

8.2.2.2 Analysis and Proposal

Proposal for input table

285. When developing the table including the pre-trade fields to be published by trading venues, the mandate under Article 22(b) of MiFIR was considered. As a result, Table 1b in section 4.1.3.1 of this CP includes the proposal for the input data to be transmitted to the CTP and all the necessary information for the pre-trade CTP to be operational is included. To recall though, the information to be sent to the CTP is limited to the best bid and offer of shares and ETFs offered for trading in continuous order books and auction trading systems of regulated markets and multilateral trading facilities.

286. However, there is one field which would not be published by the CTP, but it is required under the pre-trade transparency obligations. More specifically, for continuous auction order book trading system, "the aggregate number of orders and the instruments that they represent at each price level for at least the five best bid and offer price levels" should be provided. Considering that the pre-trade transparency information to be published by the CTP is limited to the EBBO, it does not seem necessary to require such field. Therefore, this field is excluded from the input and, consequently, from the output data for the CTP.

Q57: Do you agree that the pre-trade data to the CTP should be that included in Table 1b in section 4.1.3.1 except for fields 8 and 9? Please explain.

Proposal for output table

287. As far as the pre-trade output table is concerned, the following figures present the expected outcome for a continuous auction order book and for an auction trading system to be published by the CTP. The tables do not include extra fields compared to those required by Level 1 and the relevant table with the description of the fields is Table 2 in the RTS on the input / output data in Annex 10.4.9.

FIGURE 14 – OUTPUT TABLE FOR CONTINUOUS ORDER BOOKS

ISIN	BEST BID PUBLICATION TIME DATE AND TIME	BEST BID ENTRY DATE AND TIME	BEST BID VOLUME	BEST BID	EBBO TIMESTAMP	BEST ASK	BEST ASK VOLUME	BEST ASK ENTRY DATE AND TIME	BEST ASK PUBLICATION TIME DATE AND TIME	DISSEMINATION TIME
ABC	15/09/2027 15:04:55:0016	15/09/2027 15:04:55:0015	10,000	EUR 10,52	15/09/2027 15:05:55:0015	EUR 10,75	10,000	15/09/2027 15:04:50:0050	15/09/2027 15:04:0051	15/09/2027 15:05:55:0100

FIGURE 15 – OUTPUT TABLE FOR AN AUCTION WITH AUCTION PRICE

ISIN	BID PUBLICATION TIME DATE AND TIME	BID ENTRY DATE AND TIME	BID VOLUME	BID PX	ASK PX	ASK VOLUME	ASK ENTRY DATE AND TIME	ASK PUBLICATION TIME DATE AND TIME	DISSEMINATION TIME
ABC	15/09/2027 15:04:55:0016	15/09/2027 15:04:55:0015	15,000	EUR 10,75	EUR 10,75	10,000	15/09/2027 15:04:50:0050	15/09/2027 15:04:0051	15/09/2027 15:05:55:0100

FIGURE 16 – OUTPUT TABLE FOR AN AUCTION WITHOUT AUCTION PRICE

ISIN	BID PUBLICATION TIME DATE AND TIME	BID ENTRY DATE AND TIME	BID VOLUME	BID PX	ASK PX	ASK VOLUME	ASK ENTRY DATE AND TIME	ASK PUBLICATION TIME DATE AND TIME	DISSEMINATION TIME
ABC	15/09/2027 15:04:55:0016	15/09/2027 15:04:55:0015	15,000	EUR 10,74	EUR 10,75	10,000	15/09/2027 15:04:50:0050	15/09/2027 15:04:0051	15/09/2027 15:05:55:0100

Q58: Do you agree with the proposal for the output table? Please explain.

8.2.3 Core market data post-trade CTP

8.2.3.1 Background

288. To define the additional core market data to be transmitted and disseminated by the shares and ETFs CTP, ESMA compared the core market data that CTP shall disseminate with the post-trade transparency fields defined in RTS 1 to identify gaps and overlaps. The outcome of such comparison is presented below. Like for the bond CTP, a limited number of fields need to be defined anew.

8.2.3.2 Analysis and Proposal

289. Two fields are present in the definition of core market data but absent from RTS 1:

- “the timestamp information on the dissemination of core market data” [Article 2(36a)(a)(vii) for Equity]: This field should contain the date and time at which the CTP disseminates data to the users. This information is not known by trading venues and APA, which cannot therefore report it to the CTP. As a result, this timestamp field should be part of the CTP output data but should not be part of the CTP input data;

- “the type of trading system” [Article 2(36b)(a)(iv) for Equity]: CTPs are required to disseminate the type of trading system as output data. It is therefore necessary that trading venues and APAs provide this information to the CTP. This information is currently absent from RTS 1. However, in the consultation papers covering the review of RTS 1, the proposal is made to add this field as part of the post-trade information to be published by trading venues and APAs. As a result, it is proposed to cross-refer to this new field in the CTP RTS on input/output data, to ensure consistency between the two sets of reporting requirements.

290. Two fields are not present in the definition of “core market data” but present in RTS 1:

- “Venue of publication”: the code used to identify the trading venue and APA publishing the transaction (Field 11 in Table 3 of Annex I of RTS 1): this data field identifies the trading venue / APA where the transaction was published and was intended to be published exclusively by the CTP prior to the MiFIR review. As no CTP existed, this field remained in RTS 1 but in practical terms, it was not applicable.

Considering that the CTP needs to be able to identify the trading venue / APA from which it receives market data to effectively check the completeness of the data transmitted by data contributors, identify obvious errors and request the re-submission of data in accordance with Article 27h(1)(f), the field "Venue of publication" should be part of the CTP input data.

In addition, the dissemination of this field by the CTP would help data users to identify the APA that performed the publication of the report as published by the CTP (in the case of off-venue transactions) and to reconcile this information with the one published individually by APAs. Therefore, it is considered relevant to include this field in the CTP output data.

As a result, in the consultation papers covering the reviews of RTS 1, a proposal is made to amend the field "venue of publication" in RTS 1 to require its publication by trading venues and APAs. Having the field "venue of publication" in both RTSs by means of a cross-reference (RTS1 and the RTS on input/output data) would maintain consistency between the sets of reporting requirements.

- "Transaction Identification Code": a transaction code assigned by trading venues and APAs used in any subsequent reference to the specific transaction (Field 12 in Table 3 of Annex I of RTS 1): this data field identifies uniquely each transaction and is used to reconcile transactions in the case of e.g. amendments, cancellations, publication after a deferral.

  The CTP needs to be able to uniquely identify the transactions it receives from market data contributors, notably to ensure that the CTP can effectively check the completeness of the data transmitted by data contributors, identify obvious errors and request the re-submission of data, in accordance with Article 27h(1)(f). As a result, the field "Transaction Identification Code" should be part of the CTP input data.

  Furthermore, this field is essential to allow data users to obtain an accurate and comprehensive picture of the transactions which have taken place, including events affecting those transactions after their initial publication (amendments, cancellations, deferrals). In addition, the dissemination of this field by the CTP ensures consistency between the two sets of reporting requirements (CTP publications and trading venues/APA publications). As a result, the field "Transaction Identification Code" should be part of the CTP output data.

Proposal for output table

291. To ensure that the CTP fields remain consistent with those defined in RTS 1, it is proposed to 1) specify in a dedicated table of the RTS on input/output only the extra fields, that are not present in RTS 1 (i.e. the field "the timestamp information on the dissemination of core market data"); 2) for the remaining fields, cross-refer to the relevant tables in RTS 1. The field "type of trading system" is considered to fall under the latter bucket, given that it is expected to be added to RTS 1 at the same time as the RTS on input/output data is developed.

Proposal for input table

292. ESMA has not identified any information that market data contributors should send to the CTP in addition to the fields that are defined in the output table. The only field which is, by construction, part of the CTP output data and not part of CTP input data is the "timestamp information on the dissemination of core market data", which is expected to be added by the CTP upon dissemination of the core market data.

Q59: Do you agree with the proposal for the input and output tables for the post-trade equity CTP? Please explain.

9 Flags in Commission Delegated Regulation 2017/583 (RTS 2)

9.1 Background

293. The MiFIR review revamps the deferral regime applicable to bonds, structured finance products (SFPs) and emission allowances (EUAs) under Article 11 of MiFIR and derivatives under Article 11a of MiFIR. Firstly, the new regime removes the concept of the large in scale (LIS), illiquid and size specific to the instrument (SSTI) deferrals, and the requirement for trading venues (and investment firms for OTC transactions) to obtain the national competent authority's (NCA) prior approval of their proposed arrangements for deferred trade-publication.

294. Secondly, it creates a tailored regime for bonds and derivatives, by including the possibility to defer publication in accordance with five different categories. In addition, it introduces changes to simplify the current deferral regime for SFPs and EUAs.

295. Finally, it provides for an overhaul of the supplementary deferral regime under Article 11(3) of MiFIR. The new regime only allows for NCAs to allow extended deferrals for sovereign debt instruments issued by that Member State (for third country sovereign debt the decision to allow deferred publication is for ESMA), and only for a limited period of time.

296. In this context, ESMA published on 21 May 2024 a consultation paper (CP) on the revision of RTS 2 for bonds, SFPs and EUAs[26]. In this CP, ESMA set out proposed changes to the table of post-trade transparency fields to be published by trading venues and APAs (changes to Table 2 of Annex II of RTS 2, presented in section 4.1). However, the corresponding revision of the table of flags (Table 3 of Annex II of RTS 2) was unintentionally omitted in the CP. This section sets out those proposals and consults stakeholders thereon.

[26] MiFIR Review Consultation Package 2, Review of RTS 2 on transparency for bonds, structured finance products and emission allowances, draft RTS on reasonable commercial basis and review of RTS 23 on supply of reference data (ESMA74-2134169708-7241 -- 21 May 2024)

297. In relation to derivatives, since the Commission included a different timeline for the delivery of the RTS – September 2025 – ESMA plans to publish a consultation in the early part of 2025.

9.2 Analysis and Proposals

9.2.1 Post-trade deferral flags

298. The post-trade transparency flags should be aligned with the revised post-trade transparency regime introduced by the MiFIR review. In relation to bonds (excluding exchange traded commodities (ETCs) and exchange traded notes (ETNs)), ESMA suggests defining one new post-trade deferral flag for each of the five categories of transactions, as follows:

Flag	Name	Description
'MLF1'	Medium Liquid flag	When the transaction benefits from a deferral applicable to transactions of a medium size in a financial instrument for which there is a liquid market
'MIF2'	Medium Illiquid Flag	When the transaction benefits from a deferral applicable to transactions of a medium size in a financial instrument for which there is not a liquid market
'LLF1'	Large Liquid Flag	When the transaction benefits from a deferral applicable to transactions of a large size in a financial instrument for which there is a liquid market
'LIF4'	Large Illiquid Flag	When the transaction benefits from a deferral applicable to transactions of a large size in a financial instrument for which there is not a liquid market
'VLF5'	Very Large Flag	When the transaction benefits from a deferral applicable to transactions of a very large size

299. Transactions in ETCs, ETNs, SFPs and EUAs can only benefit from one type of deferral (T+2 post-trade size deferral as proposed in the CP). It is therefore suggested to adopt a unique flag for those deferrals, with the code 'DEFR'.

300. The existing post-trade deferrals (LIS, Illiquid and SSTI) remain applicable for transactions in derivatives until the review of RTS 2 for derivatives. Therefore, the corresponding flags (‘LRGS’, ‘ILQD’, ‘SSTI’) should be maintained until that revision. When RTS 2 is reviewed for derivatives, those flags will be deleted and the flags applicable to derivatives will be aligned with the ones applicable to bonds.

9.2.2 Supplementary deferrals flags

301. The supplementary deferral under the new MiFIR regime allows, for sovereign debt instruments:

- the omission of the publication of the volume of an individual transaction for an extended time period not exceeding six months; or

- the publication of the details of several transaction in an aggregated form for an extended time period not exceeding six months.

302. To avoid confusion between flags applicable under the old and new regime, ESMA suggests creating new flags for supplementary deferral flags under the new regime, as follows:

- Volume omission: ‘OMIS’ for the first publication with limited details; and ‘FULO’ for the subsequent publication with all details

- Publication in aggregated form: the publication of the details of several transaction in an aggregated form for an extended time period not exceeding six months: ‘AGGR’ for the aggregated publication and ‘FULG’.

303. Regarding the existing post-trade supplementary deferrals, ESMA suggest proceeding as follows: (1) flags only applicable to bonds (‘IDAF’, ‘VOLW’ and ‘COAF’) should be deleted because they are no longer applicable; (2) flags no longer applicable to bonds (LMTF, FULF, DATF, FULA, VOLO, FULV, FWAF and FULJ) should be maintained because they remain applicable for derivatives until the review of RTS 2 for derivatives.

9.2.3 Agency-Cross (ACTX) flag

304. In the 2021 review of RTS 2[27], ESMA proposed the deletion of the 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.). The proposal was controversial. ESMA decided to keep the flag and to reconsider the views of stakeholders in the subsequent review of RTS 2. The FCA proposed to delete the ACTX flag[28], on the ground that is does not provide meaningful information to post-trade transparency nor contributes to the price formation process.

305. While ESMA does not propose to delete the ACTX flag at this stage, stakeholders are invited to share their view on whether and why the flag should be maintained or deleted.

9.2.4 Matched principal trading (MHPT) Flag

306. Matched principal trading is allowed on OTFs and should be reported as a single transaction using the clean price as per Table 3 of Annex II of RTS 2.

307. During data quality checks, ESMA staff was made aware that certain matched principal trading was reported as two transactions. This practice is recognised to be possible since the transactions have two different prices due to different commissions applied to the two counterparties. On the one hand, the reporting of these transactions as two different ones allows market participants to identify the spread of the transaction.

308. On the other hand, it might not be possible for all market participants to clearly identify such trades as matched principal trading and might give the perception of inflated trading volumes. In particular, the transaction identification code (Field 17 of Table 2 of Annex II of RTS 2) would be different for both transactions. Therefore, that field does not allow the identification of matched principal trading.

309. In order to identify matched principal trading, it is suggested to introduce a new flag ('MHPT') for all matched principal transactions. Such flag, together with the execution

[27] Consultation Paper on the review of RTS 1 (equity transparency) and RTS 2 (non-equity transparency) (9 July 2021 | ESMA70-156-4236)
[28] "We also identified the flag related to the crossing of client orders by an investment firm, 'ACTX', as not providing meaningful information to post-trade transparency nor contributing to the price formation process." CP23-32

timestamp (which would be the same for both transactions) would enable the clear identification of matched principal trades.

310. The consolidated version of the table of flags, with the amendments proposed above, is provided in Annex VI, section 10.4.9.

Q60: Do you agree with the proposed amendments to flags in Table 3 of Annex II or RTS 2? In particular, do you consider that the flag 'ACTX' should be deleted?

10 Annexes

10.1 Annex I - Summary of questions

Q1: Should the use of alternative data to perform the calculations (i.e. as described under Option 2 above) be feasible, what would be the costs and the benefits of such a change for different categories of market participants, including in relation to the change and run costs of reporting systems, data quality assurance and other relevant aspects? Do you have other comments on this potential change, e.g. on specific issues, challenges or alternatives that could be considered by ESMA in its assessment?

Q2: Do you agree with the proposal on the start day of application of the transparency calculations? Please explain.

Q3: Do you agree with the proposal on the denominator of the (i) ADT, (ii) ADNTE and (iii) for specifying daily traded parameter? Please explain.

Q4: Do you agree with the proposal on the liquidity determination for shares? Please explain.

Q5: Do you agree with the proposal on the liquidity determination for other similar financial instruments? Please explain.

Q6: Do you agree with the proposal to remove the field "holdings exceeding 5% of total voting rights" from the legal text but keeping it in the XML schema of the reporting without being obliged to report such information? Pease explain.

Q7: Do you in general agree with the content of the proposed Tables 1a and 1b? Please specify (i) which fields you consider as not necessary (ii) any amendments that you consider necessary to the columns "Description and details to be published", "Type of execution or publication venue", "Type of trading system" to ensure that the

information to be provided is clear and unambiguous (iii) the instruments and the circumstances when it is necessary to report the field price with a price notation different from "MONE" – Monetary value.

Q8: Do you agree with the proposed amendments to Article 4? Please explain.

Q9: Do you agree with the proposed amendment to Article 6 of RTS 1? Please explain.

Q10: Do you agree with the proposed amendments to Article 7 of RTS 1? Please explain.

Q11: Do you agree with the proposed amendments to Article 8 of RTS 1? Please explain.

Q12: How could ESMA take into account international best practices and competitiveness for the determination of the threshold up to which SIs have to be pre-trade transparent? Please explain.

Q13: Do you agree with the new AVT buckets and related SMS? Would you set a higher SMS for the AVT bucket [0-10000) (e.g. 10,000)? Please explain.

Q14: Do you agree with ESMA's proposal of the new threshold#1 for shares? Please explain.

Q15: Do you agree with ESMA's proposal of the new threshold#2 for shares? Please explain.

Q16: Do you agree with the new AVT buckets and related SMS? Would you set a lower SMS for the AVT bucket [0-10000) (e.g. 5,000)? Please explain.

Q17: Do you agree with ESMA's proposal of the new threshold#1 for DRs? Please explain.

Q18: Do you agree with ESMA's proposal of the new threshold#2 for DRs? Please explain.

Q19: Do you agree with the new AVT buckets and related SMS? Please explain.

Q20: Do you agree with ESMA's proposal of the new threshold#1 for ETFs? Please explain.

Q21: Do you agree with ESMA's proposal of the new threshold#2 for ETFs? Please explain.

Q22: Do you agree with the proposed amendments to Article 11 of RTS 1? Please explain.

Q23: Do you agree with the proposed new Article 11a of RTS 1? Please explain.

Q24: Do you agree with the proposed new Article 11b of RTS 1? Please explain.

Q25: Do you agree with the proposed amendments to Article 12 of RTS 1? Please explain.

Q26: Do you agree with the proposed amendments to Table 3 of Annex I of RTS 1? Please explain.

Q27: Do you agree with the proposed amendments to Table 4 of Annex I of RTS 1? Please explain.

Q28: Would you consider that the SIZE, ILQD, RPRI flags could be removed? Please, explain.

Q29: Would you consider that the ACTX flag could be removed? Please, explain.

Q30: Would you further reduce the maximum time for disclosing pre-trade transparency "as close to real-time as technically possible"? If so, what maximum limit would you suggest? Please explain.

Q31: Do you agree with the proposed amendments to Article 15 of RTS 1? If not, please explain.

Q32: Which option do you prefer: Option A (status quo), Option B (add layer for technical trades), Option C (add layer for technical trades and waivers)? Please explain.

Q33: Do you agree with the proposed amendments to Annex IV of RTS 1 in relation to Option B and Option C? Please explain.

Q34: Do you agree with the proposed amendments to Articles 16 to 19 of RTS 1? Please explain.

Q35: Do you agree with the proposed different application dates for the different provisions in Article 20 of RTS 1? Please explain.

Q36: Do you agree with the ESMA's proposed approach? Please elaborate.

Q37: Do you think the fields included in the new form are exhaustive? If not, which other information are missing for the purpose of the template? Do you consider all requested fields to be needed? What is your perspective on the potential inclusion of a dedicated field for entering the MIC of the APA utilized by the SI during the notification submission process? Please elaborate.

Q38: Do you think that two weeks would be a processing time long enough for the investment firms that intend to continue/start carrying out activities as SIs in any class of financial instruments to submit the new notification to the respective NCAs? Please elaborate.

Q39: Are there any other suggestions you would like to propose? Please elaborate.

Q40: Do you agree with the proposed amendments to RTS 3, including the Annex? If not, please explain.

Q41: Do you foresee any challenges with the use of JSON format compared to XML? Please provide estimates of the costs, timelines of implementation and benefits (short- and long term) related to potential transition to JSON.

Q42: What is your preferred option for the frequency of reporting of data to ESMA from trading venues, and CTPs upon request: a) maintain bi-weekly reporting as present or b) switch to monthly reporting, on the 16th day of the month for the previous month? Please justify your answer and provide examples and data on the costs and benefits of your preferred approach.

Q43: Do you agree with the proposed Article 1 – Definitions? Please explain.

Q44: Do you agree with the proposed Article 17 – General principles in the establishment of Circuit Breakers)? Please explain.

Q45: Do you agree with the proposed Article 18 – General principles in the establishment of the methodology for the calibration of Circuit Breakers? Please explain.

Q46: Do you agree with the proposed Article 19 – Disclosure requirement regarding circuit breakers? Please explain.

Q47: Article 19(1)(f) mandates trading venues to disclose "information on the triggering of circuit breakers, with at least an annual frequency". Do you support such disclosure, and do you think ESMA should further specify the type of information that should be disclosed? Please explain.

Q48: Do you agree with the proposed template to report information to NCAs? Please explain.

Q49: Do you agree with the proposal to delete Articles 15 of RTS 7 ('Business continuity arrangements')? Please explain.

Q50: Do you agree with the proposed way forward on Article 8 of RTS 7 ('Testing of trading systems')? Please explain.

Q51: Do you agree with the proposed way forward on Article 23 of RTS 7 ('Security and limits to access')? Please explain.

Q52: Do you agree with the proposed amendments to Article 6 of RTS 7 ('Outsourcing and procurement'), Article 16 ('Business continuity plan') and Article 17 ('Periodic review of business continuity arrangements')? Please explain.

Q53: Do you suggest the deletion of other RTS 7 provisions due to the amendments to Article 48 of MiFID II? Please explain.

Q54: Do you suggest the amendment to other provisions of RTS 7, due the amendments to Article 48 of MiFID II? Please explain.

Q55. Do you agree with the proposal for the Data related to the status of individual financial instruments? If not, please explain.

Q56. Do you agree with the proposal for the data related to the status of status of systems matching orders? Would you consider that other identifiers of the trading system type should be used? Please explain.

Q57: Do you agree that the pre-trade data to the CTP should be that included in Table 1b in section 4.1.3.1 except for fields 8 and 9? Please explain.

Q58: Do you agree with the proposal for the output table? Please explain.

Q59: Do you agree with the proposal for the input and output tables for the post-trade equity CTP? Please explain.

Q60: Do you agree with the proposed amendments to flags in Table 3 of Annex II or RTS 2? In particular, do you consider that the flag 'ACTX' should be deleted?

10.2 Annex II

10.2.1 Legislative mandate to regulatory technical standards

10.2.1.1 RTS 1

Article 2(17)(b) of MiFIR

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

[…]

(17) 'liquid market' means:

[…]

(b) for the purposes of Articles 4, 5 and 14, a market for a financial instrument that is traded daily where the market is assessed according to the following criteria:

(i) the market capitalisation of that financial instrument;

(ii) the average daily number of transactions in that financial instrument;

(iii) the average daily turnover for that financial instrument;

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to specify certain technical elements of the definitions laid down in paragraph 1 to adjust them to market developments.

Article 4(6) of MiFIR

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

(a) the details of pre-trade data, 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 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

a) the arrangements for the publication of a firm quote as referred to in paragraph 1;

(b) the determination of the threshold referred to in paragraph 2, which shall take into account the international best practices, the competitiveness of Union firms, the significance of the market impact and the efficiency of the price formation and which shall not be below twice the standard market size;

(c) the determination of the minimum quote size as referred to in paragraph 3, which shall not exceed 90 % of the threshold referred to in paragraph 2and which shall not be below the standard market size;

(d) the determination of whether prices reflect prevailing market conditions as referred to in paragraph 3, and

(e) the standard market size as referred to in paragraph 4.'

ESMA shall submit those draft regulatory technical standards to the Commission by 29 March 2025.

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 6 of MiFIR

1. Market operators and investment firms operating a trading venue shall make public the price, volume and time of the transactions executed in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on that trading venue. Market operators and investment firms operating a trading venue shall make details of all such transactions public as close to real-time as is technically possible.

2. Market operators and investment firms operating a trading venue shall give access, on reasonable commercial terms and on a non-discriminatory basis, to the arrangements they employ for making public the information under paragraph 1 of this Article to investment firms which are obliged to publish the details of their transactions in shares, depositary receipts, ETFs, certificates and other similar financial instruments pursuant to Article 20.

