

Public Statement

The transition to the new regime for post-trade transparency of OTC-transactions

ESMA is issuing this public statement in relation to the transition to the new regime for publication of OTC-transactions for post-trade transparency purposes (hereafter “DPE regime”) as introduced by the MiFIR review¹. This public statement complements [ESMA’s Public Statement of 27 March 2024](#) and aims at providing further practical guidance to market participants.

The MiFIR review introduced provisions empowering National Competent Authorities (NCAs) to grant the status of Designated Publishing Entity (DPE) to investment firms. According to Article 21a of MiFIR, DPEs, when they are party to a transaction, shall be responsible for making the transaction public through an approved publication arrangement (APA). The Regulation requires ESMA to establish by 29 September 2024 a public register of all DPEs, specifying their identity and the classes of financial instruments for which they act as DPEs.

DPE regime

The MiFIR review does not provide for a transitional provision for the application of the DPE regime for post-trade transparency.

Considering the need to ensure an orderly transition to the DPE regime, ESMA and NCAs have agreed on a two-steps approach: i) first, ESMA starts publishing the DPE register on 29 September 2024; and ii) second, the new DPE regime for post-trade transparency becomes fully operational **on 3 February 2025**. Therefore, ESMA expects that as of 3 February 2025, registered DPEs, which are party to a transaction, will make the transaction public through an APA. At the same time, ESMA expects that the current approach relying on Systematic Internalisers (SIs) to make transactions public through an APA should stop applying as of this date.

ESMA DPE register

Investment firms intending to become DPEs are encouraged to register with their NCA, indicating the classes of financial instruments for which they wish to take up this function (see Table 1 below) along with other identifying information requested by the NCAs (e.g. LEIs). NCAs will transmit the information regarding the DPEs for specific classes of financial

¹ Regulation (EU) 2024/791 of the European Parliament and of the Council of 28 February 2024 amending Regulation (EU) No 600/2014

instruments to ESMA so that the information is included in the future DPE public register. The granting of the DPE status can start anytime from now on.

As per the MiFIR legal requirements, ESMA will publish at the end of September 2024 the list of DPEs based on the information received by that time from NCAs. The DPE register