Article 7 of MiFIR

1. Competent authorities shall be able to authorise market operators and investment firms operating a trading venue to provide for deferred publication of the details of transactions based on their type or size.

In particular, the competent authorities may authorise the deferred publication in respect of transactions that are large in scale compared with the normal market size for that share, depositary receipt, ETF, certificate or other similar financial instrument or that class of share, depositary receipt, ETF, certificate or other similar financial instrument.

Market operators and investment firms operating a trading venue shall obtain the competent authority's prior approval of proposed arrangements for deferred trade-publication, and shall clearly disclose those arrangements to market participants and the public. ESMA shall monitor the application of those arrangements for deferred trade-publication and shall submit an annual report to the Commission on how they are applied in practice.

Where a competent authority authorises deferred publication and a competent authority of another Member State disagrees with the deferral or disagrees with the effective application of the authorisation granted, that competent authority may refer the matter back to ESMA, which may act in accordance with the powers conferred on it under Article 19 of Regulation (EU) No 1095/2010.

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 20 of MiFIR

1. Investment firms which, either on own account or on behalf of clients, conclude transactions in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, shall make public the volume and price of those transactions and the time at which they were concluded. That information shall be made public through an APA.

1a. Each individual transaction shall be made public once through a single APA.

2. The information which is made public in accordance with paragraph 1 of this Article and the time-limits within which it is published shall comply with the requirements adopted pursuant to Article 6, including the regulatory technical standards adopted in accordance with Article 7(2)(a). Where the measures adopted pursuant to Article 7 provide for deferred publication for certain categories of transaction in shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue, that possibility shall also apply to those transactions when undertaken outside trading venues.

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;

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 23 of MiFIR

1. An investment firm shall ensure the trades it undertakes in shares-which have a European Economic Area (EEA) International Securities Identification Number (ISIN) and which are traded on a trading venue take place on a regulated market, MTF a systematic internaliser, or a third-country trading venue assessed as equivalent in accordance with Article 25(4), point (a) of Directive 2014/65/EU, as appropriate, unless:

(a)-those shares are traded on a third-country venue in the local currency or in a non-EEA currency; or

(b)–those trades are carried out between eligible counterparties, between professional counterparties or between eligible and professional counterparties and do not contribute to the price discovery process.

2. An investment firm that operates an internal matching system which executes client orders in shares, depositary receipts, ETFs, certificates and other similar financial instruments on a multilateral basis must ensure it is authorised as an MTF under Directive 2014/65/EU and comply with all relevant provisions pertaining to such authorisations.

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.;

Article 22 of MiFIR

1. In order to carry out calculations for determining the requirements for the pre- and post-trade transparency and the trading obligation regimes referred to in Articles 3 to 11a, 14 to 21 and Article 32, which are applicable to financial instruments and to prepare reports to the Commission in accordance with Article 4(4), Article 7(1), Article 9(2), Article 11(3) and Article 11a(1), ESMA and competent authorities may require information from:

(a) trading venues;

(b) APAs; and

(c) CTPs.

2. Trading venues, APAs and CTPs shall store the necessary data for a sufficient period.

3. 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 are to respond to data requests referred to in paragraph 1, the type of data that is to be stored, and the minimum period for which trading venues, APAs and CTPs are to store data in order to be able to respond to data requests in accordance with paragraph 2.

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

10.2.1.2 RTS 3

Article 5 of MiFIR

1. Trading venues shall suspend their use of the waiver referred to in Article 4(1), point (a), where the percentage of trading in a financial instrument in the Union carried out under that waiver exceeds 7 % of the total volume of trading in that financial instrument in the Union. Trading venues shall base their decision to suspend the use of that waiver on the data published by ESMA in accordance with paragraph 4 of this Article, and shall take such decision within two working days of the publication of those data and for a period of three months.

4. ESMA shall publish within seven working days of the end of March, June, September and December of each calendar year the total volume of trading in the Union per financial instrument in the previous 12 months, the percentages of trading in each financial instrument carried out across the Union under the waiver referred to in Article 4(1), point (a), and the methodology that is used to derive those percentages of trading in each financial instrument.

7. In order to ensure a reliable basis for monitoring the trading taking place under the waiver referred to in Article 4(1), point (a), and for determining whether the limit referred to in paragraph 1 has been exceeded, operators of trading venues shall have in place systems and procedures to enable the identification of all trades which have taken place on their venue under that waiver.

8. The period for the publication of trading data by ESMA, and for which trading in a financial instrument under the waiver is to be monitored, shall start on 29 September 2025.

9. ESMA shall develop draft regulatory technical standards to specify the method, including the flagging of transactions, by which it collates, calculates and publishes the transaction data, as outlined in paragraph 4, in order to provide an accurate measurement of the total volume of trading per financial instrument and the percentages of trading that use the waiver across the Union.

ESMA shall submit those draft regulatory technical standards to the Commission by 29 March 2025.

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

10. By 29 September 2027, and every year thereafter, ESMA shall submit to the Commission a report assessing the volume-cap threshold set in paragraph 1, taking into account financial stability, international best practices, the competitiveness of Union firms, the significance of the market impact and the efficiency of price formation.

The Commission is empowered to adopt delegated acts in accordance with Article 50 to amend this Regulation by adjusting the volume-cap threshold set in paragraph 1 of this Article. For the purposes of this subparagraph, the Commission shall take into account the report from ESMA referred to in the first subparagraph of this paragraph, international developments and standards agreed at Union or international level.

Article 22 of MiFIR

1. In order to carry out calculations for determining the requirements for the pre- and post-trade transparency and the trading obligation regimes referred to in Articles 3 to 11a, 14 to 21 and Article 32, which are applicable to financial instruments and to prepare reports to the Commission in accordance with Article 4(4), Article 7(1), Article 9(2), Article 11(3) and Article 11a(1), ESMA and competent authorities may require information from:

(a) trading venues;

(b) APAs; and

(c) CTPs.

2. Trading venues, APAs and CTPs shall store the necessary data for a sufficient period.

3. 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 are to respond to data requests referred to in paragraph 1, the type of data that is to be stored, and the minimum period for which trading venues, APAs and CTPs are to store data in order to be able to respond to data requests in accordance with paragraph 2.

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

10.2.1.3 Input / output data RTS (CTP for shares and ETFs)

Article 22b – Data quality

1. The data transmitted to the CTP pursuant to Article 22a(1) and the data disseminated by the CTP pursuant to Article 27h(1), point (d), shall comply with the regulatory technical standards adopted pursuant to Article 4(6), point (a), Article 7(2), point (a), Article 11(4), point (a), and Article 11a(3), point (a), unless provided otherwise in the regulatory technical standards adopted pursuant to paragraph 3, points (b) and (d), of this Article.

2. The Commission shall establish an expert stakeholder group by 29 June 2024 to provide advice on the quality and the substance of data and the quality of the transmission protocol referred to in Article 22a(1). The expert stakeholder group and ESMA shall work closely together. The expert stakeholder group shall make its advice public.

The expert stakeholder group shall be composed of members with a sufficiently wide range of expertise, skills, knowledge and experience to provide adequate advice.

The members of the expert stakeholder group shall be selected following an open and transparent selection procedure. In selecting the members of the expert stakeholder group, the Commission shall ensure that they reflect the diversity of market participants across the Union.

The expert stakeholder group shall elect a Chair from among its members, for a term of two years. The European Parliament may invite the Chair of the expert stakeholder group to make a statement before it and to answer any questions from its members whenever so requested.

3. ESMA shall develop draft regulatory technical standards to specify the quality of the transmission protocol, measures to address erroneous trade reporting and enforcement standards in relation to data quality, including arrangements regarding cooperation between data contributors and the CTP, and, where necessary, the quality and the substance of the data for the operation of the consolidated tape.

Those draft regulatory technical standards shall in particular specify all of the following:

(a) the minimum requirements for the quality of the transmission protocols referred to in Article 22a(1);

(b) the presentation of the core market data to be disseminated by the CTP, in accordance with prevailing industry standards and practices;

(c) what constitutes the transmission of data as close to real time as technically possible

d) where necessary, the data needed to be transmitted to the CTP in order for it to be operational, taking into account the advice of the expert stakeholder group established pursuant to paragraph 2, including the substance and the format of those data, in accordance with prevailing industry standards and practices.

For the purposes of the first subparagraph of this paragraph, ESMA shall take into account the advice from the expert stakeholder group established pursuant to paragraph 2 of this Article, international developments, and standards agreed at Union or international level. ESMA shall ensure that the draft regulatory technical standards take into account the transparency requirements laid down in Articles 3, 6, 8, 8a, 8b, 10, 11, 11a, 14, 20, 21 and 27g.

ESMA shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 29 December 2024..

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

10.2.2 Legislative mandate to implementing technical standards

Article 15(5) of MiFIR

5. ESMA shall develop draft implementing technical standards to determine the content and format of the notification referred to in paragraph 1, second subparagraph.

ESMA shall submit those draft implementing technical standards to the Commission by by 29 March 2025.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

10.2.3 Legislative mandate, RTS 7a

Article 48(5) of MiFID II : Systems resilience, circuit breakers and electronic trading

Member States shall require a regulated market to be able to temporarily halt or constrain trading in emergency situations or in the event of a significant price movement in a financial instrument on that market or a related market during a short period and, in exceptional cases, to be able to cancel, vary or correct any transaction. Member States shall require a regulated market to ensure that the parameters for halting trading are appropriately calibrated in a way which takes into account the liquidity of different asset classes and sub-classes, the nature of the market model and the types of users and is sufficient to avoid significant disruptions to the orderliness of trading.

Member States shall ensure that a regulated market reports the parameters for halting trading and any material changes to those parameters to the competent authority in a consistent and comparable manner, and that the competent authority shall in turn report them to ESMA. Member States shall require that where a regulated market which is material in terms of liquidity in that financial instrument halts trading, in any Member State, that trading venue has the necessary systems and procedures in place to ensure that it will notify competent authorities in order for them to coordinate a market-wide response and determine whether it is appropriate to halt trading on other venues on which the financial instrument is traded until trading resumes on the original market.

Member States shall require a regulated market to publicly disclose on its website information about the circumstances leading to the halting or constraining of trading and on the principles for establishing the main technical parameters used to do so.

Member States shall ensure that, where a regulated market does not halt or constrain trading as referred to in the first subparagraph, despite the fact that a significant price movement in a financial instrument or related financial instruments has lead to disorderly trading conditions on one or several markets, competent authorities are able to take appropriate measures to re-establish the normal functioning of the markets, including the supervisory powers referred to in Article 69(2) points (m)to (p).

12. ESMA shall develop draft regulatory technical standards further specifying:

(…)

(h) the principles that regulated markets are to consider when establishing their mechanisms to halt or constrain trading in accordance with paragraph 5, taking into account the liquidity of different asset classes and sub-classes, the nature of the market model and the types of users, and without prejudice to the discretion of regulated markets in setting those mechanisms.

(i) the information that regulated markets are to disclose, including the parameters for halting trading that regulated markets are to report to competent authorities, pursuant to paragraph 5.

ESMA shall submit those draft regulatory technical standards to the Commission by 29 March 2025

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

10.3 Annex III - Cost-benefit analysis

The previous sections provide a high-level cost-benefit analysis (CBA) of the draft technical standards. 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.

10.4 Annex VI - Draft technical standards / advice

10.4.1 Technical advice

ESMA recommends to the Commission the following changes to the CDR 2017/567:

- to remove any reference to free-float and substitute it with market capitalisation as consequence of the change in Level 1. Also remove field "Holdings exceeding 5 % of total voting rights" in the Annex;
- to set the market capitalisation threshold for the determination of the liquidity of shares to not less than EUR 100 million to ensure consistent results with the current approach;
- to deem other similar financial instruments to be illiquid at any point in time of their trading life and add them in the MiFIR identifier field in the Annex;
- set the number of days on which the instrument was available for trading on the most relevant market in terms of liquidity (MRMTL) as defined in Article 4 of RTS 1, and where such market was open to be used as denominator to calculate the average daily turnover (ADT) parameter, the average daily number of transactions (ADNTE) parameter and the daily traded parameter;
- to add a provision in Article 5 to consider the day of the initial public offering (IPO), determined using Field 11 (Date and time of admission to trading or date of first trade) and Field 6b in Table 3 of Annex of RTS 23 ("Venue of admission to trading"), for the determination of the day when the instrument is first traded in point (a) and (c) and the first four and six weeks of trading in point (b) of the same Article. This provision would ensure a consistent application of the transparency parameters.

10.4.2 Consolidated version of RTS 1 on transparency requirements for shares, depositary receipts, exchange-traded funds, certificates and other similar financial instruments

To facilitate the analysis of the ESMA's proposals, in addition to the draft RTS amending RTS 1 to be delivered to the Commission, a consolidated version of RTS 1 marking in red the amendments as proposed in the main body of the CP is provided.

COMMISSION DELEGATED REGULATION (EU) 2017/587

of [ ]

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)

CHAPTER I

GENERAL

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;

(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;

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

(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;

(j) the transaction does not constitute a transaction for the purposes of Article 26 of Regulation (EU) No 600/2014 in accordance with Article 2(5) of Commission Delegated Regulation (EU) 2017/590[29].

CHAPTER II

PRE-TRADE TRANSPARENCY

Section 1

Pre-trade transparency for trading venues

Article 3

Pre-trade transparency obligations

(Article 3(1) and (2) of Regulation (EU) No 600/2014)

[29] Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities (OJ L 87, 31.3.2017, p. 449).

1. 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 1 of Annex I.

The details of pre-trade data to be made public should be that in Tables 1a, 1b of Annex I.

2. The transparency requirements referred to in paragraph 1 shall also apply to any 'actionable indication of interest' as defined in Article 2(1)(33) of Regulation (EU) No 600/2014 and pursuant to Article 3 of that Regulation.

Article 4

Most relevant market in terms of liquidity

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

1. For the purposes of Article 4(1)(a) of Regulation (EU) No 600/2014, the most relevant market in terms of liquidity for a share, depositary receipt, ETF, certificate or other similar financial instrument shall be considered to be the trading venue with the highest turnover within the Union for that financial instrument.

2. For the purpose of determining the most relevant markets in terms of liquidity in accordance with paragraph 1, competent authorities shall calculate the turnover in accordance with the methodology set out in Article 17(4) in respect of each financial instrument for which they are the competent authority and for each trading venue where that financial instrument is traded.

3. The calculation referred to in paragraph 2 shall have the following characteristics: (a) it shall include, for each trading venue, transactions executed under the rules of that trading venue excluding reference price and negotiated transactions flagged as set out in Table 4 of Annex I and transactions executed on the basis of at least one order that has benefitted from a large-in-scale waiver and where the transaction size is above the applicable large-in-scale threshold as determined in accordance with Article 7; (b) it shall cover either the preceding calendar year or, where applicable, the period of the preceding calendar year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

4. Until the most relevant market in terms of liquidity for a specific financial instrument is determined in accordance with the procedure specified in paragraphs 1 to 3, the most relevant

market in terms of liquidity shall be ~~the trading venue where that financial instrument is first admitted to trading or first traded.~~ the regulated market where that financial instrument is first admitted to trading or first traded, or in cases where the financial instrument is not made available for trading on a regulated market, the multilateral trading facility where that financial instrument is first admitted to trading or first traded, based on fields 11 (Date and time of admission to trading or date of first trade) and 6b (Venue of admission to trading) in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585.

5. Paragraphs 2 and 3 shall not apply to shares, depositary receipts, ETFs, certificates and other similar financial instruments which were first admitted to trading or first traded on a trading venue from 1st to 31st December ~~four weeks or less before the end~~ of the preceding calendar year.

6. The determination of the most relevant market in terms of liquidity determined in paragraph 4 shall apply on the day on which the instrument was first admitted to trading or first traded of the trading venue being the one of field 11 (Date and time of admission to trading or date of first trade) of reporting "Y" in field 6b (Venue of admission to trading)in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585).

Article 5

Specific characteristics of negotiated transactions

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

A negotiated transaction in shares, depositary receipts, ETF, certificates or other similar financial instruments shall be considered to be a transaction which is negotiated privately but reported under the rules of a trading venue and where any of the following circumstances applies:

(a) two members or participants of that trading venue are involved in any of the following capacities:

(i) one is dealing on own account when the other is acting on behalf of a client;

(ii) both are dealing on own account;

(iii) both are acting on behalf of a client;

(b) one member or participant of that trading venue is either of the following:

(i) acting on behalf of both the buyer and seller;

(ii) dealing on own account against a client order.

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;

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

(k) the transaction does not constitute a transaction for the purposes of Article 26 of Regulation (EU) No 600/2014 in accordance with Article 2(5) of Delegated Regulation (EU) 2017/590.

Article 7

Orders that are large in scale

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

1. An order in respect of a share, depositary receipt, certificate or other similar financial instrument shall be considered to be large in scale where the order is equal to or larger than the minimum size of orders set out in Tables 1 and 2 of Annex II.

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 3 000 000.

3. For the purpose of determining orders that are large in scale, competent authorities shall calculate, in accordance with paragraph 4, the average daily turnover in respect of shares, depositary receipts, certificates and other similar financial instruments traded on a trading venue.

4. The calculation referred to in paragraph 3 shall have the following characteristics:

(a) it shall include transactions executed in the Union in respect of the financial instrument, whether traded on or outside a trading venue;

(b) it shall cover the period beginning on 1 January of the preceding calendar year and ending on 31 December of the preceding calendar year or, where applicable, that part of the calendar year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading.

Paragraphs 3 and 4 shall not apply to shares, depositary receipts, certificates and other similar financial instruments first admitted to trading or first traded on a trading venue from 1st to 31st December ~~four weeks or less before the end~~ of the preceding calendar year.

5. Unless the price or other relevant conditions for the execution of an order are amended, the waiver referred to in Article 4(1) of Regulation (EU) No 600/2014 shall continue to apply in respect of an order that is large in scale when entered into an order book but that, following partial execution, falls below the threshold applicable for that financial instrument as determined in accordance with paragraphs 1 and 2.

6. Before a share, depositary receipt, certificate or other similar financial instrument is traded for the first time on a trading venue in the Union, the competent authority shall estimate the average daily turnover for that financial instrument taking into account any previous trading history of that financial instrument other previous or similar financial instrument of the same issuer, and of other financial instruments that are considered to have similar characteristics, and ensure publication of that estimate.

7. The estimated average daily turnover referred to in paragraph 6 shall be used for the calculation of orders that are large in scale during a six-week period following the date that the share, depositary receipt, certificate or other similar financial instrument was admitted to trading or first traded on a trading venue being the one reporting “Y” to field “Venue of admission to trading “ (field 6b in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585).

8. The competent authority shall calculate and ensure publication of the average daily turnover based on the first four weeks of trading before the end of the six-week period referred to in paragraph 7.

9. The average daily turnover referred to in paragraph 8 shall be used for the calculation of orders that are large in scale and until an average daily turnover calculated in accordance with paragraph 3 applies.

10. For the purposes of this Article, the average daily turnover shall be calculated by dividing the total turnover for a particular financial instrument as specified in Article 17(4) by the number of trading days in the period considered. The number of trading days in the period considered is the number of trading days on the most relevant market in terms of liquidity for that financial instrument as determined in accordance with Article 4.

Article 8

Type and minimum size of orders held in an order management facility

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

1. The type of order held in an order management facility of a trading venue pending disclosure for which pre-trade transparency obligations may be waived is an order which:

(a) is intended to be disclosed to the order book operated by the trading venue and is contingent on objective conditions that are pre-defined by the system's protocol;

(b) for orders other than reserve orders, cannot interact with other trading interests prior to disclosure to the order book operated by the trading venue;

(c) once disclosed to the order book, interacts with other orders in accordance with the rules applicable to orders of that kind at the time of disclosure.

2. Orders held in an order management facility of a trading venue pending disclosure for which pre-trade transparency obligations may be waived shall, at the point of entry and following any amendment, have one of the following sizes:

(a) in the case of a reserve order, a size that is greater than or equal to EUR 10 000;

(b) for all other orders, a size that is greater than or equal to the minimum tradable quantity set in advance by the system operator under its rules and protocols.

3. A reserve order as referred to in paragraph 2(a) shall be considered a limit order consisting of a disclosed order relating to a portion of a quantity and a non-disclosed order relating to the remainder of the quantity where the non-disclosed quantity is capable of execution only after ~~its release to the order book as a new~~ the execution of the disclosed order.

Section 2

Pre-trade transparency for systematic internalisers and investment firms trading outside a trading venue

Article 9

Arrangements for the publication of a firm quote

(Article 14(1) of Regulation (EU) No 600/2014)

Any arrangement that a systematic internaliser adopts in order to comply with the obligation to make public firm quotes shall satisfy the following conditions:

(a) the arrangement includes all reasonable steps necessary to ensure that the information to be published is reliable, monitored continuously for errors, and corrected as soon as errors are detected;

(b) the arrangement complies with technical arrangements equivalent to those specified for approved publication arrangements (APAs) in Article 14 of Delegated Regulation (EU) 2017/571 that facilitate the consolidation of the data with similar data from other sources;

(c) the arrangement makes the information available to the public on a non-discriminatory basis;

(d) the arrangement includes the publication of the time the quotes have been entered or amended in accordance with Article 50 of Directive 2014/65/EU as specified in Commission Delegated Regulation (EU) 2017/574[30].

Article 10

Prices reflecting prevailing market conditions

(Article 14(3) of Regulation (EU) No 600/2014)

The prices published by a systematic internaliser shall be deemed to reflect prevailing market conditions where they are close in price, at the time of publication, to quotes of equivalent sizes for the same financial instrument on the most relevant market in terms of liquidity as determined in accordance with Article 4 for that financial instrument.

However, the prices published by a systematic internaliser in respect of shares and depositary receipts shall be deemed to reflect prevailing market conditions only where those prices meet the requirements set out in the first paragraph of this Article and respect minimum price increments corresponding to the tick sizes specified in Article 2 of Commission Delegated Regulation (EU) No 2017/588[31].

Article 11

Standard market size

(Article 14(2) and (4) of Regulation (EU) No 600/2014)

1. The standard market size for shares, depositary receipts, ETFs, certificates and other similar financial instruments for which there is a liquid market shall be determined on the basis of the average value of transactions for each financial instrument calculated in accordance with paragraphs 2 and 3 and in accordance with Table 3 and Table 3a of Annex II.

2. For the purpose of determining the standard market size which is applicable to a specific financial instrument as set out in paragraph 1, competent authorities shall calculate the

[30] 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).
[31] Commission Delegated Regulation (EU) 2017/588 of 14 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards on the tick size regime for shares, depositary receipts and exchange-traded funds (OJ L 87, 31.3.2017, p. 411).

average value of transactions in respect of all the shares, depositary receipts, ETFs, certificates and other similar financial instruments traded on a trading venue for which there is a liquid market and for which they are the competent authority.

3. The calculation referred to in paragraph 2 shall have the following characteristics:

(a) it shall take into account the transactions executed in the Union in respect of the financial instrument concerned whether executed on or outside a trading venue;

(b) it shall cover either the preceding calendar year or, where applicable, the period of the preceding calendar year during which the financial instrument was admitted to trading or traded on a trading venue and was not suspended from trading;

(c) it shall exclude post-trade large-in-scale transactions as set out in Table 4 of Annex I.

Paragraphs 2 and 3 shall not apply to shares, depositary receipts, ETFs, certificates and other similar financial instruments first admitted to trading or first traded on a trading venue four weeks or less before the end of the preceding calendar year.

4. Before a share, depositary receipt, ETF, certificate or other similar financial instrument is traded for the first time on a trading venue in the Union, the competent authority shall estimate the average value of transactions for that financial instrument taking into account any previous trading history of that financial instrument and of other financial instruments that are considered to have similar characteristics, and ensure publication of that estimate.

5. The estimated average value of transactions laid down in paragraph 4 shall be used to determine the standard market size for a share, depositary receipt, ETF, certificate or other similar financial instrument during a six-week period following the date that the share, depositary receipt, ETF, certificate or other similar financial instrument was first admitted to trading or first traded on a trading venue.

6. The competent authority shall calculate and ensure publication of the average value of transactions based on the first four weeks of trading before the end of the six-week period referred to in paragraph 5.

7. The average value of transactions in paragraph 6 shall apply immediately after its publication and until a new average value of transactions calculated in accordance with paragraphs 2 and 3 applies.

8. For the purposes of this Article, the average value of transactions shall be calculated by dividing the total turnover for a particular financial instrument as set out in Article 17(4) by the total number of transactions executed for that financial instrument in the period considered.

Article 11a

Quote size below which pre-trade transparency requirements under Articles 14, 15, 16 and 17 of MiFIR apply (Article 14(2) of Regulation (EU) No 600/2014)

1. Obligation to make public firm quotes in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments shall apply to systematic internalisers when they deal in sizes up to twice the standard market size as determined in Article 11.

Article 11b

Minimum Quote size

(Article 14(3) of Regulation (EU) No 600/2014)

1. The Minimum Quote size for a particular share, depositary receipt, ETF, certificate and other similar financial instrument traded on trading venue shall be equal to the standard market size as determined in Article 11 .

CHAPTER III

POST-TRADE TRANSPARENCY FOR TRADING VENUES AND INVESTMENT FIRMS TRADING OUTSIDE A TRADING VENUE

Article 12

Post-trade transparency obligations for trading venues

(Article 6(1) and Article 20(1) and (2) of Regulation (EU) No 600/2014)

1. Market operators and investment firms operating a trading venue and investment firms trading outside the rules of a trading venue shall make public the details of each transaction by applying reference Tables 2, 3 and 4 of Annex I.

The fields names in Table 3 of Annex I shall be made public using the same naming conventions as defined in the field identifier of the Table.

2. Where a previously published trade report is cancelled, investment firms trading outside a trading venue and market operators and investment firms operating a trading venue shall make public a new trade report which contains all the details of the original trade report and the cancellation flag specified in Table 4 of Annex I.

3. Where a previously published trade report is amended, market operators and investment firms operating a trading venue and investment firms trading outside a trading venue shall make the following information public:

(a) a new trade report that contains all the details of the original trade report and the cancellation flag specified in Table 4 of Annex I;

(b) a new trade report that contains all the details of the original trade report with all necessary details corrected and the amendment flag specified in Table 4 of Annex I.

4. Where a transaction between two investment firms is concluded outside the rules of a trading venue, either on own account or on behalf of clients, only the investment firm that sells the financial instrument concerned shall make the transaction public through an APA.

~~5. By way of derogation from paragraph 4, where only one of the investment firms party to the transaction is a systematic internaliser in the given financial instrument and it is acting as the buying firm, only that firm shall make the transaction public through an APA, informing the seller of the action taken.~~

~~6. Investment firms shall take all reasonable steps to ensure that the transaction is made public as a single transaction. For that purpose, two matching trades entered at the same time and for the same price with a single party interposed shall be considered to be a single transaction.~~

Article 12a

Post-trade transparency obligations for APAs

(Article 6(1) and Article 20(1) and (2) of Regulation (EU) No 600/2014)

An APA shall make public (a) for transactions executed in respect of shares, depositary receipts, exchange-traded funds (ETFs), certificates and other similar financial instruments, the details of a transaction specified in Table 2 of Annex I and, use the appropriate flags listed in Table 3 of Annex I.

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 obligation 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[32] where applicable.

Article 14

Real time publication of transactions

(Article 6(1) of Regulation (EU) No 600/2014)

1. For transactions that take place on a given trading venue, post-trade information shall be made public in the following circumstances:

(a) where the transaction takes place during the daily trading hours of the trading venue, as close to real-time as is technically possible and in any case within one minute of the relevant transaction;

(b) where the transaction takes place outside the daily trading hours of the trading venue, before the opening of the next trading day for that trading venue.

[32] Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities (see page 449 of this Official Journal).

2. For transactions that take place outside a trading venue, post-trade information shall be made public in the following circumstances:

(a) where the transaction takes place during the daily trading hours of the most relevant market in terms of liquidity determined in accordance with Article 4 for the share, depositary receipt, ETF, certificate or other similar financial instrument concerned, or during the investment firm's daily trading hours, as close to real-time as is technically possible and in any case within one minute of the relevant transaction;

(b) where the transaction takes place in any case not covered by point (a), immediately upon the commencement of the investment firm's daily trading hours and at the latest before the opening of the next trading day of the most relevant market in terms of liquidity determined in accordance with Article 4.

3. Information relating to a portfolio trade shall be made public with respect to each constituent transaction as close to real-time as is technically possible, having regard to the need to allocate prices to particular shares, depositary receipts, ETFs, certificates and other similar financial instruments. Each constituent transaction shall be assessed separately for the purposes of determining whether deferred publication in respect of that transaction is applicable pursuant to Article 15.

Article 15

Deferred publication of transactions

(Article 7(1) and 20(1) and (2) of Regulation (EU) No 600/2014)

1. Where a competent authority authorises the deferred publication of the details of transactions pursuant to Article 7(1) of Regulation (EU) No 600/2014, market operators and investment firms operating a trading venue and investment firms trading outside a trading venue shall make public each transaction no later than at the end of the relevant period set out in Tables 4, 5 and 6 of Annex II provided that the following criteria are satisfied:

(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 specified in Tables 4, 5 or 6 of Annex II, as appropriate.

2. The relevant minimum qualifying size for the purposes of point (b) in paragraph 1 shall be determined in accordance with the average daily turnover calculated as set out in Article 7.

3. 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 the opening of the next trading day of the most relevant market in terms of liquidity for transactions not covered in point (a).

For transactions that take place outside a trading venue, references to trading days and closing auctions shall be those of the most relevant market in terms of liquidity as determined in accordance with Article 4.

4. Where a transaction between two investment firms is executed outside the rules of a trading venue, the competent authority for the purpose of determining the applicable deferral regime shall be the competent authority of the investment firm responsible for making the trade public through an APA in accordance with paragraph~~s 5 and 6~~ 3 of Article ~~12~~ 21a of Regulation (EU) 600/2014.

Article 16

References to trading day and daily trading hours

1. A reference to a trading day in relation to a trading venue shall be a reference to any day during which that trading venue is open for trading.

2. A reference to daily trading hours of a trading venue or an investment firm shall be a reference to the hours which the trading venue or investment firm establishes in advance and makes public as its trading hours.

3. A reference to the opening of the trading day at a given trading venue shall be a reference to the commencement of the daily trading hours of that trading venue. 4. A reference to the

end of the trading day at a given trading venue shall be a reference to the end of the daily trading hours of that trading venue.

CHAPTER IV

PROVISIONS COMMON TO PRE-TRADE AND POST-TRADE TRANSPARENCY CALCULATIONS

Article 17

Methodology, date of publication and date of application of the transparency calculations

(Article 22(1) of Regulation (EU) No 600/2014)

1. ~~At the latest 14 months after the date of the entry into application of Regulation (EU) No 600/2014 and~~ by 1 March of each year ~~thereafter~~ after the date of entry into application of this Regulation, competent authorities shall, in relation to each financial instrument for which they are the competent authority, collect the data, calculate and ensure publication of the following information:

(a) the trading venue which is the most relevant market in terms of liquidity as set out in Article 4(2);

(b) the average daily turnover for the purpose of identifying the size of orders that are large in scale as set out in Article 7(3);

(c) the average value of transactions for the purpose of determining the standard market size as set out in Article 11(2) and the thresholds as set out in Articles 11a and 11b.

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 of this Article for the purposes of Article 4(1), points (a) and (c) and Article 14(2), (3) and (4) of Regulation (EU) No 600/2014, for the period 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.

3. Competent authorities shall ensure that the information to be made public pursuant to paragraph 1 is updated on a regular basis for the purposes of Regulation (EU) No 600/2014

and that all changes to a specific share, depositary receipt, ETF, certificate or other similar financial instrument which significantly affects the previous calculations and the published information are included in such updates.

4. For the purposes of the calculations referred to in paragraph 1, the turnover in relation to a financial instrument shall be calculated by summing the results of multiplying, for each transaction executed during a defined period of time, the number of units of that instrument exchanged between the buyers and sellers by the unit price applicable to such transaction.

5. After the end of the trading day, but before the end of the day, trading venues shall submit to competent authorities the details set out in Tables 1 and 2 of Annex III whenever the financial instrument is admitted to trading or first traded on that trading venue or whenever those previously submitted details have changed.

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 information in accordance with Annex IV to this Regulation.

7. Where the trade size determined for the purposes of Article 7(1) and (2), Article 8 (2), point (a), Article 11(1), 11a and 11b and Article 15(1) 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.

8. For the purposes of the calculations referred to in paragraph 1, the first day of trading shall be that as set out in the third subparagraph of Article 5(1) of Commission Delegated Regulation (EU) 2017/567.

Article 18

Reference to competent authorities

(Article 22(1) of Regulation (EU) No 600/2014)

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.

Article 19

Transitional provisions

~~1. By way of derogation from Article 17(1), competent authorities shall collect the data, calculate and ensure publication immediately upon their completion in accordance with the following timeframe:~~

~~(a) where the date on which financial instruments are traded for the first time on a trading venue within the Union is a date not less than 10 weeks prior to the date of application of Regulation (EU) No 600/2014, competent authorities shall publish the result of the calculations no later than four weeks prior to the date of application of Regulation (EU) No 600/2014;~~

~~(b) where the date on which financial instruments are traded for the first time on a trading venue within the Union is a date falling within the period commencing 10 weeks prior to the date of application of Regulation (EU) No 600/2014 and ending on the day preceding the date of application of Regulation (EU) No 600/2014, competent authorities shall publish the result of the calculations no later than the date of application of Regulation (EU) No 600/2014.~~

~~2. The calculations referred to in paragraph 1 shall be performed as follows:~~

~~(a) where the date on which financial instruments are traded for the first time on a trading venue within the Union is a date not less than 16 weeks prior to the date of application of Regulation (EU) No 600/2014, the calculations shall be based on data available for a 40-week reference period commencing 52 weeks prior to the date of application of Regulation (EU) No 600/2014;~~

~~(b) where the date on which financial instruments are traded for the first time on a trading venue within the Union is a date within the period commencing 16 weeks prior to the date of application of Regulation (EU) No 600/2014 and ending 10 weeks prior to the date of application of Regulation (EU) No 600/2014, the calculations shall be based on data available for the first four week trading period of that financial instrument;~~

~~(c) where the date on which financial instruments are traded for the first time on a trading venue within the Union is a date falling within the period commencing 10 weeks prior to the date of application of Regulation (EU) No 600/2014 and ending on the day preceding the date of~~

~~application of Regulation (EU) No 600/2014, the calculations shall be based on the previous trading history of those financial instruments or other financial instruments considered to have similar characteristics to those financial instruments.~~

~~3. 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 period of 15 months commencing on the date of application of that Regulation.~~

~~4. During the period referred to in paragraph 3, competent authorities shall ensure the following with regard to the financial instruments referred to in points (b) and (c) of paragraph 2:~~

~~(a) that the information published in accordance with paragraph 1 remains appropriate 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;~~

~~(b) that the information published in accordance with paragraph 1 is updated on the basis of a longer trading period and a more comprehensive trading history, where necessary.~~

Article 20

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.

It shall apply from the date of entry into force of this Regulation ~~from 3 January 2018~~.

However the second subparagraph of Article 3(1) and 12(1) ~~Article 19~~ shall apply from 1 May 2025 ~~the date of entry into force of this Regulation~~ and Article 4(4), 4(6) and 7(7) shall apply from [please insert date 18 months after the date of entry into force of RTS 23] -.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

ANNEX I

Information to be made public

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 oneway prices may be allowed for a limited time.
3	Periodic auction trading system	A system that matches orders on the basis of a periodic auction and a trading algorithm operated without human intervention.	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.

Row	Type of trading system	Description of the trading system	Information to be made public
4	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.
5	Hybrid trading system	A system falling into two or more of the types of trading systems referred to in rows 1 to 4 of this Table.	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 subsequently, the requirements correspond to the pre-trade transparency requirements applicable to the respective trading system operated at a particular point in time
6	Any other trading system	Any other type of trading system not covered by rows 1 to 5.	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.

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.ddddddZ. — '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; — 'mm' is the minute; — 'ss.dddddd' is the second and its fraction of a second; — Z is UTC time. Dates and times shall be reported in UTC.
{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); Where applicable, values shall be rounded and not truncated.
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383

Table 1b

List of details for the purpose of pre-trade transparency

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
1	Submission date and time	For trading systems, 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 submitted for execution into the trading system. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574. For trading venues operating an auction trading system the date and time at which the price would best satisfy the trading algorithm or the indication of date and time of the prices or volumes when the trading system is pending the identification of two matching orders satisfying the trading algorithm. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	{DATE_TIME_FORMAT}
2	Instrument identification code	Code used to identify the financial instrument.	{ISIN}
3	Side	For all trading systems, excluding auction trading systems, the side of the order or quote. For auction trading system, the side related to the aggregated quantity that would potentially be matched or not.	'BUYI' or 'SELL'

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
4	Price	The price of orders and quotes as required under Table 1 and excluding, where applicable, commission and accrued interest. Where price is reported in monetary terms, it shall be provided in the major currency unit. Where price is currently not available but pending ("PNDG") or not applicable ("NOAP"), this field shall not be populated. For auction trading system, the price at which the auction trading system would best satisfy its trading algorithm or the best bid and ask prices when the trading algorithm pending the identification of two matching orders satisfying the trading algorithm.	{DECIMAL-18/13} when the price is expressed as monetary value in the case of equity and equity-like financial instruments {DECIMAL-11/10} when the price is expressed as percentage or yield in the case of certificates and other equity-like financial instruments {DECIMAL-18/17} when the price is expressed as percentage, yield or basis points in the case of certificates and other equity-like financial instruments
5	Price currency	Major currency unit in which the price is expressed (applicable if the price is expressed as monetary value).	{CURRENCYCODE_3}
6	Price notation	Indication as to whether the price is expressed in monetary value, in percentage or in yield.	MONE' — Monetary value in the case of equity and equity-like financial instruments "PERC" — Percentage in n the case of certificates and other equity-like financial instruments "YIEL" — Yield in the case of certificates and other equity-like financial instruments

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
			"BAPO" — Basis points in the case of certificates and other equity-like financial instruments
7	Quantity	Number of units of the financial instruments attached to the quotes or orders as required under Table 1. The nominal or monetary value of the financial instrument when it is not traded in units. For auction trading system the aggregated quantity for each side attached to the price that would best satisfying the trading algorithm. When the system is pending the identification of two matching orders satisfying the trading algorithm, the aggregated quantity the respective side at the best price of each side.	{DECIMAL-18/17} in case the quantity is expressed as number of units in the case of equity and equity-like financial instruments {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value in the case of certificates and other equity-like financial instruments.
8	Quantity currency	Currency in which the quantity is expressed. This field shall be populated where the quantity is expressed as a nominal or monetary value when it is not traded in units. Otherwise, this field shall be left blank.	{CURRENCYCODE_3}
9	Aggregated number of orders and quotes	The number of aggregated orders or quotes from members or participants where aggregated information is required under Table 1.	{DECIMAL-18/0}
10	Venue	Identification of the trading venue through the system of which orders and quotes are advertised. Use the ISO 10383 segment MIC for or, where the segment MIC does not exist, use the operating MIC.	{MIC}

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
11	Trading system	Type of trading system where the order or quote is advertised	"CLOB' -- central limit order book trading systems 'QDTS' -- quote driven trading systems 'PATS' -- periodic auction trading systems 'RFQT' -- request for quote trading systems ‘HYBR’ -- hybrid trading systems ’OTHR’ -- for any other trading system
12	Publication date and time	Date and time when the information was published. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	{DATE_TIME_FORMAT}

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	Date and time in the following format: YYYY-MM-DDThh:mm:ss.ddddddZ. — '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; — 'mm' is the minute; — 'ss.dddddd' is the second and its fraction of a second; — Z is UTC time. Dates and times shall be reported in UTC.
{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); Where applicable, values shall be rounded and not truncated.
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383

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
1	Trading date and time	Date and time when the transaction was executed. 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. 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, as specified in fields 31, 34 and 44 of 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. 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	Regulated Market (RM) Multilateral Trading Facility (MTF) Approved Publication Arrangement (APA) ~~Consolidated tape provider (CTP)~~	{DATE_TIME_FORMAT}

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		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.		
2	Instrument identification code	Code used to identify the financial instrument.	RM, MTF, APA, ~~CTP~~	{ISIN}
3	Price	Traded price of the transaction excluding, where applicable, commission and accrued interest. Where price is reported in monetary terms, it shall be provided in the major currency unit. Where price is currently not available but pending ('PNDG') or not applicable ('NOAP'), this field shall not be populated.	RM, MTF, APA, ~~CTP~~	{DECIMAL-18/13} when the price is expressed as monetary value in the case of equity and equity-like financial instruments {DECIMAL-11/10} when the price is expressed as percentage or yield in the case of certificates and other equity-like financial instruments
4	Missing price	Where price is currently not available but pending, the value shall be 'PNDG'. Where price is not applicable, the value shall be 'NOAP'.	RM, MTF, APA, ~~CTP~~	'PNDG' in case the price is not available 'NOAP' in case the price is not applicable
5	Price currency	Major currency unit in which the price is expressed (applicable if the price is	RM, MTF APA, ~~CTP~~	{CURRENCYCODE_3}

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		expressed as monetary value).		
6	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
7	Quantity	Number of units of the financial instruments. The nominal or monetary value of the financial instrument.	RM, MTF, APA, ~~CTP~~	{DECIMAL-18/17} in case the quantity is expressed as number of units {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value {DECIMAL-18/17} when the price is expressed as basis points in the case of certificates and other equity-like financial instruments
8	Venue of execution	Identification of the venue where the transaction was executed.	RM, MTF, APA, ~~CTP~~	{MIC} – EU trading venues or

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		Use the ISO 10383 segment MIC for transactions executed on an EU trading venue Where the segment MIC does not exist, use the operating MIC. 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. Use MIC code 'XOFF' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is neither executed on an EU trading venue nor executed on a systematic internaliser. If the transaction is executed on an organised trading platform outside of the EU then in addition to the MIC code 'XOFF' also the population of the field 'Third-country trading venue of execution' is required.		'SINT' — systematic internaliser 'XOFF' — otherwise
9	Third-country trading venue of execution	Identification of the third-country trading venue where the transaction was executed. Use the ISO 10383 segment MIC. Where the segment MIC	APA, ~~CTP~~	{MIC}

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		does not exist, use the operating MIC. Where the transaction is not executed on a third-country trading venue, the field shall not be populated.		
10	Trading System	Type of trading system on which the transaction was executed. When the field 'Venue of execution' is populated with "SINT" or "XOFF", this field shall not be populated.	RM, MTF	"CLOB' -- central limit order book trading systems 'QDTS' -- quote driven trading systems 'PATS' -- periodic auction trading systems 'RFQT' -- request for quote trading systems 'VOIC' -- voice trading systems 'HYBR' -- hybrid trading systems 'OTHR' -- for any other trading system
~~10~~ 11	Publication date and time	Date and time when the transaction was published by a trading venue or APA. For transactions executed on a trading venue, the level of	RM, MTF, APA, ~~CTP~~	{DATE_TIME_FORMAT}

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574. For transactions not executed on a trading venue, the date and time shall be granular to at least the nearest second.		
~~11~~ 12	Venue of Publication	Code used to identify the trading venue or APA publishing the transaction	RM, MTF, APA ~~CTP~~	trading venue: {MIC} APA: ISO 10383 segment MIC (4 characters) where available. Otherwise, 4- character code as published in the list of data reporting services providers on ESMA's website.
~~12~~ 13	Transaction identification code	Alphanumerical code assigned by trading venues (pursuant to Article 12 of Commission Delegated Regulation (EU) 2017/580[33] and APAs and used in any subsequent reference to the specific trade. 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	RM, MTF, APA, CTP	{ALPHANUM-52}

[33] 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 (OJ L 87, 31.3.2017, p. 193).

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		segment MICs, the transaction identification code shall be unique, consistent and persistent per operating MIC per trading day. Where the APA does not use MICs, it shall be unique, consistent and persistent per 4-character code used to identify the APA per trading day. 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		
14	Flags	This field should be populated with the list of all applicable flags as described in Table 4 of Annex 1. Where none of the specified circumstances apply, the transaction should be published without a flag. Where a combination of flags is possible, the flags should be reported separated by commas.	RM, MTF, APA	As per Table 4 of Annex 1

Table 4

List of flags for the purpose of post-trade transparency

Flag	Name	Type of execution or publication venue	Description
'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.
'NPFT'	Non-price forming transactions flag	RM, MTF ~~CTP~~	Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590.
'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.
'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.
'ACTX'	Agency cross transactions flag	APA ~~CTP~~	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.
'SDIV'	Special dividend transaction flag	RM, MTF APA	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

Flag	Name	Type of execution or publication venue	Description
		~~CTP~~	seller; or executed during the cum-dividend period where the dividend or other form of distribution accrues to the seller instead of the buyer.
'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.
'RFPT'	Reference price transaction flag	RM, MTF ~~CTP~~	Transactions which are executed under systems operating in accordance with Article 4(1), point (a), of Regulation (EU) No 600/2014.
'NLIQ'	Negotiated transaction in liquid financial instruments flag	RM, MTF ~~CTP~~	Transactions executed in accordance with Article 4(1), point (b)(i), of Regulation (EU) No 600/2014.
'OILQ'	Negotiated transaction in illiquid financial instruments flag	RM, MTF ~~CTP~~	Transactions executed in accordance with Article 4(1), point (b)(ii), of Regulation (EU) No 600/2014.
'PRIC'	Negotiated transaction subject to conditions other than the current market price flag	RM, MTF ~~CTP~~	Transactions executed in accordance with Article 4(1), point (b)(iii), of Regulation (EU) No 600/2014 and as set out in Article 6.
'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), point (39), of Directive 2014/65/EU.
'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 twice the

Flag	Name	Type of execution or publication venue	Description
			standard market size as determined in accordance with Article 11a.
'ILQD'	Illiquid instrument transaction flag	APA ~~CTP~~	Transactions in illiquid instruments as determined in accordance with Articles 1 to 5 of Commission Delegated Regulation (EU) 2017/567[34] 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.
'CANC'	Cancellation flag	RM, MTF APA ~~CTP~~	When a previously published transaction is cancelled
'AMND'	Amendment flag	RM, MTF APA ~~CTP~~	When a previously published transaction is amended
~~'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.~~

[34] Commission Delegated Regulation (EU) 2017/567 of 18 May 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions (OJ L 87, 31.3.2017, p. 90).

Annex II

Orders large in scale compared with normal market size, standard market sizes and deferred publications and delays

Table 1

Orders large in scale compared with normal market size for shares and depositary receipts

Average daily turnover (ADT) in EUR	ADT < 50 000	50 000 ≤ ADT < 100 000	100 000 ≤ ADT < 500 000	500 000 ≤ ADT < 1 000 000	1 000 000 ≤ ADT < 5 000 000	5 000 000 ≤ ADT < 25 000 000	25 000 000 ≤ ADT < 50 000 000	50 000 000 ≤ ADT < 100 000 000	ADT ≥ 100 000 000
Minimum size of orders qualifying as large in scale compared with normal market size in EUR	15 000	30 000	60 000	100 000	200 000	300 000	400 000	500 000	650 000

Table 2

Orders large in scale compared with normal market size certificates and other similar financial instruments

Average daily turnover (ADT) in EUR	ADT < 50 000	ADT ≥ 50 000
Minimum size of orders qualifying as large in scale compared with normal market size in EUR	15 000	30 000

Table 3

Standard market sizes for shares and depositary receipts

Average value of transactions (AVT) in EUR	**AVT bucket [0-10000)**	**AVT bucket [10000-12000)**	**AVT bucket [12000-14000)**	**AVT bucket [14000-16000)**	**AVT bucket [16000-18000)**	**AVT bucket [18000-20000)**	**AVT bucket [20000-40000)**	**AVT bucket [40000-60000)**	**…**	
Standard market size	5,000	11,000	13,000	15,000	17,000	19,000	30,000	50,000	…	

Table 3a

Standard market sizes for ETFs, certificates and other similar financial instruments

Average value of transactions (AVT) in EUR	**AVT bucket [0-10000)**	**AVT bucket [10000-15000)**	**AVT bucket [15000-20000)**	**AVT bucket [20000-25000)**	**AVT bucket [25000-30000)**	**AVT bucket [30000-35000)**	**AVT bucket [35000-40000)**	**AVT bucket [40000-45000)**	**…**
Standard market size	5,000	12,500	17,500	22,500	27,500	32,500	37,500	42,500	…

ANNEX IV

Data to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT, ~~and~~ the AVT and to prepare reports to the Commission in accordance with Article 4(4) and Article 9(2)

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 shall 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.

ESMA European Securities and Markets Authority

Table 2

Details to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT, ~~and~~ the AVT and to prepare reports to the Commission in accordance with Article 4(4) and Article 9(2)

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	Execution date	Date on which the trades are executed.	RM, MTF, APA, CTP	{DATEFORMAT}
3	Execution venue	Segment MIC for the EU trading venue or systematic internaliser, where available, otherwise operating MIC. MIC XOFF in the case the transaction is executed by investment firms which are not systematic internalisers and is not executed on a trading venue.	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 on the execution date. As a consequence of an instrument being suspended for the whole trading day, fields 5 to 10 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 execution date (*2). (3) (4)	RM, MTF, APA, CTP	{INTEGER-18}
6	Total turnover	The total turnover executed on the execution date, expressed in EUR (*1) (*2). (3) (4)	RM, MTF, APA, CTP	{DECIMAL-18/5}
7	Transactions executed, excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and(c), of Regulation (EU) No 600/2014.	The total number of transactions executed on the execution date excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014 on the same day (*2).	RM, MTF, CTP	{INTEGER-18}
8	Total turnover executed, excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014.	The total turnover executed on the execution date excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014 on the same day (*1) (*2).	RM, MTF, CTP	{DECIMAL-18/5}
9	Total number of transactions excluding those executed under the post-trade LIS deferral.	Total number of transactions executed on the execution date, excluding those transactions executed under Large-In-Scale ~~waiver~~ (post-trade deferral) (*2) (4). For shares and depositary receipts only the highest threshold for the related average daily turnover (ADT) band in Table 4 of Annex II shall be used to identify those transactions.	RM, MTF, APA, CTP	{INTEGER-18}

		For certificates and other similar financial instruments only the highest threshold in Table 6 of Annex II shall be used to identify those transactions For ETFs only the highest threshold in Table 5 of Annex II shall be used to identify those transactions.		
10	Total turnover executed, excluding transactions executed under the post-trade LIS deferral.	Total volume of transactions executed on the execution date, excluding those transactions executed under Large-In-Scale ~~waiver (~~post-trade deferral~~)~~ (*1) (*2) (4). For shares and depositary receipts only the highest threshold for the related average daily turnover (ADT) band in Table 4 of Annex II shall be used to identify those transactions. For certificates and other similar financial instruments only the highest threshold in Table 6 of Annex II shall be used to identify those transactions For ETFs only the highest threshold in Table 5 of Annex II shall be used to identify those transactions.	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 empty otherwise

(*1) 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.

(*2) Transactions that have been cancelled shall be excluded from the reported figures. 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

(3) 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.

(4) Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date

10.4.3 Draft technical standards on the amendment of RTS 1

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 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) 2024/ 791 of the European Parliament and of the Council of 28 February 2024 amending Regulation (EU) No 600/2014, and in particular Article 4(6), Article 14(7), Article 20(1), Articles 22 and Article 23, thereof,

Whereas,

(1) It is important to specify the details of pre-trade data to be made public considering the information to be provided to the consolidated tape provider to ensure a convergent and efficient application of the new MiFIR requirements.

(2) It is appropriate to ensure a correct determination of the most relevant market in terms of liquidity by means of the use of a new field to be reported under Table 3 of Annex of Commission Delegated Regulation (EU) 2017/590 to grant high quality data for the application of waivers, the consolidated tape provider requirements, and the tick-size regime.

(3) It is also appropriate to align the timing of the calculation and day of application of the different transparency parameters to ensure a convergent and simpler application of the transparency regime by limiting the annual calculations to those instruments admitted to trading or first traded on a trading venue from 1st to 31st December of the preceding calendar year.

(4) To cater for the possibility of execution of the hidden part of iceberg orders in line with the guidance in the Opinion on the assessment of pre-trade transparency waivers for equity and non-equity instruments the provisions of the Order Management Facility (OMF) is amended.

(5) To grant a convergent application of the post-trade transparency reports, it is appropriate to require also to use the same name of the fields included in those reports.

(6) The introduction of the designated publishing entity aims at ensuring that the requirement for reporting of transactions outside a trading venue are proportionate. Those requirements previously embedded in this regulation applicable to investment firms shall therefore be removed.

(7) To ensure a proper calibration of the thresholds for the application of the pre-trade transparency requirements the liquidity classes of the average trade size (AVT) determining the standard market sizes (SMS) were redefined. The thresholds are then linked to the SMS to ensure they are defined in an appropriate manner which is also simple and conforming to the boundaries set in MiFIR. The threshold determining the minimum quoting size for systematic internalisers is set to the SMS and the threshold determining the size up to which systematic internalisers have to be pre-trade transparent is set to twice the SMS.

(8) Considering the necessary time for implementation and the need for the consolidated tape to be prepared for the details to be received to meet its publication requirements, the provisions related to the pre-trade transparency details to be made public included in the new Tables 1a and 1b and the post-trade transparency reports in Tables 2, 3 and 4 of Annex I, should apply no later than 1 May 2025. Moreover, considering the need for certain reference data set in Commission Delegated Regulation (EU) 2017/590 [RTS 23] to be available, the amended provisions for the determination of the most relevant market in terms of liquidity included in Article 4(4) and (6) and Article 7(7) should apply when such information is available which is set to 18 months after the date of entry into force of the amended Commission Delegated Regulation (EU) 2017/590.

(17) This Regulation is based on the draft regulatory technical standards submitted by European Securities and Markets Authority (ESMA) to the Commission.

(18) 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 opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/587

Delegated Regulation (EU) 2017/587 is amended as follows:

(1) In Article 3, the following subparagraph is inserted in paragraph 1:

> The details of pre-trade data to be made public should be that in Tables 1a, 1b of Annex I.

(2) Article 4 is amended as follows:

(a) Paragraphs 4 and 5 of are replaced by the following:

> 4. Until the most relevant market in terms of liquidity for a specific financial instrument is determined in accordance with the procedure specified in paragraphs 1 to 3, the most relevant market in terms of liquidity shall be the regulated market where that financial instrument is first admitted to trading or first traded, or in cases where the financial instrument is not made available for trading on a regulated market in the Union, the multilateral trading facility where that financial instrument is first admitted to trading or first traded, based on fields 11 (Date and time of admission to trading or date of first trade) and 6b (Venue of admission to trading) in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585 (3) the following article is inserted:
>
> 5. Paragraphs 2 and 3 shall not apply to shares, depositary receipts, ETFs, certificates and other similar financial instruments which were first admitted to trading or first traded on a trading venue from 1st to 31st December of the preceding calendar year.

(b) The following paragraph 6 is inserted:

6. The determination of the most relevant market in terms of liquidity determined in paragraph 4 shall apply on the day on which the instrument was first admitted to trading or first traded of the trading venue being the one of field 11 (Date and time of admission to trading or date of first trade) of reporting “Y” in field 6b (Venue of admission to trading)in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585).

(3) Article 7 is amended as follows;

(a) The second subparagraph of paragraph 4 is replaced by the following:

Paragraphs 3 and 4 shall not apply to shares, depositary receipts, certificates and other similar financial instruments first admitted to trading or first traded on a trading venue from 1st to 31st December of the preceding calendar year.

(b) Paragraphs 6 and 7 are replaced by the following:

6. Before a share, depositary receipt, certificate or other similar financial instrument is traded for the first time on a trading venue in the Union, the competent authority shall estimate the average daily turnover for that financial instrument taking into account any previous trading history of that financial instrument other previous or similar financial instrument of the same issuer, and of other financial instruments that are considered to have similar characteristics, and ensure publication of that estimate.

7. The estimated average daily turnover referred to in paragraph 6 shall be used for the calculation of orders that are large in scale during a six-week period following the date that the share, depositary receipt, certificate or other similar financial instrument was admitted to trading or first traded on a trading venue being the one reporting “Y” to field “Venue of admission to trading “ (field 6b in Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585).

(4) Article 8 is amended as follows:

(a) Point (b) of paragraph 1 is replaced by the following:

(b) for orders other than reserve orders, cannot interact with other trading interests prior to disclosure to the order book operated by the trading venue;

(b) Paragraph 3 is replaced by the following:

3. A reserve order as referred to in paragraph 2(a) shall be considered a limit order consisting of a disclosed order relating to a portion of a quantity and a non-disclosed order relating to the remainder of the quantity where the non-disclosed quantity is capable of execution only after the execution of the disclosed order.

(5) The following Articles 11a and 11b are inserted:

Article 11a

Quote size below which pre-trade transparency requirements under Articles 14, 15, 16 and 17 of MiFIR apply

(Article 14(2) of Regulation (EU) No 600/2014)

1. Obligation to make public firm quotes in respect of shares, depositary receipts, ETFs, certificates and other similar financial instruments shall apply to systematic internalisers when they deal in sizes up to twice the standard market size as determined in Article 11.

Article 11b

Minimum Quote size

(Article 14(3) of Regulation (EU) No 600/2014)

1. The Minimum Quote size for a particular share, depositary receipt, ETF, certificate and other similar financial instrument traded on trading venue shall be equal to the standard market size as determined in Article 11 .

(6) Article 12 is amended as follows

(a) The title is replaced by the following:

Article 12

Post-trade transparency obligations for trading venues

(b) In paragraph 1 the following subparagraph is inserted:

The field names in Table 3 of Annex I shall be made public using the same naming conventions as defined in the field identifier of the Table.

(c) Paragraphs 5 and 6 are deleted

(7) The following Article 12a is inserted:

Article 12a

Post-trade transparency obligations for APAs

(Article 6(1) and Article 20(1) and (2) of Regulation (EU) No 600/2014)

An APA shall make public (a) for transactions executed in respect of shares, depositary receipts, exchange-traded funds (ETFs), certificates and other similar financial instruments, the details of a transaction specified in Table 2 of Annex I and, use the appropriate flags listed in Table 3 and Table 3a of Annex I.

(8) In Article 15, paragraph of is replaced by the following:

4. Where a transaction between two investment firms is executed outside the rules of a trading venue, the competent authority for the purpose of determining the applicable deferral regime shall be the competent authority of the investment firm responsible for making the trade public through an APA in accordance with paragraphs 5 and 6 3 of Article 12 21a of Regulation (EU) 600/2014.

(9) Article 16 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. By 1 March of each year thereafter after the date of entry into application of this Regulation, competent authorities shall, in relation to each financial instrument for which they are the competent authority, collect the data, calculate and ensure publication of the following information:

(b) Point (c) of paragraph 1 is replaced by the following:

(c) the average value of transactions for the purpose of determining the standard market size as set out in Article 11(2) and the thresholds as set out in Articles 11a and 11b.

(c) Paragraph 7 is replaced by the following:

7. Where the trade size determined for the purposes of Article 7(1) and (2), Article 8 (2), point (a), Article 11(1), 11a and 11b and Article 15(1) 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.

(9) In Article 16, the following paragraph 8 is inserted:

8. For the purposes of the calculations referred to in paragraph 1, the first day of trading shall be that as set out in the third subparagraph of Article 5(1) of Commission Delegated Regulation (EU) 2017/567.

(10) Article 19 is deleted

(11) Article 20 is replaced by the following

Article 20

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.

It shall apply from the date of entry into force of this Regulation.

However the second subparagraph of Article 3(1) and 12(1) shall apply from 1 May 2025 and Article 4(4), 4(6) and 7(7) shall apply from [please insert date 18 months after the date of entry into force of RTS 23].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

(12) In Annex I, the following Tables 1a and 1b are 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.ddddddZ. — '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; — 'mm' is the minute;

		— ‘ss.dddddd’ is the second and its fraction of a second; — Z is UTC time. Dates and times shall be reported in UTC.
{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); Where applicable, values shall be rounded and not truncated.
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383

Table 1b

List of details for the purpose of pre-trade transparency

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
1	Submission date and time	For trading systems, 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 submitted for execution into the trading system. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574. For trading venues operating an auction trading system the date and time at which the price would best satisfy the trading algorithm or the indication of date and time of the prices or volumes when	{DATE_TIME_FORMAT}

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
		the trading system is pending the identification of two matching orders satisfying the trading algorithm. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	
2	Instrument identification code	Code used to identify the financial instrument.	{ISIN}
3	Side	For all trading systems, excluding auction trading systems, the side of the order or quote. For auction trading system, the side related to the aggregated quantity that would potentially be matched or not.	'BUYI' or 'SELL'
4	Price	The price of orders and quotes as required under Table 1 and excluding, where applicable, commission and accrued interest. Where price is reported in monetary terms, it shall be provided in the major currency unit. Where price is currently not available but pending ("PNDG") or not applicable ("NOAP"), this field shall not be populated. For auction trading system, the price at which the auction trading system would best satisfy its trading algorithm or the best bid and ask prices when the trading algorithm pending the identification of two matching orders satisfying the trading algorithm.	{DECIMAL-18/13} when the price is expressed as monetary value in the case of equity and equity-like financial instruments {DECIMAL-11/10} when the price is expressed as percentage or yield in the case of certificates and other equity-like financial instruments {DECIMAL-18/17} when the price is expressed as percentage, yield or basis points in the case of certificates and other equity-like financial instruments

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
5	Price currency	Major currency unit in which the price is expressed (applicable if the price is expressed as monetary value).	{CURRENCYCODE_3}
6	Price notation	Indication as to whether the price is expressed in monetary value, in percentage or in yield.	MONE' — Monetary value in the case of equity and equity-like financial instruments "PERC" — Percentage in n 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
7	Quantity	Number of units of the financial instruments attached to the quotes or orders as required under Table 1. The nominal or monetary value of the financial instrument when it is not traded in units. For auction trading system the aggregated quantity for each side attached to the price that would best satisfying the trading algorithm. When the system is pending the identification of two matching orders satisfying the trading algorithm, the aggregated quantity the respective side at the best price of each side.	{DECIMAL-18/17} in case the quantity is expressed as number of units in the case of equity and equity-like financial instruments {DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value in the case of certificates and other equity-like financial instruments.

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
8	Quantity currency	Currency in which the quantity is expressed. This field shall be populated where the quantity is expressed as a nominal or monetary value when it is not traded in units. Otherwise, this field shall be left blank.	{CURRENCYCODE_3}
9	Aggregated number of orders and quotes	The number of aggregated orders or quotes from members or participants where aggregated information is required under Table 1.	{DECIMAL-18/0}
10	Venue	Identification of the trading venue through the system of which orders and quotes are advertised. Use the ISO 10383 segment MIC for or, where the segment MIC does not exist, use the operating MIC.	{MIC}
11	Trading system	Type of trading system where the order or quote is advertised	"CLOB' -- central limit order book trading systems 'QDTS' -- quote driven trading systems 'PATS' -- periodic auction trading systems 'RFQT' -- request for quote trading systems ‘HYBR’ -- hybrid trading systems ’OTHR’ -- for any other trading system

#	Field identifier	Description and details to be published	Format to be populated as defined in Table 2
12	Publication date and time	Date and time when the information was published. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	{DATE_TIME_FORMAT}

(12) in Annex I, Table 3 of 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
1	Trading date and time	Date and time when the transaction was executed. 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. 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, as specified in fields 31, 34 and 44 of Table 2 of Annex I of Delegated Regulation (EU)	Regulated Market (RM) Multilateral Trading Facility (MTF) Approved Publication Arrangement (APA)	{DATE_TIME_FORMAT}

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		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. 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.		
2	Instrument identification code	Code used to identify the financial instrument.	RM, MTF, APA	{ISIN}
3	Price	Traded price of the transaction excluding, where applicable, commission and accrued interest. Where price is reported in monetary terms, it shall be provided in the major currency unit. Where price is currently not available but pending	RM, MTF, APA	{DECIMAL-18/13} when the price is expressed as monetary value in the case of equity and equity-like financial instruments {DECIMAL-11/10} when the price is expressed as percentage or yield in the case of certificates and other equity-like financial instruments

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		('PNDG') or not applicable ('NOAP'), this field shall not be populated.		
4	Missing price	Where price is currently not available but pending, the value shall be 'PNDG'. Where price is not applicable, the value shall be 'NOAP'.	RM, MTF, APA	'PNDG' in case the price is not available 'NOAP' in case the price is not applicable
5	Price currency	Major currency unit in which the price is expressed (applicable if the price is expressed as monetary value).	RM, MTF APA	{CURRENCYCODE_3}
6	Price notation	Indication as to whether the price is expressed in monetary value, in percentage or in yield.	RM, MTF APA	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
7	Quantity	Number of units of the financial instruments.	RM, MTF, APA	{DECIMAL-18/17} in case the quantity is expressed as number of units

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		The nominal or monetary value of the financial instrument.		{DECIMAL-18/5} in case the quantity is expressed as monetary or nominal value {DECIMAL-18/17} when the price is expressed as basis points in the case of certificates and other equity-like financial instruments
8	Venue of execution	Identification of the venue where the transaction was executed. Use the ISO 10383 segment MIC for transactions executed on an EU trading venue Where the segment MIC does not exist, use the operating MIC. 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. Use MIC code 'XOFF' for financial instruments admitted to trading or traded on a trading venue, where the transaction on that financial instrument is neither executed on an EU trading venue nor executed on a systematic internaliser. If the transaction is executed on an	RM, MTF, APA	{MIC} – EU trading venues or 'SINT' — systematic internaliser 'XOFF' — otherwise

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		organised trading platform outside of the EU then in addition to the MIC code 'XOFF' also the population of the field 'Third-country trading venue of execution' is required.		
9	Third-country trading venue of execution	Identification of the third-country trading venue where the transaction was executed. Use the ISO 10383 segment MIC. Where the segment MIC does not exist, use the operating MIC. Where the transaction is not executed on a third-country trading venue, the field shall not be populated.	APA	{MIC}
10	Trading System	Type of trading system on which the transaction was executed. When the field 'Venue of execution' is populated with "SINT" or "XOFF", this field shall not be populated.	RM, MTF	"CLOB' -- central limit order book trading systems 'QDTS' -- quote driven trading systems 'PATS' -- periodic auction trading systems 'RFQT' -- request for quote trading systems

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
				'HYBR' -- hybrid trading systems 'OTHR' -- for any other trading system
11	Publication date and time	Date and time when the transaction was published by a trading venue or APA. 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. For transactions not executed on a trading venue, the date and time shall be granular to at least the nearest second.	RM, MTF, APA	{DATE_TIME_FORMAT}
12	Venue of Publication	Code used to identify the trading venue or APA publishing the transaction	RM, MTF, APA	trading venue: {MIC} APA: ISO 10383 segment MIC (4 characters) where available. Otherwise, 4- character code as published in the list of data reporting services providers on ESMA's website.
13	Transaction identification code	Alphanumerical code assigned by trading venues (pursuant to Article 12 of Commission Delegated	RM, MTF, APA	{ALPHANUM-52}

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		Regulation (EU) 2017/580[35] and APAs and used in any subsequent reference to the specific trade. 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. Where the APA does not use MICs, it shall be unique, consistent and persistent per 4-character code used to identify the APA per trading day. 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		
14	Flags	This field should be populated with the list of all	RM, MTF, APA	As per Table 4 of Annex 1

[35] 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 (OJ L 87, 31.3.2017, p. 193).

#	Field identifier	Description and details to be published	Type of execution or publication venue	Format to be populated as defined in Table 2
		applicable flags as described in Table 4 of Annex 1. Where none of the specified circumstances apply, the transaction should be published without a flag. Where a combination of flags is possible, the flags should be reported separated by commas.		

(13) in Annex I, Table 4 is replaced by the following:

Table 4

List of flags for the purpose of post-trade transparency

Flag	Name	Type of execution or publication venue	Description
'BENC'	Benchmark transactions flag	RM, MTF APA	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.

Flag	Name	Type of execution or publication venue	Description
‘NPFT’	Non-price forming transactions flag	RM, MTF	Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590.
‘PORT’	Portfolio transactions flag	RM, MTF APA	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.
‘CONT’	Contingent transactions flag	RM, MTF APA	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.
‘ACTX’	Agency cross transactions flag	APA	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.
‘SDIV’	Special dividend transaction flag	RM, MTF APA	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.
‘LRGS’	Post-trade large in scale transaction flag	RM, MTF APA	Transactions that are large in scale compared with normal market size for which deferred publication is permitted under Article 15.
‘RFPT’	Reference price transaction flag	RM, MTF	Transactions which are executed under systems operating in accordance with Article 4(1), point (a), of Regulation (EU) No 600/2014.

Flag	Name	Type of execution or publication venue	Description
'NLIQ'	Negotiated transaction in liquid financial instruments flag	RM, MTF	Transactions executed in accordance with Article 4(1), point (b)(i), of Regulation (EU) No 600/2014.
'OILQ'	Negotiated transaction in illiquid financial instruments flag	RM, MTF	Transactions executed in accordance with Article 4(1), point (b)(ii), of Regulation (EU) No 600/2014.
'PRIC'	Negotiated transaction subject to conditions other than the current market price flag	RM, MTF	Transactions executed in accordance with Article 4(1), point (b)(iii), of Regulation (EU) No 600/2014 and as set out in Article 6.
'ALGO'	Algorithmic transaction flag	RM, MTF	Transactions executed as a result of an investment firm engaging in algorithmic trading as defined in Article 4(1), point (39), of Directive 2014/65/EU.
'SIZE'	Transaction above the standard market size flag	APA	Transactions executed on a systematic internaliser where the size of the incoming order was above twice the standard market size as determined in accordance with Article 11a.
'ILQD'	Illiquid instrument transaction flag	APA	Transactions in illiquid instruments as determined in accordance with Articles 1 to 5 of Commission Delegated Regulation (EU) 2017/567 [36] executed on a systematic internaliser.
'RPRI'	Transactions which have received price improvement flag	APA	Transactions executed on a systematic internaliser with a price improvement in

[36] Commission Delegated Regulation (EU) 2017/567 of 18 May 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to definitions, transparency, portfolio compression and supervisory measures on product intervention and positions (OJ L 87, 31.3.2017, p. 90).

Flag	Name	Type of execution or publication venue	Description
			accordance with Article 15(2) of Regulation (EU) No 600/2014.
'CANC'	Cancellation flag	RM, MTF APA	When a previously published transaction is cancelled
'AMND'	Amendment flag	RM, MTF APA	When a previously published transaction is amended

(14) Annex III is amended as follows:

(a) Table 3 is replaced by the following:

Table 3

Standard market sizes for shares and depositary receipts

Average value of transactions (AVT) in EUR	**AVT bucket [0-10000)**	**AVT bucket [10000-12000)**	**AVT bucket [12000-14000)**	**AVT bucket [14000-16000)**	**AVT bucket [16000-18000)**	**AVT bucket [18000-20000)**	**AVT bucket [20000-40000)**	**AVT bucket [40000-60000)**	**…**	
Standard market size	5,000	11,000	13,000	15,000	17,000	19,000	30,000	50,000	…	

(b) Table 3a is inserted:

Table 3a

Standard market sizes for ETFs, certificates and other similar financial instruments

Average value of transactions (AVT) in EUR	AVT bucket [0-10000)	AVT bucket [10000-15000)	AVT bucket [15000-20000)	AVT bucket [20000-25000)	AVT bucket [25000-30000)	AVT bucket [30000-35000)	AVT bucket [35000-40000)	AVT bucket [40000-45000)	…
Standard market size	5,000	12,500	17,500	22,500	27,500	32,500	37,500	42,500	…

(15) Annex IV is amended as follows:

(a) The title is replaced by the following:

Annex IV

Data to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT, and the AVT and to prepare reports to the Commission in accordance with Article 4(4) and Article 9(2)

(b) Table 2 is replaced by the following:

Table 2

Details to be provided for the purpose of determining the Most Relevant Market in terms of liquidity, the ADT, the AVT and to prepare reports to the Commission in accordance with Article 4(4) and Article 9(2)

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	Execution date	Date on which the trades are executed.	RM, MTF, APA, CTP	{DATEFORMAT}
3	Execution venue	Segment MIC for the EU trading venue or systematic internaliser, where available, otherwise operating MIC.	RM, MTF, APA, CTP	{MIC} – of the trading venue or systematic

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
		MIC XOFF in the case the transaction is executed by investment firms which are not systematic internalisers and is not executed on a trading venue.		internaliser or {MIC}-XOFF'
4	Suspended instrument flag	Indicator of whether the instrument was suspended for the whole trading day on the respective TV on the execution date. As a consequence of an instrument being suspended for the whole trading day, fields 5 to 10 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 execution date (*2). (3) (4)	RM, MTF, APA, CTP	{INTEGER-18}
6	Total turnover	The total turnover executed on the execution date, expressed in EUR (*1) (*2). (3) (4)	RM, MTF, APA, CTP	{DECIMAL-18/5}
7	Transactions executed, excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and(c), of Regulation (EU) No 600/2014.	The total number of transactions executed on the execution date excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014 on the same day (*2).	RM, MTF, CTP	{INTEGER-18}
8	Total turnover executed, excluding all transactions executed under pre-trade	The total turnover executed on the execution date excluding all transactions executed under pre-trade waivers of Article 4(1), points (a), (b) and (c), of	RM, MTF, CTP	{DECIMAL-18/5}

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
	waivers of Article 4(1), points (a), (b) and (c), of Regulation (EU) No 600/2014.	Regulation (EU) No 600/2014 on the same day (*1) (*2).		
9	Total number of transactions excluding those executed under the post-trade LIS deferral.	Total number of transactions executed on the execution date, excluding those transactions executed under Large-In-Scale ~~(~~post-trade deferral~~)~~ (*2) (4). For shares and depositary receipts only the highest threshold for the related average daily turnover (ADT) band in Table 4 of Annex II shall be used to identify those transactions. For certificates and other similar financial instruments only the highest threshold in Table 6 of Annex II shall be used to identify those transactions For ETFs only the highest threshold in Table 5 of Annex II shall be used to identify those transactions.	RM, MTF, APA, CTP	{INTEGER-18}
10	Total turnover executed, excluding transactions executed under the post-trade LIS deferral.	Total volume of transactions executed on the execution date, excluding those transactions executed under Large-In-Scale post-trade deferral (*1) (*2) (4). For shares and depositary receipts only the highest threshold for the related average daily turnover (ADT) band in Table 4 of Annex II shall be used to identify those transactions. For certificates and other similar financial instruments only the highest	RM, MTF, APA, CTP	{DECIMAL-18/5}

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**
		threshold in Table 6 of Annex II shall be used to identify those transactions For ETFs only the highest threshold in Table 5 of Annex II shall be used to identify those transactions.		
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 empty otherwise

(*1) 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.

(*2) Transactions that have been cancelled shall be excluded from the reported figures. 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

(3) 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.

(4) Transactions that benefit from deferred publication shall be counted in the aggregates provided by the submitting entities on the basis of the execution date

10.4.4 Consolidated version of RTS 3 on the volume cap mechanism and the provision of information for the purposes of transparency and other calculations

COMMISSION DELEGATED REGULATION (EU) 2017/577

of 13 June 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 the volume cap mechanism and the provision of information for the purposes of transparency and other calculations

(Text with EEA relevance)

Article 1

Subject matter and scope

1. This Regulation sets out, the details of the data requests to be sent by competent authorities and the details of the reply to those requests to be sent by trading venues, approved publication arrangements (APAs) and consolidated tape providers (CTPs), for the purposes of calculating and adjusting the pre-trade and post-trade transparency and trading obligation regimes and in particular for the purposes of determining the following factors:

(a) whether equity, equity-like and non-equity financial instruments have a liquid market;

(b) the thresholds for pre-trade transparency waivers for equity, equity-like and non-equity financial instruments;

(c) the thresholds for post-trade transparency deferrals for equity, equity-like and non-equity financial instruments;

(d) when the liquidity of a class of financial instruments falls below a specified threshold;

~~(e) whether an investment firm is a systematic internaliser;~~

(f) the standard market size applicable to systematic internalisers dealing in equity and equity-like instruments, ~~and the size specific to the instrument applicable to systematic internalisers dealing in non-equity instruments~~;

(g) for equity and equity-like instruments, the total volume of trading for the previous 12 months and of the percentages of trading carried out under ~~both~~ the ~~negotiated trade and~~ reference price waiver~~s~~ across the Union ~~and on each trading venue~~ in the previous 12 months;

(h) whether derivatives are sufficiently liquid for the purposes of implementing the trading obligation for derivatives.

Article 2

Content of the data requests and information to be reported

1. For the purpose of carrying out calculations that occur at pre-set dates or in pre-defined frequencies, trading venues, APAs and CTPs shall provide their competent authorities with all the data required to perform the calculations set out in the following Regulations:

(a) Delegated Regulation (EU) 2017/587;

(b) Delegated Regulation (EU) 2017/583;

(c) Delegated Regulation (EU) 2017/567;

(d) Delegated Regulation (EU) 2017/565.

2. Competent authorities may request, where necessary, additional information for the purpose of monitoring and adjusting the thresholds and parameters referred to in points (a) to (f) and (h) of Article 1 from trading venues, APAs and CTPs.

3. Competent authorities may request all the data ESMA is required to take into consideration in accordance with Delegated Regulation (EU) 2016/2020 for non-equity financial instruments, including data on the following:

(a) the average frequency of trades;

(b) the average size and distribution of trades;

(c) the number and type of market participants;

(d) the average size of spreads.

Article 3

Frequency of data requests and response times for trading venues, APAs and CTPs

1. Trading venues, APAs and CTPs shall submit the data referred to in Article 2(1) each day.

2. Trading venues, APAs and CTPs shall submit the data in response to an ad hoc request as referred to in Article 2(2) within four weeks of receipt of that request unless exceptional circumstances require a response within a shorter time period as specified in the request.

3. By way of derogation from paragraphs 1 and 2, trading venues and CTPs shall submit data to be used for the purpose of the volume cap ~~mechanism~~ as set out in paragraphs 6 to 9 of Article 6.

Article 4

Format of the data requests

Trading venues, APAs and CTPs shall submit the data referred to in Article 2 in a common ~~XML~~ JSON template in accordance with the ISO 20022 methodology ~~format and, where available, in compliance with any other specifications in terms of content and format defined to facilitate an efficient and automated process of data delivery as well as its consolidation with similar data from other sources~~.

Article 5

Type of data that must be stored and the minimum period of time trading venues, APAs and CTPs shall store data

1. Trading venues, APAs and CTPs shall store all data required to calculate, monitor or adjust the thresholds and parameters set out in Article 2 regardless whether this information has been made public or not.

2. Trading venues, APAs and CTPs shall store the data referred to in paragraph 1 for at least ~~three~~ five years.

Article 6

Reporting requirements for trading venues and CTPs for the purpose of the volume cap ~~mechanism~~

1. For each financial instrument subject to the transparency requirements in Article 3 of Regulation (EU) No 600/2014, trading venues shall submit the following data to ~~the competent authority~~ ESMA:

(a) the total volume of trading in the financial instrument executed on that trading venue;

(b) the total volumes of trading in the financial instrument executed on that trading venue falling under the waiver~~s~~ of Article 4(1)(a) ~~or Article 4(1)(b)(i) of Regulation (EU) No 600/2014, respectively, with total volumes reported separately for each waiver~~.

2. For each financial instrument subject to the transparency requirements in Article 3 of Regulation (EU) No 600/2014 and where requested by ~~the competent authority~~ ESMA, CTPs shall submit to ~~the competent authority~~ ESMA the following data:

(a) the total volumes of trading in the financial instrument executed on all trading venues in the Union that contribute to the CTP with total volumes reported separately for each trading venue;

(b) the total volumes of trading executed on all trading venues in the Union that contribute to the CTP and falling under the waiver~~s~~ of Article 4(1)(a) ~~or Article 4(1)(b)(i) of Regulation (EU) No 600/2014, respectively~~, with total volumes reported separately ~~for each waiver and~~ for each trading venue.

3. Trading venues and CTPs shall report the data set out in paragraphs 1 and 2 to ~~the competent authority~~ ESMA using the formats provided in the Annex. They shall, in particular, ensure that the trading venue identifiers they provide are sufficiently granular to enable ~~the~~

~~competent authority and~~ ESMA to identify the volumes of trading executed under the reference price waiver and~~, for liquid financial instruments, under the negotiated trade waiver of each trading venue and~~ allow for the calculation of the ratio set out under Article 5(1)~~(a)~~ of Regulation (EU) No 600/2014.

4. For the purposes of the calculation of the volumes referred to in paragraphs 1 and 2:

(a) the volume of an individual transaction shall be determined by multiplying the price of the financial instrument by the number of units traded;

(b) the total volume of trading in each financial instrument set out in paragraph 1(a) and paragraph 2(a) shall be determined by aggregating the volume of all individual and single-counted transactions for that financial instrument.

(c) the trading volumes set out in paragraph 1(b) ~~and paragraph 2(b)~~ shall be determined by aggregating the volumes of individual and single-counted transactions for that financial instrument reported under the flag~~s~~ 'reference price' ~~and 'negotiated transactions in liquid financial instruments'~~ in accordance with Table 4 of Annex I of Delegated Regulation (EU) 2017/587.

5. Trading venues and CTPs shall only aggregate transactions executed in the same currency and shall report separately each aggregated volume in the currency used for the transactions.

6. Trading venues shall submit the data referred to in paragraphs 1 to 5 to ~~the competent authority~~ ESMA on the first and the sixteenth day of each calendar month by 13:00 CET. Where the first or the sixteenth day of the calendar month is a non-working day for the trading venue, the trading venue shall report the data to ~~the competent authority~~ ESMA by 13:00 CET on the following working day.

7. Trading venues, and CTPs where requested by ESMA, shall submit to ~~the competent authority~~ ESMA the total volumes of trading determined in accordance with paragraphs 1 to 5 in respect of the following time periods:

(a) for the reports to be submitted on the sixteenth day of each calendar month, the execution period is from the first day to the fifteenth day of the same calendar month;

(b) for the reports to be submitted on the first day of each calendar month, the execution period is from the sixteenth day to the last day of the previous calendar month.

8. By way of derogation from paragraphs 6 and 7, trading venues shall submit the first report per financial instrument on the day of entry into application of this amending Regulation ~~Directive 2014/65/EU and Regulation (EU) No 600/2014~~ by 13:00 CET and shall include the trading volumes referred to in paragraph 1 for the ~~preceding calendar year~~ previous 12 months. For this purpose, trading venues shall report separately, for each calendar month, the following:

(a) the trading volumes during the period from the first day to the fifteenth day of each calendar month;

(b) the trading volumes during the period from the sixteenth day to the last day of each calendar month.

9. Trading venues and CTPs shall respond to any ad hoc request from competent authorities and ESMA on the volume of trading in relation to the calculation to be performed for monitoring the use of the reference price ~~or negotiated trade~~ waiver~~s~~ by close of business on the next working day following the request.

Article 7

Reporting requirements for ~~competent authorities to ESMA~~ trading venues, APAs and CTPs for the purposes of ~~the volume cap mechanism and~~ the trading obligation for derivatives

~~1. Competent authorities shall provide ESMA with the data received from a trading venue or a CTP in accordance with Article 6 by 13:00 CET on the next working day following its receipt.~~

~~2. Competent authorities~~ Trading venues, APAs and CTPs shall ~~provide~~ submit to ESMA ~~with~~ the data ~~received from a trading venue, APA or CTP~~ for the purpose of determining whether derivatives are sufficiently liquid as referred to in Article 1(h) without undue delay and no later than three working days following the receipt of the relevant data.

Article 8

Reporting requirements for ESMA for the purpose of the volume cap ~~mechanism~~

1. ESMA shall publish the measurements of the total volume of trading for each financial instrument in the previous 12 months and of the percentages of trading under ~~both the negotiated trade and~~ reference price waiver~~s~~ across the Union ~~and on each trading venue~~ in the previous 12 months, in accordance with paragraphs 4~~, 5 and 6~~ of Article 5 of Regulation (EU) No 600/2014, no later than 22:~~.~~00 CET on the ~~fifth~~ seventh working day after the end of March, June, September and December of each calendar year. ~~following the end of the reporting periods set out in Article 6(6) of this Regulation~~.

2. The publication referred to in paragraph 1 shall be free of charge and in a machine

-readable and human-readable format as defined in ~~Article 14 of Commission Delegated Regulation (EU) 2017/571~~ Article 2, point (4), of Regulation (EU) 2023/2859 and in ~~paragraphs 4 and~~ paragraph 5 of Article 13 of Commission Delegated Regulation (EU) 2017/567.

3. Where a financial instrument is traded in more than one currency across the Union, ESMA shall convert all volumes into euros using average exchange rates calculated on the basis of the daily euro foreign exchange reference rates published by the European Central Bank on its website in the previous 12 months. Those converted volumes shall be used for the calculation and publication of the total volume of trading and of the percentages of trading under ~~both~~ the ~~negotiated trade and~~ reference price waiver~~s~~ across the Union ~~and on each trading venue~~ as referred to in paragraph 1.

ANNEX

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.
{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
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383

Table 2

Formats of the report for the purpose of the volume cap ~~mechanism~~

Data field name	Format
Reporting period	{DATEFORMAT}/{DATEFORMAT} where the first date is the beginning of the reporting period and the second date is the end of the reporting period.

Reporting entity identification	Where the reporting entity is a trading venue: {MIC} (segment MIC or, where appropriate, operational MIC) or {ALPHANUM-50} if the reporting entity is a CTP.
Trading venue identifier	{MIC} (segment MIC, where available, otherwise operational MIC).
Instrument identifier	{ISIN}
Currency of the transactions	{CURRENCYCODE_3}
Total volume of trading (per currency)	{DECIMAL-18/5}
Total volume of trading under Reference Price waiver as defined under Article 4(1)(a) of MiFIR (per currency)	{DECIMAL-18/5}
~~Total volume of trading under Negotiated Transactions waiver as defined under Article 4(1)(b)(i) of MiFIR (per currency)~~	~~{DECIMAL-18/5}~~

10.4.5 Draft technical standards on the amendment of RTS 3

COMMISSION DELEGATED REGULATION (EU) 2025/XXXX

of DD MM 2025

amending Commission Delegated Regulation (EU) 2017/577 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 the volume cap and the provision of information for the purposes of transparency and other calculations

THE EUROPEAN COMMISSION

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2024/ 791 of the European Parliament and of the Council of 28 February 2024 amending Regulation (EU) No 600/2014, and in particular Articles 5(9) and 22(3), thereof

Whereas

(1) Regulation (EU) 2024/791 introduces substantial changes to the volume cap, shifting from a double volume cap to a single volume cap, removing from the scope of the volume cap transactions carried out under the negotiated trade waiver for liquid instruments, allowing trading venues to apply suspensions, based on the publication of trading data by ESMA on a quarterly basis. It is therefore necessary to amend Commission Delegated Regulation (EU) 2017/577 to take these changes into account, and to reflect the direct data gathering by ESMA from market participants currently in place in relation to the volume cap.

(2) The extension to five years of the obligation to maintain records for investment firms, operators of trading venues, approved publication arrangements, authorised reporting

mechanisms and consolidated tapes providers introduced by Regulation (EU) 2024/791 should also be mirrored in this Regulation.

(3) In anticipation of the establishment of consolidated tapes in the EU, the Regulation introduces changes to the required data formats, including a move from XML to JSON and an alignment of the definition of machine-readable format with the definition in Directive (EU) 2019/1024.

(X) This Regulation is based on the draft regulatory technical standards submitted by European Securities and Markets Authority (ESMA) to the Commission.

(X) 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 opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council,

Article 1

Amendments to Delegated Regulation (EU) 2017/577

Delegated Regulation (EU) 2017/577 is amended as follows:

(1) Paragraph 1 of Article 1 is amended as follows

a) point (e) is removed

b) point (f) is replaced by the following:

the standard market size applicable to systematic internalisers dealing in equity and equity-like instruments;

c) point (g) is replaced by the following:

for equity and equity-like instruments, the total volume of trading for the previous 12 months and of the percentages of trading carried out under the reference price waiver across the Union in the previous 12 months;

(2) Paragraph 3 of Article 3 is replaced by the following:

By way of derogation from paragraphs 1 and 2, trading venues and CTPs shall submit data to be used for the purpose of the volume cap as set out in paragraphs 6 to 9 of Article 6.

(3) Article 4 is replaced by the following:

Trading venues, APAs and CTPs shall submit the data referred to in Article 2 in a common JSON template in accordance with the ISO 20022 methodology.

(4) Paragraph 2 of Article 5 is replaced by the following:

Trading venues, APAs and CTPs shall store the data referred to in paragraph 1 for at least five years.

(5) Article 6 is replaced by the following:

Reporting requirements for trading venues and CTPs for the purpose of the volume cap

1. For each financial instrument subject to the transparency requirements in Article 3 of Regulation (EU) No 600/2014, trading venues shall submit the following data to ESMA:

(a) the total volume of trading in the financial instrument executed on that trading venue;

(b) the total volumes of trading in the financial instrument executed on that trading venue falling under the waiver of Article 4(1)(a).

2. For each financial instrument subject to the transparency requirements in Article 3 of Regulation (EU) No 600/2014 and where requested by ESMA, CTPs shall submit to ESMA the following data:

(a) the total volumes of trading in the financial instrument executed on all trading venues in the Union that contribute to the CTP with total volumes reported separately for each trading venue;

(b) the total volumes of trading executed on all trading venues in the Union that contribute to the CTP and falling under the waiver of Article 4(1)(a), with total volumes reported separately for each trading venue.

3. Trading venues and CTPs shall report the data set out in paragraphs 1 and 2 to ESMA using the formats provided in the Annex. They shall, in particular, ensure that the trading venue identifiers they provide are sufficiently granular to enable ESMA to identify the volumes of trading executed under the reference price waiver and allow for the calculation of the ratio set out under Article 5(1) of Regulation (EU) No 600/2014.

4. For the purposes of the calculation of the volumes referred to in paragraphs 1 and 2:

(a) the volume of an individual transaction shall be determined by multiplying the price of the financial instrument by the number of units traded;

(b) the total volume of trading in each financial instrument set out in paragraph 1(a) and paragraph 2(a) shall be determined by aggregating the volume of all individual and single-counted transactions for that financial instrument.

(c) the trading volumes set out in paragraph 1(b) shall be determined by aggregating the volumes of individual and single-counted transactions for that financial instrument reported under the flag 'reference price' in accordance with Table 4 of Annex I of Delegated Regulation (EU) 2017/587.

5. Trading venues and CTPs shall only aggregate transactions executed in the same currency and shall report separately each aggregated volume in the currency used for the transactions.

6. Trading venues shall submit the data referred to in paragraphs 1 to 5 to ESMA on the first and the sixteenth day of each calendar month by 13:00 CET. Where the first or the sixteenth day of the calendar month is a non-working day for the trading venue, the trading venue shall report the data to ESMA by 13:00 CET on the following working day.

7. Trading venues, and CTPs where requested by ESMA, shall submit to ESMA the total volumes of trading determined in accordance with paragraphs 1 to 5 in respect of the following time periods:

(a) for the reports to be submitted on the sixteenth day of each calendar month, the execution period is from the first day to the fifteenth day of the same calendar month;

(b) for the reports to be submitted on the first day of each calendar month, the execution period is from the sixteenth day to the last day of the previous calendar month.

8. By way of derogation from paragraphs 6 and 7, trading venues shall submit the first report per financial instrument on the day of entry into application of this amending Regulation by 13:00 CET and shall include the trading volumes referred to in paragraph 1 for the 12 months. For this purpose, trading venues shall report separately, for each calendar month, the following:

(a) the trading volumes during the period from the first day to the fifteenth day of each calendar month;

(b) the trading volumes during the period from the sixteenth day to the last day of each calendar month.

9. Trading venues and CTPs shall respond to any ad hoc request from competent authorities and ESMA on the volume of trading in relation to the calculation to be performed for monitoring the use of the reference price waiver by close of business on the next working day following the request.

(6) Article 7 is replaced by the following:

Reporting requirements for trading venues, APAs and CTPs for the purposes of the trading obligation for derivatives

1. Trading venues, APAs and CTPs shall submit to ESMA the data for the purpose of determining whether derivatives are sufficiently liquid as referred to in Article 1(h) without undue delay and no later than three working days following the receipt of the relevant data.

(7) Article 8 is replaced by the following:

Reporting requirements for ESMA for the purpose of the volume cap

1. ESMA shall publish the measurements of the total volume of trading for each financial instrument in the previous 12 months and of the percentages of trading under the reference price waiver across the Union in the previous 12 months, in accordance with paragraphs 4 of Article 5 of Regulation (EU) No 600/2014, no later than 22:00 CET on the seventh working day after the end of March, June, September and December of each calendar year.

2. The publication referred to in paragraph 1 shall be free of charge and in a machine-readable and human-readable format as defined in Article 2, point (4), of Regulation (EU) 2023/2859 and in paragraph 5 of Article 13 of Commission Delegated Regulation (EU) 2017/567.

3. Where a financial instrument is traded in more than one currency across the Union, ESMA shall convert all volumes into euros using average exchange rates calculated on the basis of the daily euro foreign exchange reference rates published by the European Central Bank on its website in the previous 12 months. Those converted volumes shall be used for the calculation and publication of the total volume of trading and of the percentages of trading under the reference price waiver across the Union as referred to in paragraph 1.

8) Table 2 of the Annex is amended as follows

a) the Title is replaced by the following:

Formats of the report for the purpose of the volume cap

b) the table is replaced by the following:

Data field name	**Format**
Reporting period	{DATEFORMAT}/{DATEFORMAT} where the first date is the beginning of the reporting period and the second date is the end of the reporting period.
Reporting entity identification	Where the reporting entity is a trading venue: {MIC} (segment MIC or, where appropriate, operational MIC) or {ALPHANUM-50} if the reporting entity is a CTP.
Trading venue identifier	{MIC} (segment MIC, where available, otherwise operational MIC).

Instrument identifier	{ISIN}
Currency of the transactions	{CURRENCYCODE_3}
Total volume of trading (per currency)	{DECIMAL-18/5}
Total volume of trading under Reference Price waiver as defined under Article 4(1)(a) of MiFIR (per currency)	{DECIMAL-18/5}

10.4.6 Draft technical standards on the recast of RTS 7 (RTS 7a – Circuit Breakers)

COMMISSION DELEGATED REGULATION (EU) XXXX/XXX

of XX XXXX XXXX

supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying organisational requirements of trading venues and the principles that trading venues are to consider when establishing circuit breakers and the information on circuit breakers to be disclosed
(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (1), and in particular points (a), (c) and (g) of Article 48(12) thereof,

Whereas:

(1) To ensure that the amendments introduced by Directive 2024/790/EU to Article 48 of Directive 2014/65/EU are implemented, this Regulation repeals and replaces CDR 2017/584/EU.

(2) It is important to ensure that trading venues that enable algorithmic trading have sufficient systems and controls.

(3) The provisions of this Regulation should apply not only to regulated markets but also to multilateral trading facilities and organised trading facilities as determined by Article 18(5) of Directive 2014/65/EU.

(4) The impact of technological development and in particular algorithmic trading is one of the main drivers to determine the capacity and arrangements to manage trading venues. The risks arising from algorithmic trading can be present in any type of trading system that is supported

by electronic means. Therefore, specific organisational requirements should be laid down in respect of regulated markets, multilateral trading facilities and organised trading facilities allowing for or enabling algorithmic trading through their systems. Such trading systems are those where algorithmic trading may take place as opposed to trading systems in which algorithmic trading is not permitted, including trading systems where transactions are arranged through voice negotiation.

(5) Governance arrangements, the role of the compliance function, staffing and outsourcing should be regulated as part of the organisational requirements to ensure the resilience of electronic trading systems.

(6) Regulation (EU) 2022/2554 establishes requirements aimed at ensuring the operational resilience of financial entities, including trading venues. Directive 2022/2556[37] amends Article 48 of Directive 2014/65/EU to specify that trading venues should comply with Regulation (EU) 2022/2554 and further amends Article 48(12) points (a) and (g) to exclude digital operational resilience and digital operational resilience testing from the scope of the ESMA mandate to draft regulatory technical standards.

(7) In order to ensure the resilience of trading systems and the continuity of trading services, requirements should be laid down with respect to the systems of trading venues allowing or enabling algorithmic trading. Due to the diversity of trading models adopted by trading venues, when complying with such requirements trading venues should consider the specificity of their systems in order to account for the main risks embedded in the specific trading model adopted.

(8) When applying the relevant requirements trading venues should do so in conjunction with a self-assessment to be conducted by each trading venue since not all trading models present the same risks. Therefore, some organisational requirements may not be appropriate for certain trading models although their trading systems could be supported to a certain extent by electronic means. In particular, the specific requirements to be set in relation to request-for-quote systems or hybrid systems should be considered according to the nature, scale and complexity of the algorithmic trading activity undertaken. Equally, more stringent requirements should be established by the trading venues where appropriate.

[37] DIRECTIVE (EU) 2022/2556 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 December 2022 amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 as regards digital operational resilience for the financial sector.

(9) Risks arising from algorithmic trading should be carefully taken into account, paying particular attention to those that may affect the core elements of a trading system, including the hardware, software and associated communication lines used by trading venues and members, participants or clients of trading venues ('members') to perform their activity and any type of execution systems or order management systems operated by trading venues, including matching algorithms.

(10) The specific organisational requirements for trading venues have to be determined by means of a robust self- assessment where a number of parameters have to be assessed. That self-assessment should include any other circumstances not expressly set out that may have an impact on their organisation.

(11) The minimum period for keeping records of the self-assessment and the due diligence of members for the purpose of this Regulation should be the same as the general record-keeping obligations established in Directive 2014/65/EU[38].

(12) Where trading venues are required to perform monitoring in real-time, it is necessary for the generation of alerts following that monitoring to be done as close to instantaneously as technically possible and therefore within no more than five seconds in order to be effective. For the same reason, any actions following that monitoring should be undertaken as soon as possible assuming a reasonable level of efficiency and of expenditure on systems on the part of the persons concerned.

(13) Testing facilities offered by trading venues should not pose risks to orderly trading. To that end, trading venues should be required to establish an adequate fair usage policy, ensure a strict separation between the testing environment and the production environment or permit testing only out of trading hours.

(14) Conformance testing should ensure that the most basic elements of the system or the algorithms used by members operate correctly and according to the venue's requirements, including the ability to interact as expected with the trading venue's matching logic and the adequate processing of data flows to and from the trading venue. Testing against disorderly trading conditions should be designed with a view to specifically addressing the reaction of the algorithm or strategy to conditions that may create a disorderly market.

[38] OJ L 173, 12.6.2014, p. 349.

(15) Where trading venues offer arrangements to test algorithms by offering testing symbols, their obligation to provide facilities to test against disorderly trading conditions should be deemed to be fulfilled. In order to enable members to effectively use such testing symbols, trading venues should publish the specifications and characteristics of the testing symbols to the same level of detail made publicly available for real life production contracts.

(16) Trading venues should be subject to an obligation to provide means to facilitate testing against disorderly trading conditions. However, their members should not be required to use those means. It should be considered as a sufficient guarantee if trading venues receive a declaration from their members confirming that such testing has taken place and stating the means used for that testing, but the trading venues should not be obliged to validate the adequacy of those means or the outcome of that testing.

(17) Trading venues and their members should be required to be adequately equipped to cancel unexecuted orders as an emergency measure if unexpected circumstances arise.

(18) Trading venues should deploy circuit breakers to ensure that short term high volatility episodes are adequately managed. Trading venues should deploy trading halts or price collars to curb temporary increased market volatility and prevent dramatic price changes. Trading venues should nevertheless expected to have in place appropriately calibrated price collars for the purpose of pre-trade controls. Despite the need to tailor circuit breakers to the specificity of markets conditions, in order to comply with the requirements in Article 48(5) of Directive 2014/65/EU all trading venues in the EU should follow common principles in the establishment of circuit breakers and adopt a methodology for their calibration.

(19) It is necessary that sufficient information on the functioning of circuit breakers is disclosed to the public in order to enable market participants to understand what the triggering of those mechanisms entails on market functioning and trading activity. Trading venues should disclose to the public information and clarifications on the functioning of those mechanisms and on the effects of these being triggered. Trading venues should not disclose to the general public detailed information about the parameters underpinning the functioning of circuit breakers but should provide such information on a yearly basis to NCAs using the template in Annex II.

(20) The provision of direct electronic access (DEA) service to an indeterminate number of persons may pose a risk to the provider of that service and also to the resilience and capacity of the trading venue where the orders are sent. To address such risks, where trading venues allow sub-delegation, the DEA provider should be able to identify the different order flows from the beneficiaries of sub-delegation.

(21) Where sponsored access is permitted by a trading venue, prospective sponsored access clients should be subjected to a process of authorisation by the trading venue. Trading venues should also be allowed to decide that the provision of direct market access services by their members is subject to authorisation.

(22) Trading venues should specify the requirements to be met by their members in order for them to be allowed to provide DEA and determine the minimum standards to be met by prospective DEA clients in the due diligence process. Those requirements and standards should be adapted to the risks posed by the nature, scale and complexity of their expected trading, and the service being provided. In particular, they should include an assessment of the level of expected trading, the order volume and the type of connection offered.

(23) For reasons of consistency and in order to ensure the smooth functioning of the financial markets, it is necessary that the provisions laid down in this Regulation and the related national provisions transposing Directive 2014/65/EU apply from the same date.

(24) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority to the Commission.

(25) The European Securities and Markets Authority 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 opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council [39].

[39] 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).

CHAPTER I

GENERAL ORGANISATIONAL REQUIREMENTS FOR TRADING VENUES ENABLING OR ALLOWING ALGORITHMIC TRADING THROUGH THEIR SYSTEMS

Article 1

Definitions

1. For the purposes of this Regulation, the following definitions should apply**:**

(a) ‘Algorithmic trading systems’ means any arrangements or systems that allow or enable algorithmic trading.

(b) ‘Circuit breakers’ means mechanisms to be set in place by trading venues in accordance with Article 48(5) of Directive 2014/65/EU to temporarily halt or constrain trading if there is a significant price movement in a financial instrument during a short period of time.

(c) ‘Trading halts’ means types of circuit breakers designed as mechanisms which either interrupt continuous trading when triggered or that extend the period of scheduled or unscheduled call auctions in case of price divergence with respect to a pre-defined reference price at the end of the auction.

(d) ‘Price collars’ means types of circuit breakers which allow matching of orders only if the resulting price lies within set boundaries.

2. For the purposes of this Regulation, it is considered that a trading venue allows or enables algorithmic trading where order submission and order matching is facilitated by electronic means.

Article 2

Self-assessments of compliance with Article 48 of Directive 2014/65/EU

(Article 48 of Directive 2014/65/EU)

1. Before the deployment of a trading system and at least once a year, trading venues shall carry out a self-assessment of their compliance with Article 48 of Directive 2014/65/EU, taking

into account the nature, scale and complexity of their business. The self-assessment shall include an analysis of all parameters set out in the Annex I to this Regulation.

2. Trading venues shall keep a record of their self-assessment for at least five years.

Article 3

Governance of trading venues

(Article 48(1) of Directive 2014/65/EU)

1. As part of their overall governance and decision making framework, trading venues shall establish and monitor their trading systems through a clear and formalised governance arrangement setting out:

(a) their analysis of technical, risk and compliance issues when taking critical decisions.

(b) clear lines of accountability, including procedures to approve the development, deployment and subsequent updates of trading systems and to resolve problems identified when monitoring the trading systems;

(c) effective procedures for the communication of information such that instructions can be sought and implemented in an efficient and timely manner;

(d) separation of tasks and responsibilities, to ensure effective supervision of compliance by the trading venues.

2. The management body or the senior management of trading venues shall approve:

(a) the self-assessment of compliance in accordance with Article 2;

(b) measures to expand the capacity of the trading venue where necessary in order to comply with Article 11;

(c) actions to remedy any material shortcomings detected in the course of their monitoring in accordance with Articles 12 and 13 and after the periodic review of the performance and capacity of the trading systems in accordance with Article 14.

Article 4

Compliance function within the governance arrangements

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall ensure that their compliance function is responsible for:

(a) providing clarity to all staff involved in algorithmic trading about the trading venues' legal obligations with respect to such trading;

(b) developing and maintaining the policies and procedures to ensure that the algorithmic trading systems comply with those obligations.

2. Trading venues shall ensure that their compliance staff has at least a general understanding of the way in which algorithmic trading systems and algorithms operate.

The compliance staff shall be in continuous contact with persons within the trading venue who have detailed technical knowledge of the venue's algorithmic trading systems or algorithms.

Trading venues shall also ensure that compliance staff have, at all times, direct contact with persons who have access to the functionality referred to in Article 18(2)(c) ('kill functionality') or access to that kill functionality and to those who are responsible for the algorithmic trading system.

3. Where the compliance function, or elements thereof, is outsourced to a third party, trading venues shall provide the third party with the same access to information as they would to their own compliance staff. Trading venues shall enter into an agreement with such compliance consultants, ensuring that:

(a) data privacy is guaranteed;

(b) auditing of the compliance function by internal and external auditors or by the competent authority is not hindered.

Article 5

Staffing

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall employ a sufficient number of staff with the necessary skills to manage their algorithmic trading systems and trading algorithms and with sufficient knowledge of:

(a) the relevant trading systems and algorithms;

(b) the monitoring and testing of such systems and algorithms;

(c) the types of trading undertaken by the members, participants or clients of the trading venue (‘members’);

(d) the trading venue's legal obligations.

2. Trading venues shall define the necessary skills referred to in paragraph 1. The staff referred to in paragraph 1 shall have those necessary skills at the time of recruitment or shall acquire them through training after recruitment. The trading venues shall ensure that those staff's skills remain up-to-date and shall evaluate their skills on a regular basis.

3. The staff training referred to in paragraph 2 shall be tailored to the experience and responsibilities of the staff, taking into account the nature, scale and complexity of their activities.

4. The staff referred to in in paragraph 1 shall include staff with sufficient seniority to perform their functions effectively within the trading venue.

Article 6

Outsourcing and procurement

(Article 48(1) of Directive 2014/65/EU)

1. For the purposes of this article, operational functions shall include all direct activities related to the performance and surveillance of the trading systems supporting the following elements:

(a) upstream connectivity, order submission capacity, throttling capacities and ability to balance customer order entrance through different gateways;

(b) trading engine to match orders;

(c) downstream connectivity, order and transaction edit and any other type of market data feed;

(d) infrastructure to monitor the performance of the elements referred to in points (a), (b) and (c).

2. Trading venues shall report to the competent authorities their intention to outsource operational functions in the following cases:

(a) where the service provider provides the same service to other trading venues;

(b) where critical operational functions necessary for business continuation would be outsourced, in which case the trading venues shall request a prior authorisation from the competent authority.

3. For the purposes of point (b) in paragraph 3, critical operational functions are the functions defined in Article 3(22) of DORA and shall include those functions necessary to comply with the obligations referred to in Article 47(1)(b) and (e) of Directive 2014/65/EU.

4. Trading venues shall inform the competent authorities of any outsourcing agreements not subject to prior authorisation requirement immediately after the signature of the agreement.

CHAPTER II

CAPACITY AND RESILIENCE OF TRADING VENUES

Article 7

Due diligence for members of trading venues

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall set out the conditions for using its electronic order submission systems by its members.

Those conditions shall be set having regard to the trading model of the trading venue and shall cover at least the following:

(a) pre-trade controls on price, volume and value of orders and usage of the system and post-trade controls on the trading activities of the members;

(b) qualifications required of staff in key positions within the members;

(c) technical and functional conformance testing;

(d) policy of use of the kill functionality;

(e) provisions on whether the member may give its own clients direct electronic access to the system and if so, the conditions applicable to those clients.

2. Trading venues shall undertake a due diligence assessment of their prospective members against the conditions referred to in paragraph 1 and shall set out the procedures for such assessment.

3. Trading venues shall, once a year, conduct a risk-based assessment of the compliance of their members with the conditions referred to in paragraph 1 and check whether their members are still registered as investment firms. The risk-based assessment shall take into account the scale and potential impact of trading undertaken by each member as well as the time elapsed since the member's last risk based assessment.

4. Trading venues shall, where necessary, undertake additional assessments of their members' compliance with the conditions referred to in paragraph 1 following the annual risk-based assessment laid down in paragraph 3.

5. Trading venues shall set out criteria and procedures for imposing sanctions on a non-compliant member. Those sanctions shall include suspension of access to the trading venue and loss of membership.

6. Trading venues shall for at least five years maintain records of:

(a) the conditions and procedures for the due diligence assessment;

(b) the criteria and procedures for imposing sanctions;

(c) the initial due diligence assessment of their members;

(d) the annual risk-based assessment of their members;

(e) the members that failed the annual risk-based assessment and any sanctions imposed on such members.

Article 8

Conformance testing

(Article 48(6) of Directive 2014/65/EU)

1. Trading venues shall require their members to undertake conformance testing prior to the deployment or a substantial update of:

(a) the access to the trading venue's system;

(b) the member's trading system, trading algorithm or trading strategy.

2. The conformance testing shall ensure that the basic functioning of the member's trading system, algorithm and strategy complies with the trading venue's conditions.

3. The conformance testing shall verify the functioning of the following:

(a) the ability of the system or algorithm to interact as expected with the trading venue's matching logic and the adequate processing of the data flows from and to the trading venue;

(b) the basic functionalities such as submission, modification or cancellation of an order or an indication of interest, static and market data downloads and all business data flows;

(c) the connectivity, including the cancel on disconnect command, market data feed loss and throttles, and the recovery, including the intra-day resumption of trading and the handling of suspended instruments or non-updated market data.

4. Trading venues shall provide a conformance testing environment to their actual and prospective members which:

(a) is accessible on conditions equivalent to those applicable to the trading venue's other testing services;

(b) provides a list of financial instruments which can be tested and which are representative of every class of instruments available in the production environment;

(c) is available during general market hours or, if available only outside market hours, on a pre-scheduled periodic basis;

(d) is supported by staff with sufficient knowledge.

5. Trading venues shall deliver a report of the results of the conformance testing to the actual or prospective member only.

6. Trading venues shall require their actual and prospective members to use their conformance testing facilities.

7. Trading venues shall ensure an effective separation of the testing environment from the production environment for the conformance testing referred to in paragraphs 1 to 3.

Article 9

Testing obligations to avoid disorderly trading conditions

(Article 48(6) of Directive 2014/65/EU)

1. Trading venues shall require their members to certify that the algorithms they deploy have been tested to avoid contributing to or creating disorderly trading conditions prior to the deployment or substantial update of a trading algorithm or trading strategy and explain the means used for that testing.

2. Trading venues shall provide their members with access to a testing environment which shall consist of any of the following:

(a) simulation facilities which reproduce as realistically as possible the production environment, including disorderly trading conditions, and which provide the functionalities, protocols and structure that allow members to test a range of scenarios that they consider relevant to their activity;

(b) testing symbols as defined and maintained by the trading venue.

3. Trading venues shall ensure an effective separation of the testing environment from the production environment for the tests referred to in paragraph 1.

4. When testing their trading systems, including prior to deployment and in case of updating of the trading system, trading venues shall be able to demonstrate at all times that they have

taken all reasonable steps to avoid that their trading systems contribute to disorderly trading conditions.

Article 10

Trading venues' capacity

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall ensure that their trading systems have sufficient capacity to perform their functions without systems failures, outages or errors in matching transactions at least at the highest number of messages per second recorded on that system during the previous five years multiplied by two.

For the purposes of establishing the highest number of messages, the following messages shall be taken into account:

(a) any input, including orders and modifications or cancellations of orders;

(b) any output, including the system's response to an input, display of order book data and dissemination of post-trade flow that implies independent use of the trading system's capacity.

2. The elements of a trading system to be considered for the purposes of paragraph 1 shall be those supporting the following activities:

(a) upstream connectivity, order submission capacity, throttling capacities and ability to balance customer order entrance through different gateways;

(b) trading engine which enables the trading venue to match orders at an adequate latency;

(c) downstream connectivity, order and transaction edit and any other type of market data feed;

(d) infrastructure to monitor the performance of the abovementioned elements.

3. Trading venues shall assess whether the capacity of their trading systems remains adequate when the number of messages has exceeded the highest number of messages per second recorded on that system during the previous five years. After the assessment, the trading venues shall inform the competent authority about any measures planned to expand their capacity and the time of the implementation of such measures.

4. Trading venues shall ensure that their systems are able to cope with rising message flows without material degradation of their systems performance. In particular, the design of the trading system shall enable its capacity to be expanded within reasonable time whenever necessary.

5. Trading venues shall immediately make public and report to the competent authority and members any severe trading interruption not due to market volatility and any other material connectivity disruptions.

Article 11

General monitoring obligations

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall ensure that their algorithmic trading systems are at all times adapted to the business which takes place through them and are robust enough to ensure continuity and regularity in the performance of the markets on which they operate, regardless of the trading model used.

2. Trading venues shall conduct real time monitoring of their algorithmic trading systems in relation to the following:

(a) their performance and their capacity referred to in Article 11(4);

(b) orders sent by their members on an individual and an aggregated basis.

In particular, trading venues shall operate throttling limits and monitor the concentration flow of orders to detect potential threats to the orderly functioning of the market.

3. Real-time alerts shall be generated within five seconds of the relevant event.

Article 12

Ongoing monitoring

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall be able to demonstrate at all times to their competent authority that they monitor in real time the performance and usage of the elements of their trading systems referred to in Article 11(2) in relation to the following parameters:

(a) percentage of the maximum message capacity utilised per second;

(b) total number of messages managed by the trading system broken down per element of the trading system, including:

(i) number of messages received per second;

(ii) number of messages sent per second;

(iii) number of messages rejected by the system per second;

(c) period of time between receiving a message in any outer gateway of the trading system and sending a related message from the same gateway after the matching engine has processed the original message;

(d) performance of the matching engine.

2. Trading venues shall take all appropriate action in relation to any issues identified in the trading system during the ongoing monitoring as soon as reasonably possible, in order of priority, and shall be able to adjust, wind down, or shut down the trading system, if necessary.

Article 13

Periodic review of the performance and capacity of the algorithmic trading systems

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall, in the context of the self-assessment to be performed in accordance with Article 2, evaluate the performance and capacity of their algorithmic trading systems and

associated processes for governance, accountability, approval and business continuity arrangements.

2. As part of the evaluation referred to in paragraph 1, trading venues shall perform stress tests where they simulate adverse scenarios to verify the performance of the hardware, software and communications and identify the scenarios under which the trading system or parts of the trading system perform their functions with systems failures, outages or errors in matching transactions.

3. Stress tests shall cover all trading phases, trading segments and types of instruments traded by the trading venue and shall simulate members' activities with the existing connectivity set-up.

4. The adverse scenarios referred to in paragraph 2 shall be based on the following:

(a) an increased number of messages received, starting at the highest number of messages managed by the trading venue's system during the previous five years;

(b) unexpected behaviour of the trading venue's operational functions;

(c) random combination of stressed and normal market conditions and unexpected behaviour of the trading venue's operational functions.

5. The evaluation of the performance and capacity of the trading venue described in paragraphs 1 to 4 shall be conducted by an independent assessor or by a department within the trading venue other than the one that holds the responsibility for the function that is being reviewed.

6. Trading venues shall take action to promptly and effectively remedy any deficiencies identified in the evaluation of the performance and capacity of the trading venue referred to in paragraphs 1 to 4 and shall keep record of the review and any remedy action taken in this respect for at least five years.

Article 14

Business continuity plan

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall, in the context of their governance and decision-making framework in accordance with Article 4, establish a business continuity plan to set out the procedures and arrangements for managing disruptive incidents.

2. In the context of the business continuity plan trading venues shall set out the procedures and arrangements for managing disruptive incidents and provide for the following minimum content:

(a) a range of possible adverse scenarios relating to the operation of the algorithmic trading systems, including the unavailability of systems, staff, work space, external suppliers or data centres or loss or alteration of critical data and documents;

(b) the procedures to be followed in case of a disruptive event;

(c) the maximum time to resume the trading activity and the amount of data that may be lost in the IT system;

(d) procedures for relocating the trading system to a back-up site and operating the trading system from that site.

(e) back-up of critical business data including up-to-date information of the necessary contacts to ensure communication inside the trading venue, between the trading venue and its members and between the trading venue and clearing and settlement infrastructures;

(f) staff training on the operation of the business continuity arrangements;

(g) assignment of tasks and establishment of a specific security operations team ready to react immediately after a disruptive incident;

(h) an ongoing programme for testing, evaluation and review of the arrangements including procedures for modification of the arrangements in light of the results of that programme.

3. Clock synchronisation after a disruptive incident shall be included in the business continuity plan.

4.Trading venues shall ensure that an impact assessment identifying the risks and consequences of disruption is carried out and periodically reviewed.

5. Trading venues shall ensure that their senior management:

(a) establishes clear objectives and strategies in terms of business continuity;

(b) allocates adequate human, technological and financial resources to pursue the objectives and strategies under point (a);

(c) approves the business continuity plan and any amendments thereof necessary as a consequence of organisational, technological and legal changes;

(d) is informed, at least on a yearly basis, of the outcome of the impact assessment or any review thereof and of any findings concerning the adequacy of the business continuity plan;
(e) establishes a business continuity function within the organisation.

6.The business continuity plan shall set out procedures to address any disruptions of outsourced critical operational functions, including where those critical operational functions become unavailable.

Article 15

Periodic review of business continuity arrangements

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall, in the context of their self-assessment in accordance with Article 2, test on the basis of realistic scenarios the operation of the business continuity plan.

2. Trading venues shall, where considered necessary, having regard to the results of the periodic review in accordance with paragraph 1, ensure that a review of their business continuity plan and arrangements is carried out by either an independent assessor or a department within the trading venue other than the one responsible for the function under review. The results of the testing activity shall be documented in writing, stored and submitted to the trading venue's senior management as well as to the operating units involved in the business continuity plan.

3. Trading venues shall ensure that testing of the business continuity plan does not interfere with normal trading activity.

Article 16

Prevention of disorderly trading conditions

(Article 48(4), (5) and (6) of Directive 2014/65/EU)

1. Trading venues shall have at least the following arrangements in place to prevent disorderly trading and breaches of capacity limits:

(a) limits per member of the number of orders sent per second;

(b) mechanisms to manage volatility;

(c) pre-trade controls.

2. For the purposes of paragraph 1, trading venues shall be able to:

(a) request information from any member or user of sponsored access on their organisational requirements and trading controls;

(b) suspend a member's or a trader's access to the trading system at the initiative of the trading venue or at the request of that member, a clearing member, the CCP, where provided for in the CCP's governing rules, or the competent authority;

(c) operate a kill functionality to cancel unexecuted orders submitted by a member, or by a sponsored access client under the following circumstances:

(i) upon request of the member, or of the sponsored access client where the member, or client is technically unable to delete its own orders;

(ii) where the order book contains erroneous duplicated orders;

(iii) following a suspension initiated either by the market operator or the competent authority;

(d) cancel or revoke transactions in case of malfunction of the trading venue's mechanisms to manage volatility or of the operational functions of the trading system;

(e) balance entrance of orders among their different gateways, where the trading venue uses more than one gateway in order to avoid collapses.

3. Trading venues shall set out policies and arrangements in respect of:

(a) pre-trade and post-trade controls used by the venue and pre-trade and post-trade controls necessary for their members to access the market;

(b) members' obligation to operate their own kill functionality;

(c) information requirements for members;

(d) suspension of access;

(e) cancellation policy in relation to orders and transactions including:

(i) timing;

(ii) procedures;

(iii) reporting and transparency obligations;

(iv) dispute resolution procedures;

(v) measures to minimise erroneous trades;

(f) order throttling arrangements including:

(i) number of orders per second on pre-defined time intervals;

(ii) equal-treatment policy among members unless the throttle is directed to individual members;

(iii) measures to be adopted following a throttling event.

4. Trading venues shall make public their policies and arrangements set out in paragraphs 2 and 3. That obligation shall not apply with regard to the specific number of orders per second on pre-defined time intervals.

5. Trading venues shall maintain full records of their policies and arrangements under paragraph 3 for a minimum period of five years.

Article 17

General principles for the establishment of circuit breakers

(Article 48(5) of Directive 2014/65/EU)

1. Trading venues shall establish circuit breakers in the form of trading halts or price collars and ensure that such mechanisms are operational at all times during trading hours.

2. Trading venues shall design the circuit breakers deployed for the instruments traded on the basis of a static and a dynamic reference price, unless the trading venue demonstrates to its national competent authority that due to market-specific circumstances volatility is adequately managed deploying only a static or a dynamic reference price.

3. Trading venues shall test the circuit breakers before implementation and periodically reassess the adequacy of the types of circuit breakers deployed. The assessment should specifically encompass cases where the trading venue has decided to rely either on a static or on a dynamic reference price.

4. Trading venues shall ensure that IT and human resources are sufficiently allocated to deal with the design, maintenance and monitoring of the mechanisms implemented to halt or constrain trading and that such mechanisms are continuously monitored.

Article 18

General principles for the establishment of the methodology for the calibration of circuit breakers

(Article 48(5) of Directive 2014/65/EU)

1. Trading venues shall establish a documented written methodology for the calibration of circuit breakers, which should consider:

(i) the liquidity profile and the quotation level of the financial instrument;

(ii) the volatility profile of the financial instrument;

(iii) the trading venue system and rules;

(iv) internal references, intended as prices determined inside the venue which are then available to calibrate circuit breakers for the specific instrument;

(v) any relevant external references where needed, intended/such as cross-asset and cross-market conditions; and

(vi) the number of times the mechanism was triggered in the previous years on their platforms.

Updates affecting the calibration of circuit breakers should be based on statistical data available to the venue and evolving market conditions.

2. The methodology for the calibration of circuit breakers shall specify:

(i) the ordinary frequency of updates of the static and dynamic reference price;

(ii) a non-exhaustive list of instances in which extraordinary updates might be carried out; and

(iii) procedures to manage situations where the parameters have to be manually overridden to ensure orderly trading.

3. The methodology shall be reviewed at least on a yearly basis and updated when needed.

4. Trading venues shall maintain records of the methodology and any changes thereof, as well as records of the operation, management and upgrading of circuit breakers. When requested by the competent authority trading venues should make such records available. Trading venues shall be able to justify the choice of the thresholds underpinning the functioning of circuit breakers.

Article 19

Disclosure requirement regarding circuit breakers

(Article 48(5) of Directive 2014/65/EU)

1. Trading venues shall disclose on their website information regarding the functioning and effects of circuit breakers in a clear and concise manner. Such information should include at a minimum:

(a) a general description of the type of mechanism deployed, including examples of circumstances leading to the triggering of circuit breakers;

(b) a description of the consequences entailed by the triggering of circuit breakers explaining if the triggering would result in a trading halt, a shift to a different trading modality or a transaction rejection;

(c) in case of trading halts, an indication of the minimum time interval foreseen for halting trading once the halt is triggered;

(d) in case of price collars, the boundaries which allow the matching of orders if the resulting price lies within;

(e) information regarding the reference price underpinning the functioning of circuit breakers;

(f) information on the triggering of circuit breakers, with at least an annual frequency.

2. When trading venues apply diverse types of circuit breakers, the information should specify for which instruments the mechanism applies.

3. Information made available to the public regarding the circuit breakers should include, where applicable, a clear indication that some specific parameters underpinning the functioning of circuit breakers might be adapted depending on market conditions.

4. Trading venues shall report yearly to their competent authority information on the parameters for halting or constraining trading. In order to fulfil such reporting requirement trading venues shall use the template set out in the Annex II of this Regulation.

Article 20

Pre-trade and post-trade controls

(Article 48(4) and (6) of Directive 2014/65/EU)

1. Trading venues shall carry out the following pre-trade controls adapted for each financial instruments traded on them:

(a) price collars, which automatically block orders that do not meet pre-set price parameters on an order-by-order basis;

(b) maximum order value, which automatically prevents orders with uncommonly large order values from entering the order book by reference to notional values per financial instrument;

(c) maximum order volume, which automatically prevents orders with an uncommonly large order size from entering the order book.

2. The pre-trade controls laid down in paragraph 1 shall be designed so as to ensure that:

(a) their automated application has the ability to readjust a limit during the trading session and in all its phases;

(b) their monitoring has a delay of no more than five seconds;

(c) an order is rejected once a limit is breached;

(d) procedures and arrangements are in place to authorise orders above the limits upon request from the member concerned. Such procedures and arrangements shall apply in relation to a specific order or set of orders on a temporary basis in exceptional circumstances.

3. Trading venues may establish the post-trade controls that they deem appropriate on the basis of a risk assessment of their members' activity.

Article 21

Pre-determination of the conditions to provide direct electronic access

(Article 48(7) of Directive 2014/65/EU)

Trading venues permitting DEA through their systems shall set out and publish the rules and conditions pursuant to which their members may provide DEA to their own clients. Those rules and conditions shall at least cover the specific requirements set out in Article 22 of Commission Delegated Regulation (EU) 2017/589[6].

Article 22

Specific requirements for trading venues permitting sponsored access

(Article 48(7) of Directive 2014/65/EU)

1. Trading venues shall make the provision of sponsored access subject to their authorisation and shall require that firms having sponsored access are subject to at least the same controls as those referred to in Article 18(3)(b).

2. Trading venues shall ensure that sponsored access providers are at all times exclusively entitled to set or modify the parameters that apply to the controls referred to in paragraph 1 over the order flow of their sponsored access clients.

3. Trading venues shall be able to suspend or withdraw the provision of sponsored access to clients having infringed Directive 2014/65/EU, Regulations of the European Parliament and of the Council (EU) No 600/2014[7] and (EU) No 596/2014[8] or the trading venue's internal rules.

Article 23

Security and limits to access

(Article 48(1) of Directive 2014/65/EU)

1. Trading venues shall promptly inform the competent authority of incidents of misuse or unauthorised access by promptly providing an incident report indicating the nature of the incident, the measures adopted in response to the incident and the initiatives taken to avoid similar incidents from occurring in the future.

Article 24

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

These provisions shall apply from the first date that appears first in the first subparagraph of Article 2(1) of Directive (EU) 2024/790 of the European Parliament and of the Council of 28 February 2024 amending Directive 2014/65/EU on markets in financial instruments.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

Annex I

Parameters to be considered in the self-assessments of the trading venues, as referred to in Article 2(1)

(a) Nature of the trading venue, in terms of:

(i) types and regulatory status of the instruments traded on the venue such as whether the trading venue trades liquid instruments subject to mandatory trading;

(ii) the role of the trading venue in the financial system such as whether the financial instruments traded on it can be traded elsewhere.

(b) Scale, in terms of potential impact of the trading venue on the fair and orderly functioning of the markets based on at least the following elements:

(i) the number of algorithms operating on the venue;

(ii) the messaging volume capacities of the venue;

(iii) the volume of trading executed on the venue;

(iv) the percentage of algorithmic trading over the total trading activity and the total turnover traded on the venue;

(v) the percentage of high-frequency trading (HFT) activity over the total trading activity and the total amount traded on the venue;

(vi) the number of its members and participants;

(vii) the number of its members providing DEA including, where applicable, the specific number of its members providing for sponsored access and the conditions under which DEA is offered or can be delegated;

(viii) the ratio of unexecuted orders to transactions as observed and determined pursuant to Commission Delegated Regulation (EU) 2017/566[40];

(ix) the number and percentage of remote members;

(x) the number of co-location or proximity hosting sites provided;

(xi) the number of countries and regions in which the trading venue is undertaking business activity;

(xii) the operating conditions for mechanisms to manage volatility and whether dynamic or static trading limits are used to trigger trading halts or rejection of orders.

(c) Complexity, in terms of:

(i) the classes of financial instruments traded on the trading venue;

(ii) the trading models available in the trading venue including the different trading models operating at the same time such as auction, continuous auction and hybrid systems;

(iii) the use of pre-trade transparency waivers in combination with the trading models operated;

(iv) the diversity of trading systems employed by the venue and the extent of the control by the trading venue over setting, adjusting, testing, and reviewing its trading systems;

[40] Commission Delegated Regulation (EU) 2017/566 of 18 May 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards for the ratio of unexecuted orders to transactions in order to prevent disorderly trading conditions (see page 84 of this Official Journal).

(v) the structure of the trading venue in terms of ownership and governance and its organisational, operational, technical, physical, and geographical set-up;

(vi) the various locations of the connectivity and technology of the trading venue;

(vii) the diversity of the physical trading infrastructure of the trading venue;

(viii) the level of outsourcing of the trading venue and in particular where any operational functions have been outsourced;

(ix) the frequency of changes to trading models, IT systems and membership of the trading venue.

Annex II

Table 1

Information to be reported to NCAs on implemented circuit breakers

All fields are mandatory, unless stated otherwise.

N	FIELD	CONTENT TO BE REPORTED	FORMAT AND STANDARDS TO BE USED FOR REPORTING
1	Trading Venue	Name of the reporting venue	Free text
2a	Operating MIC	Operating MIC code	4-alpha-numeric characters (ISO 10383)
2b	Traded instruments	Classes of financial Instruments traded by the TV to which the described CBs apply.	MiFIR identifier as per Table 2 of Annex III of CDR 2017/587 and Annex IV of CDR 2017/583

3a	Segment MIC	Segment MIC code [in case the setup of CBs differs **substantially** in terms of the applied approach/methodology from segment to segment, reporting should be done at segment MIC level]	4-alpha-numeric characters (ISO 10383)
3b	Traded instruments	Classes of financial Instruments traded under a specific segment MIC to which the described CB apply.	MiFIR identifier as per Table 2 of Annex III of CDR 2017/587 and Annex IV of CDR 2017/583
4a	Type of circuit breakers	The type(s) of CBs that the reporting trading venue has implemented.	[Trading halt], [Price collars] and/or, [Other, please specify in 4b]
4b	Other type of circuit breakers	The 'other' type of CBs that the reporting trading venue has implemented. *Field to be completed if [Other] was reported in the above field.	Free text
5a	Static and Dynamic CBs apply	Please select the classes of instruments for which both static and dynamic CB are deployed.	MiFIR identifier as per RTS 1 and RTS 2
5b	Static CBs only are applied	Please select the classes of instruments for which only static CBs apply.	MiFIR identifier as per RTS 1 and RTS 2
5c	Dynamic CBs only are applied	Please select the classes of instruments for which only dynamic CBs apply.	MiFIR identifier as per RTS 1 and RTS 2

6	Only static or only dynamic CBs applied	Brief explanation of why only static or dynamic CBs are deployed.	Free text
7	Same asset class of financial instrument included in 5a 5b 5c	Brief explanation of why financial instruments in the same asset class are subject to different types of CBs.	Free text
8	Details on CBs and resumption of trading.	Brief description of the functioning of the CB and resumption of trading. E.g., CB is triggered by hitting the set threshold and trading halted. Resumption of trading takes place through an auction.	Free text
9	Reference price used for the purpose of CB.	Brief description explaining depending on the instrument what are the static and dynamic reference prices (e.g., previous day closing price and average of trade prices in previous 5 minutes), if the reference price is sourced on venue or off venue, how often updates occur. Also, specify how the reference price is updated upon trading resumption after triggering of the mechanism.	Free text
10	Minimum duration of the halt (if applicable)		in seconds
11	CB calibrations	Please select all the variables considered in your calibration methodology.	[liquidity of the instrument] [price volatility] [trading venue mode and rules]

			[based on internal data] [based on external data] [number of times the mechanism was triggered] [other, please specify in 11a]
11a	Other variables	Other variables considered in the calibration of CB	[free text]
12	Ad-hoc changes to the functioning of CBs	Does the trading venue have special mechanisms/arrangements regarding CBs	[Yes] or, [No]
13	Special mechanisms/arrangements	Brief description of the special mechanisms/arrangements that the reporting trading venue has in place and of the circumstances which activate them (e.g., enhanced communication with the NCA; adaptation of the thresholds at more frequent intervals; enhanced communication with other functions withing the entity). *Field to be completed if [Yes] was reported in the above field.	Free text.
14	Adjustments and/or recalibrations.	Most relevant cases which have required substantial intervention from the TV in terms of calibration or adjustment of the mechanism.	Free text

15	Type of trading system	How does the type of trading system impact the design of CBs.	Free text
16	Liquidity of the instrument	How is the liquidity of the instruments / asset class taken into account when implementing the CBs.	Free text
17	Further relevant information	Any other information that the reporting trading venue might consider relevant to report, including if any traded instrument is not subject to CBs.	Free text.

10.4.7 Draft ITS on SI notification

COMMISSION IMPLEMENTING REGULATION (EU) 2024/XXX

of XXX

laying down implementing technical standards for the application of Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to the content and format of the notification for Systematic Internalisers

(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 2024/791, and in particular Article 15(5) thereof,

Whereas:

(1) This Regulation lays down implementing technical standards on the standard templates for the purpose of the register of information in relation to all Investment Firms that intend to provide Systematic Internalisers (SI) activities. The design of the notification template and data fields should facilitate the notification to be submitted by firms that

meet the definition of systematic internaliser to their competent authority in accordance with Article 15(1) of Regulation (EU) 600/2014.

(2) It is appropriate to set out common standard forms, templates and procedures to ensure a common understanding and enforcement among Member States' competent authorities of the notification process regarding the notification for SIs, as well as to ensure efficient information flow. The design of the template should be technology and reporting format neutral to allow for its integration into various Competent Authority notification solutions that already exist or may be developed.

(3) In order to ensure consistent notification of the SI activities being carried out and submission of good quality data, it should be identified which data fields need to be provided by investment firms at various stages, when providing initial notification for carrying out SI activities, in case of any changes or in case the investment firm ceases to carry out SI activities. It is important that information provided over the different notification stages is presented in a way that allows for a single overview. Therefore, there should be a single template which covers all necessary information throughout the various notification stages that should be used for the submission of the initial notification, the interim and final notification.

(4) In order to allow competent authorities to be informed and assess any changes in the activities of an SI occurred after the first notification, it is appropriate to set out clear time limits for the submission of information on those changes.

(5) This Regulation is based on the draft implementing technical standards submitted by the European Securities and Markets Authority to the Commission.

(6) The European Securities and Markets Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[41],

HAS ADOPTED THIS REGULATION:

Article 1

[41] 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).

Notification of the status of systematic internaliser

1. An investment firm shall notify, preferably via electronic means, the competent authority when it gains the status of systematic internaliser, in the event of any changes in the activities carried out as a systematic internalisers, and in case it ceases to have such status. A notification shall be submitted also in case the investment firm decides to opt-in under the systematic internaliser regime.

2. The notification shall be made no later than 10 working days after the change.

3. The investment firm shall provide the information on the change referred to in paragraph 1 by filling in the notification form set out in the Annex.

Article 2

Communication of the competent authority to ESMA

1. The competent authority shall transmit to ESMA all notifications received under Article 1 within three working days. ESMA shall add such information on the ESMA's public register of systematic internalisers published on its website.

Article 3

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

2. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [DD MM YYYY]

For the Commission

The President

[For the Commission

On behalf of the President

[Position]

ANNEX

Notification Template

Notification Type **-** Please flag only one of the below alternatives.	
☐ First Notification – Meeting SI definition ☐ First Notification – Opt-in ☐ Updating previously submitted Notification ☐ Ending all SIs activities	
Details of the Investment Firm Head Office – Please fill in all the below fields.	
MIC (Market Identifier Code)	Market identifier as defined in ISO 10383
LEI	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code
Head Office LEI (if different from the above)	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code
Legal Name	Free text
Name of the SI (if different from the Legal Name)	Free text
Competent Authority	Free text

Home Member State	Free text
Head Office Address	Free text
Contact Details of the Compliance Officer – Please fill in all the below fields.	
Name and surname	Free text
Professional email address	Free text
Professional Phone Contact	Free text
Contact Details of a person authorised to represent the entity – Please fill in all the below fields.	
Name and surname	Free text
Role within the investment firm organisation / Job Title	Free text
Professional email address	Free text
Professional Phone Contact	Free text
Details of the Classes of Financial Instruments – Please fill in the below fields as appropriate.	
I hereby notify the Competent Authority that I am (please tick as appropriate)	
Acting as a Systematic Internaliser in the classes of financial instruments specified below	☐

starting as of (dd / mm / yyyy):______________ *In case of update of an existing notification this field shall be populated with the date on which the change in the SI activities occurred.*	
No longer acting as a Systematic Internaliser in any class of financial instrument.	☐
Acting as a Designated Publishing Entity *(N.B. this form cannot be used in any case as a DPE notification)*	☐
In case of first notification or in case changes to the firm's system occurred, please include a description of the system operated and how the applicable requirements are met (e.g. where and when the quotes are published including the details of any APA(s) used, as applicable). Please provide additional documents to supplement information provided here if deemed appropriate.	Free Text
Other Comments	Free Text
The information provided in this form should reflect all of the firm's systematic internaliser activity at the date of submission. If this is not the first notification, in the event of a change in the activities, please indicate the overall situation after the change.	
Equity and equity-like instruments	

Shares (SHRS)	☐
Exchange-traded funds (ETFS)	☐
Depositary receipts (DPRS)	☐
Certificates (CRFT)	☐
Other equity-like financial instruments (OTHR)	☐
Non-equity instruments	
Securitised derivatives (SDRV)	☐
Structured finance products (SFPS)	☐
Bonds (BOND)	☐
Exchange Traded Commodities (ETCS)	☐
Exchange Traded Notes (ETNS)	☐
Emission allowances (EMAL)	☐
Interest Rate Derivatives (IRD)	☐

Credit Derivatives (CRD)	☐
Other Derivatives	☐
Declaration	
By delivering this notification the responsible person is confirming that it has been filled in an accurate and complete manner to the best of his/her knowledge and beliefs. Notwithstanding the above, the Competent Authority will be immediately notified in case of any changes to the information given in this notification. A permanent copy (preferably in electronic format) of this notification duly signed shall be retained for an appropriate period, for inspection at the competent authority's request.	
Place and Date of the notification	ISO 8601 date in the format YYYY-MM-DD
Signature of the person authorised to represent the entity	

10.4.8 Draft RTS on input/output data for shares and ETFs CTP

COMMISSION DELEGATED REGULATION (EU) 2024/XXX
of XXXX

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 the quality of the transmission protocol, measures to address erroneous trade reporting and enforcement standards in relation to data quality, and quality and substance of the data for the operation of the consolidated tapes

(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 2024/791 and in particular Article 22b thereof,

Whereas:

(1) Defining clear and harmonised reporting instructions for data to be transmitted to and disseminated by the CTPs is a key element for the orderly functioning of CTPs and effective and reliable data consolidation.

(2) To achieve fast, secure and high-quality data transmission to the CTP, the transmission protocols chosen by data contributors should fulfil certain minimum requirements in terms of performance, security, reliability, and compatibility with other systems and applications supporting the reporting process. Upholding these standards is necessary to guarantee the integrity, accuracy, and timeliness of market data disseminated by the CTP.

(3) To ensure timely availability of consolidated market data to investors, data contributors should be subject to strict submission latency requirements. Such requirements should however be calibrated to the varying degrees of time-sensitivity in market data. Consequently, pre-trade data necessitates more stringent requirements compared to post-trade data.

(4) The adoption of a standardised data format for the transmission of data to the CTP facilitates efficient reception and storage of input data. Additionally, adopting an harmonised format for data transmission streamlines the operations of CTPs in consolidating data in a costefficient manner, reducing complexity, and enhancing overall operational effectiveness.

(5) The content of the data to be transmitted to the CTPs should be defined with the objective of minimising reporting burden for data contributors while facilitating the dissemination of data essential for investors. In defining the input data fields functional to the production of core market data, consistency should be ensured with the existing pre- and post-trade requirements provided by the Commission Delegated Regulation (EU) 2017/587 and Commission Delegated Regulation (EU) 2017/583 respectively for equity and non-equity instruments.

(6) The definition of regulatory data to be transmitted to the CTPs encompasses a new set of information enabling investors to be informed about the status of individual financial instruments traded on a given trading venue, which includes details on trading suspension, removal, or halts. Additionally, regulatory data covers the status of system matching orders, including information on outages or normal trading phases, enabling investors to make well-informed decisions in varying market conditions.

(7) The dissemination of output data should occur thorough presentation methods that ensure both machine and human readability. To achieve this objective, requirements are prescribed to fulfil various degrees of abilities of data users. To cater for diverse user needs, the dissemination of output data as should be provided in multiple formats, including [PLACHEOLDER OF FORMAT] for advanced analysis, CSV format for less advanced users, and a graphical user interface (GUI) for ensuring human readability.

(8) The CTP is entrusted with the responsibility to ensure data quality on the input side, encompassing content, format, and timeliness checks. This obligation involves communicating potential data quality issues to data contributors and facilitating the resubmission of corrected trade reports. In the event of serious data quality breaches, the CTP as are expected to trigger enforcement measures in a non-discriminatory manner, which include the suspension of revenue redistribution or notification to competent authorities. Additionally, the CTP is expected to perform regular checks on the quality output data, ensuring periodic reconciliation with the input data.

(9) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.

(10) 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 Council.

HAS ADOPTED THIS REGULATION:

Article 1
Definitions

[……..]

Article 6
Data needed to be transmitted to the CTP for shares and ETFs

1. With regards to core market data for a given share or ETF offered for trading in continuous order books and auction trading systems of regulated markets and multilateral trading facilities, market data contributors shall transmit to the data centre of the CTP the details set out in, ,:

> (i) Table 1b of Annex I of Commission Delegated Regulation (EU) 2017/587 except for fields 8 and 9 (pre-trade) by reference to each best and bid ask price in the trading system at any point in time;
>
> (ii) Tables 3 and 4 of Annex I of Commission Delegated Regulation (EU) 2017/587 and in Table 2 of Annex I (post-trade) by reference to each transaction

2. With regards to regulatory data, market data contributors shall transmit to the data centre of the CTP, by reference to each financial instrument, the details set out in Table 3 of Annex I.

3. With regards to regulatory data, market data contributors shall transmit to the data centre of the CTP, by reference to each trading system, the details set out in Table 4 of Annex I.

[……..]

Article 8

Presentation of data to be disseminated by the CTP

1. With regards to core market data for a given share or ETF, the CTP shall disseminate the details set out in:

(i) Table 5 of Annex III by reference to each order for pre-trade data;

(ii) Table 3 of Annex I of Commission Delegated Regulation (EU) 2017/587 and Table 6 of Annex III. by reference to each transaction for post-trade data

2. With regards to regulatory data, the CTP shall disseminate:

(a) by reference to each financial instrument, the details set out in Table 3 of Annex III.

(b) by reference to each trading system, the details set out in Table 4 of Annex III.

[……..]

ANNEX III

Data to be transmitted to/disseminated by the CTP

Table 1

Symbol table for Table 2, 3, 4 and 5

Symbol	Data Type	Definition

{DATE_TIME_FORMAT}	ISO 8601 date and time format	Date and time in the following format: YYYY-MM-DDThh:mm:ss.ddddddZ. — '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; — 'mm' is the minute; — 'ss.dddddd' is the second and its fraction of a second; — Z is UTC time. Dates and times shall be reported in UTC.
{ISIN}	12 alphanumerical characters	ISIN code, as defined in ISO 6166
{MIC}	4 alphanumerical characters	Market identifier as defined in ISO 10383

Table 2

Post-trade core market data to be transmitted to the CTP

Flag	Name	Type of execution or publication venue	Description
"NTLS"	Pre-trade large in scale waiver flag	APA	Transactions which are executed in accordance with Article 4(1), point (c), of Regulation (EU) No 600/2014.

Table 3

Regulatory data specific to an instrument

#	Field identifier	Description	Format as defined in Table 1
1	Instrument identification code	Code used to identify the financial instrument	{ISIN}
2	Instrument status start date and time	Date and time from which the instrument status is valid	{DATE_TIME_FORMAT}
3	Instrument status end date and time	Date and time from which the instrument status is no longer valid	{DATE_TIME_FORMAT}
4	Instrument status dissemination date and time	Date and time on which the instrument status is disseminated by the CTP	{DATE_TIME_FORMAT}
5	Instrument status	Description of the status of the financial instrument. The status of the financial instrument can be: (1) suspended from trading, on the trading venue identified in the field "Trading venue", in accordance with Article 32 and 52 of **Directive 2014/65/EU** (2) removed from trading, on the trading venue identified in the field "Trading venue", in accordance with Article 32 and 52 of **Directive 2014/65/EU** (3) subject to a trading halt, on the trading venue identified in the field "Trading venue", in accordance with Articles 18(5) and 48(5) of **Directive 2014/65/EU** **Empty otherwise**	'SUSP' – the instrument is suspended 'RMOV' – the instrument is removed 'HALT' – the instrument is subject to a trading halt
6	Trading venue	Identification of the trading venue on which the instrument status is valid (segment MIC where available, otherwise operating MIC) The trading venue is a regulated market or an MTF.	{MIC}

Table 4

Regulatory data specific to a trading system

#	Field identifier	Description	Format
1	Trading venue	Identification of the trading venue on which the instrument status is valid (segment MIC where available, otherwise operating MIC). The trading venue is a regulated market or an MTF.	{MIC}
2	Trading system type	Type of trading system on which the system status is provided	'CLOB' -- central limit auction order book trading systems 'QDTS' -- quote driven trading systems 'PATS' -- periodic auction trading systems 'RFQT' -- request for quote trading systems 'HYBR' – hybrid trading system 'OTHR' – any other trading system
3	System status start date and time	Date and time from which the system status is valid	{DATE_TIME_FORMAT}
4	System status end date and time	Date and time from which the system status is no longer valid	{DATE_TIME_FORMAT}
5	System status dissemination date and time	Date and time on which the system status is disseminated by the CTP	{DATE_TIME_FORMAT}
6	System status	Description of the status of the trading system. The trading system can be: (1) subject to an outage; or (2) in one of the following trading phase: pre-opening, opening auction, trading, closing auction, trading-at-last, closed.	[Code to be determined]

Table 5

Pre-trade core market data for shares and ETFs to be disseminated by the CTP

#	Field identifier	Description	Format as defined in Table 1	Trading system
1	Entry date and time	Field 1 (of Table 1b of Commission delegated Regulation 2015/587) of the best bids and offers into the order book. The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	{DATE_TIME_FORMAT}	For continuous order books and periodic auctions
2	Instrument identification code	Field 2 of Table 1b of Commission delegated Regulation 2015/587.	{ISIN}	For continuous order books and periodic auctions
3	Best bid	European best bid (Field 4 of Commission delegated Regulation 2015/587) in continuous order books.	{DECIMAL-18/13}	For continuous order books
4	Best bid currency	Major currency unit in which the European best bid is expressed (Field 6 of Commission delegated Regulation 2015/587).	{CURRENCYCODE_3}	For continuous order books
5	Best bid volume	The corresponding volume to the European best bid (Field 8 of Commission delegated Regulation 2015/587).	{DECIMAL-18/17}	For continuous order books
6	EBBO timestamp	Date and time of the EBBO, The level of granularity shall be in accordance with the requirements set out in Article 2 of Delegated Regulation (EU) 2017/574.	{DATE_TIME_FORMAT}	
7	Best offer	European best offer (Field 4 of Commission delegated Regulation 2015/587) in continuous order books.	{DECIMAL-18/13}	For continuous order books
8	Best offer currency	Major currency unit in which the European best offer is expressed (Field 6 of Commission delegated Regulation 2015/587).	{CURRENCYCODE_3}	For continuous order books

9	Best offer volume	The corresponding volume to the European best offer (Field 8 of Commission delegated Regulation 2015/587).	{DECIMAL-18/17}	For continuous order books
10	Auction price	Field 4 of Table 1b of Commission delegated Regulation 2015/587.	{DECIMAL-18/17}	For periodic auctions
11	Auction volume	Field 8 of Commission delegated Regulation 2015/587	{DECIMAL-18/13}	For periodic auctions
12	Dissemination date and time	Date and time when the data related to the order was disseminated by the CTP to the subscribers	{DATE_TIME_FORMAT}	For continuous order books and periodic auctions
13	Publication date and time	Field 12 of Commission delegated Regulation 2015/587	{DATE_TIME_FORMAT}	For continuous order books and periodic auctions

Table 6

Post-trade core market data to be disseminated

#	Field identifier	Description	Format as defined in Table 1
1	Dissemination date and time	Date and time when the data related to the transaction was disseminated by the CTP to the subscribers	{DATE_TIME_FORMAT}

10.4.9 Consolidated version of Table 3 of Annex II of RTS 2 (flags)

Table 3

List of flags for the purpose of post-trade transparency

POST-TRADE DEFERRAL FLAGS FOR DERIVATIVES			
'LRGS'	Post-trade LIS transaction flag	RM, MTF, OTF, APA, CTP	Transactions executed under the post-trade large in scale deferral
'ILQD'	Illiquid instrument transaction flag	RM, MTF, OTF, APA, CTP	Transactions executed under the deferral for instruments for which there is not a liquid market
'SIZE'	Post-trade SSTI transaction flag	RM, MTF, OTF, APA, CTP	Transactions executed under the post-trade size specific to the instrument deferral

POST-TRADE DEFERRAL FLAGS FOR BONDS (EXCEPT ETCS AND ETNS)			
Flag	**Name**	**Type of execution or publication venue**	**Description**
'MLF1'	Medium Liquid flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a medium size in a financial instrument for which there is a liquid market in accordance with Article 8a(2)(a) of this regulation.
'MIF2'	Medium Illiquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a medium size in a financial instrument for which there is not a liquid market in accordance with Article 8a(2)(b) of this regulation.

'LLF3'	Large Liquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a large size in a financial instrument for which there is a liquid market in accordance with Article 8a(2)(c) of this regulation.
'LIF4'	Large Illiquid Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a large size in a financial instrument for which there is not a liquid market in accordance with Article 8a(2)(d) of this regulation.
'VLF5'	Very Large Flag	RM, MTF, OTF, APA	Transactions in bonds benefiting from a deferral applicable to transactions of a very large size in accordance with Article 8a(2)(e) of this regulation.

POST-TRADE DEFERRAL FLAGS FOR ETC, ETN, SFP, EMISSION ALLOWANCES			
Flag	**Name**	**Type of execution or publication venue**	**Description**
'DEFR'	Deferral for ETCs, ETNs, SFPs and emission allowances	RM, MTF, OTF, APA	Transactions in ETCs, ETNs, SFPs and emission allowances, which benefit from a deferral specified under Article 8a(1) of this Regulation

SUPPLEMENTARY DEFERRAL FLAGS FOR DERIVATIVES [references to Article 11 of MiFIR before the MiFIR review]				
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), point (a)(i).
	'FULF'	Full details flag		Transaction for which limited details have been previously published in accordance with Article 11(1), point (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), point (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), point (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), point (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), point (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), point (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), point (c).
~~Article 11(1)(d)~~	~~'IDAF'~~	~~Indefinite aggregation flag~~	~~RM, MTF,~~	~~Transactions for which the publication of several transactions in aggregated form for~~

			~~OTF, APA, CTP~~	~~an in definite period of time has been allowed in accordance with Article 11(1), point (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), point (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), point (c).~~

SUPPLEMENTARY DEFERRAL FLAGS FOR SOVEREIGN BONDS [references to Article 11 of MiFIR after the MiFIR review]				
Article 11(3)(a)	'OMIS'	Volume omission flag	RM, MTF, OTF, APA	Transaction for which limited details are published in accordance with Article 11(3), point (a) of MiFIR.
	'FULO'	Full details flag	RM, MTF, OTF, APA	Transaction for which limited details have been previously published in accordance with Article 11(3), point (a) of MiFIR
Article 11(3)(b)	'AGGR'	Four weeks aggregation flag	RM, MTF, OTF, APA	Publication of aggregated transactions in accordance with Article 11(3), point (b) of MiFIR.

	'FULG'	Full details flag	RM, MTF, OTF, APA	Individual transactions which have previously benefited from aggregated publication in accordance with Article 11(3), point (b) of MiFIR.

Other Flags			
'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.
'ACTX'	Agency cross transaction flag	APA~~, CTP~~	Transactions where an investment firm has brought together two clients' orders with the purchase and the sale conducted as one transaction and involving the same volume and price.
'NPFT'	Non-price forming transaction flag	RM, MTF, OTF, APA~~, CTP~~	Non-price forming transactions as set out in Article 2(5) of Delegated Regulation (EU) 2017/590.
'TPAC'	Package transaction flag	RM, MTF, OTF, APA~~, CTP~~	Package transactions which are not exchange for physicals as defined in Article 1.
'XFPH'	Exchange for physicals transaction flag	RM, MTF, OTF, APA~~, CTP~~	Exchange for physicals as defined in Article 1.
'CANC'	Cancellation flag	RM, MTF, OTF, APA~~, CTP~~	When a previously published transaction is cancelled.
'AMND'	Amendment flag	RM, MTF, OTF, APA~~, CTP~~	When a previously published transaction is amended.
'PORT'	Portfolio trade flag	RM, MTF, OTF, APA~~, CTP~~	Transaction in five or more different financial instruments where those transactions are traded at the same time by the same client and against a single

			lot price and that is not a 'package transaction' as referred to in Article 1(1).
MHPT	Matched principal trading flag	OTF	Matched principal transactions as set out in Article 4(1)(38) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments

10.5 Annex VII - Liquidity assessment tables

TABLE 16 – LIQUIDITY ASSESSMENT FOR SHARES IN YEAR 2023: OLD VS. NEW METHODOLOGY[42]

	Old methodology based on free-float or market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
AT	21	0.62%	0.87%	44	0.17%	0.38%
BE	35	1.95%	2.33%	173	0.39%	1.48%
BG	-	0.00%	0.00%	235	0.03%	0.05%
CY	-	0.00%	0.00%	91	0.01%	0.02%
CZ	3	0.06%	0.06%	28	0.02%	0.07%
DE	347	33.69%	25.16%	7,293	74.78%	34.72%
DK	39	2.65%	3.61%	124	8.18%	7.16%
EE	-	0.00%	0.00%	18	0.01%	0.35%
ES	53	6.17%	5.63%	170	0.39%	1.61%
FI	35	2.52%	3.77%	114	0.47%	2.38%

[42] Since the results were manually replicated outside FITRS, there might be some small discrepancies with the annual transparency results published by 1st March.

	Old methodology based on free-float or market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
FR	123	22.44%	20.04%	592	7.35%	11.05%
GR	17	0.24%	0.51%	132	0.24%	1.75%
HR	-	0.00%	0.00%	83	0.02%	0.05%
HU	3	0.08%	0.09%	31	0.05%	0.31%
IE	16	1.39%	1.18%	417	0.39%	0.13%
IS	-	0.00%	0.00%	19	0.36%	0.07%
IT	78	9.47%	10.07%	240	1.24%	5.37%
LT	-	0.00%	0.00%	27	0.02%	0.23%
LU	-	0.00%	0.00%	18	0.00%	0.00%
LV	-	0.00%	0.00%	9	0.00%	0.02%
MT	-	0.00%	0.00%	27	0.00%	0.00%
NL	45	10.09%	9.29%	81	2.87%	3.84%
NO	65	2.10%	4.03%	143	0.67%	3.88%
PL	26	0.54%	2.06%	634	0.65%	7.75%
PT	12	0.63%	0.77%	35	0.05%	0.19%
RO	3	0.01%	0.04%	311	0.07%	0.64%
SE	120	5.38%	10.50%	590	1.54%	16.46%

	Old methodology based on free-float or market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
SI	-	0.00%	0.00%	114	0.03%	0.03%
SK	-	0.00%	0.00%	46	0.01%	0.00%
TOTAL	1,041	89.49%	90.43%	11,839	10.51%	9.57%

	New methodology solely based on market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
AT	21	0.61%	0.86%	44	0.18%	0.41%
BE	36	1.94%	2.32%	172	0.37%	1.47%
BG	-	0.00%	0.00%	235	0.03%	0.05%
CY	-	0.00%	0.00%	91	0.01%	0.03%
CZ	3	0.06%	0.06%	28	0.02%	0.08%
DE	353	33.95%	25.38%	7,287	74.96%	33.15%
DK	39	2.64%	3.58%	124	8.69%	7.67%
EE	-	0.00%	0.00%	18	0.01%	0.37%
ES	55	6.13%	5.61%	168	0.36%	1.52%
FI	37	2.52%	3.76%	112	0.31%	2.37%
FR	124	22.37%	19.92%	591	7.02%	11.70%
GR	17	0.23%	0.51%	132	0.25%	1.87%
HR	-	0.00%	0.00%	83	0.03%	0.05%
HU	3	0.08%	0.09%	31	0.06%	0.33%
IE	16	1.38%	1.17%	417	0.42%	0.14%
IS	-	0.00%	0.00%	19	0.38%	0.08%
IT	83	9.48%	10.22%	235	0.65%	3.52%
LT	-	0.00%	0.00%	27	0.02%	0.25%

	New methodology solely based on market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
LU	-	0.00%	0.00%	18	0.00%	0.01%
LV	-	0.00%	0.00%	9	0.00%	0.02%
MT	-	0.00%	0.00%	27	0.00%	0.00%
NL	45	10.02%	9.23%	81	3.05%	4.11%
NO	65	2.09%	4.00%	143	0.71%	4.16%
PL	27	0.54%	2.07%	633	0.66%	8.05%
PT	12	0.62%	0.76%	35	0.05%	0.21%
RO	3	0.01%	0.04%	311	0.07%	0.69%
SE	120	5.34%	10.42%	590	1.64%	17.64%
SI	-	0.00%	0.00%	114	0.03%	0.03%
SK	-	0.00%	0.00%	46	0.01%	0.00%
TOTAL	**1,059**	**90.11%**	**91.07%**	**11,821**	**9.89%%**	**8.93%**

TABLE 17 – LIQUIDITY ASSESSMENT FOR SHARES IN YEAR 2022: OLD VS. NEW METHODOLOGY[43]

	Old methodology based on free-float or market cap					
RCA	**Liquid shares**	**% of turnover**	**% of transactions**	**Illiquid shares**	**% of turnover**	**% of transactions**
AT	22	0.79%	0.95%	43	0.20%	0.45%
BE	37	2.04%	2.41%	171	0.95%	2.23%
BG	-	0.00%	0.00%	234	0.04%	0.06%
CY	-	0.00%	0.00%	101	0.01%	0.02%
CZ	3	0.06%	0.06%	28	0.03%	0.07%
DE	308	31.66%	23.03%	7,333	82.60%	48.00%
DK	41	3.64%	4.25%	122	0.45%	0.99%
EE	-	0.00%	0.00%	18	0.01%	0.41%
ES	55	5.69%	5.58%	168	0.30%	1.38%
FI	40	3.02%	4.11%	109	0.36%	2.48%
FR	131	21.88%	20.74%	584	6.95%	9.08%
GR	13	0.15%	0.32%	136	0.23%	1.50%
HR	-	0.00%	0.00%	83	0.05%	0.06%

[43] Since the results were manually replicated outside FITRS, there might be some small discrepancies with the annual transparency results published by 1st March 2023.

	Old methodology based on free-float or market cap					
RCA	**Liquid shares**	**% of turnover**	**% of transactions**	**Illiquid shares**	**% of turnover**	**% of transactions**
HU	3	0.11%	0.12%	31	0.03%	0.24%
IE	15	1.15%	1.19%	418	0.52%	0.15%
IS	-	0.00%	0.00%	19	0.51%	0.09%
IT	87	8.61%	9.09%	231	0.63%	3.05%
LT	-	0.00%	0.00%	27	0.02%	0.29%
LU	-	0.00%	0.00%	18	0.00%	0.01%
LV	-	0.00%	0.00%	9	0.00%	0.02%
MT	-	0.00%	0.00%	27	0.00%	0.00%
NL	49	11.32%	10.24%	77	2.73%	2.34%
NO	64	2.56%	4.14%	144	1.02%	4.98%
PL	25	0.48%	1.50%	646	0.60%	6.89%
PT	12	0.63%	0.74%	35	0.04%	0.15%
RO	3	0.01%	0.03%	311	0.08%	0.61%
SE	136	6.17%	11.51%	574	1.60%	14.44%
SI	-	0.00%	0.00%	114	0.04%	0.04%
SK	-	0.00%	0.00%	46	0.00%	0.00%
TOTAL	**1,044**	**90.25%**	**92.22%**	**11,857**	**9.75%**	**7.78%**

	New methodology solely based on market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
AT	22	0.77%	0.92%	43	0.26%	0.64%
BE	40	2.07%	2.45%	168	0.28%	1.46%
BG	-	0.00%	0.00%	234	0.05%	0.08%
CY	-	0.00%	0.00%	101	0.01%	0.03%
CZ	3	0.06%	0.05%	28	0.03%	0.09%
DE	331	33.19%	24.49%	7,310	79.16%	33.13%
DK	41	3.55%	4.15%	122	0.59%	1.40%
EE	-	0.00%	0.00%	18	0.02%	0.58%
ES	55	5.55%	5.44%	168	0.39%	1.95%
FI	40	2.94%	4.01%	109	0.47%	3.50%
FR	134	21.35%	20.29%	581	8.96%	12.12%
GR	13	0.15%	0.31%	136	0.30%	2.12%
HR	-	0.00%	0.00%	83	0.06%	0.08%
HU	3	0.11%	0.12%	31	0.04%	0.33%
IE	15	1.13%	1.16%	418	0.68%	0.21%
IS	-	0.00%	0.00%	19	0.67%	0.12%
IT	88	8.40%	8.89%	230	0.74%	4.04%

	New methodology solely based on market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
LT	-	0.00%	0.00%	27	0.03%	0.40%
LU	-	0.00%	0.00%	18	0.00%	0.01%
LV	-	0.00%	0.00%	9	0.00%	0.02%
MT	-	0.00%	0.00%	27	0.00%	0.00%
NL	50	11.05%	10.00%	76	3.52%	3.20%
NO	68	2.53%	4.11%	140	0.98%	5.78%
PL	26	0.48%	1.49%	645	0.73%	9.33%
PT	12	0.62%	0.72%	35	0.05%	0.21%
RO	3	0.01%	0.02%	311	0.11%	0.86%
SE	139	6.05%	11.36%	571	1.81%	18.23%
SI	-	0.00%	0.00%	114	0.05%	0.06%
SK	-	0.00%	0.00%	46	0.01%	0.00%
TOTAL	**1,083**	**92.53%**	**94.49%**	**11,818**	**7.47%**	**5.51%**

TABLE 18 – LIQUIDITY ASSESSMENT FOR SHARES IN YEAR 2021: OLD VS. NEW METHODOLOGY[44]

	Old methodology based on free-float or market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
AT	23	0.75%	0.84%	42	0.11%	0.28%
BE	38	2.02%	2.30%	170	0.66%	1.74%
BG	-	0.00%	0.00%	235	0.03%	0.04%
CY	-	0.00%	0.00%	105	0.00%	0.01%
CZ	1	0.01%	0.01%	30	0.15%	0.25%
DE	176	26.73%	22.04%	7,465	83.46%	51.53%
DK	44	3.51%	4.43%	119	0.44%	0.69%
EE	-	0.00%	0.00%	18	0.01%	0.30%
ES	58	5.94%	6.05%	165	0.20%	0.89%
FI	42	3.08%	4.23%	107	0.23%	1.64%
FR	130	23.84%	20.32%	585	9.74%	14.37%
GR	14	0.14%	0.35%	135	0.27%	0.97%
HR	-	0.00%	0.00%	83	0.01%	0.04%

[44] Since the results were manually replicated outside FITRS, there might be some small discrepancies with the annual transparency results published by 1st March 2022.

	Old methodology based on free-float or market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
HU	3	0.11%	0.09%	31	0.02%	0.21%
IE	12	1.22%	1.02%	421	0.22%	0.18%
IS	-	0.00%	0.00%	19	0.28%	0.05%
IT	93	9.02%	8.89%	226	0.45%	2.22%
LT	-	0.00%	0.00%	27	0.02%	0.18%
LU	-	0.00%	0.00%	18	0.00%	0.01%
LV	-	0.00%	0.00%	9	0.00%	0.01%
MT	-	0.00%	0.00%	27	0.00%	0.00%
NL	55	13.07%	10.82%	62	0.99%	0.76%
NO	73	2.25%	4.41%	136	0.54%	3.29%
PL	27	0.57%	1.59%	638	0.47%	5.93%
PT	13	0.65%	0.77%	34	0.02%	0.08%
RO	1	0.00%	0.01%	313	0.07%	0.47%
SE	153	7.10%	11.82%	550	1.59%	13.85%
SI	-	0.00%	0.00%	114	0.02%	0.02%
SK	-	0.00%	0.00%	46	0.00%	0.00%
TOTAL	956	80.97%	86.87%	11,930	19.03%	13.13%

	New methodology solely based on market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
AT	23	0.67%	0.79%	42	0.22%	0.47%
BE	40	1.90%	2.30%	168	0.45%	1.32%
BG	-	0.00%	0.00%	235	0.05%	0.06%
CY	-	0.00%	0.00%	105	0.01%	0.02%
CZ	3	0.04%	0.04%	28	0.02%	0.07%
DE	335	33.50%	25.18%	7,306	75.91%	34.64%
DK	44	3.14%	4.17%	119	0.87%	1.15%
EE	-	0.00%	0.00%	18	0.03%	0.51%
ES	58	5.32%	5.70%	165	0.40%	1.50%
FI	42	2.75%	3.99%	107	0.46%	2.76%
FR	151	22.04%	19.97%	564	12.67%	14.46%
GR	14	0.13%	0.33%	135	0.55%	1.63%
HR	-	0.00%	0.00%	83	0.02%	0.06%
HU	3	0.10%	0.08%	31	0.05%	0.35%
IE	12	1.09%	0.97%	421	0.45%	0.31%
IS	-	0.00%	0.00%	19	0.56%	0.08%
IT	95	8.08%	8.39%	224	0.84%	3.54%

	New methodology solely based on market cap					
RCA	Liquid shares	% of turnover	% of transactions	Illiquid shares	% of turnover	% of transactions
LT	-	0.00%	0.00%	27	0.03%	0.30%
LU	-	0.00%	0.00%	18	0.00%	0.01%
LV	-	0.00%	0.00%	9	0.00%	0.02%
MT	-	0.00%	0.00%	27	0.00%	0.00%
NL	57	11.70%	10.22%	60	1.92%	1.08%
NO	76	2.03%	4.21%	133	0.93%	4.85%
PL	28	0.52%	1.55%	637	0.83%	9.32%
PT	13	0.58%	0.73%	34	0.04%	0.14%
RO	1	0.00%	0.01%	313	0.13%	0.79%
SE	159	6.42%	11.38%	544	2.52%	20.52%
SI	-	0.00%	0.00%	114	0.03%	0.03%
SK	-	0.00%	0.00%	46	0.00%	0.00%
TOTAL	1,154	90.50%	92.20%	11,732	9.50%	7.80%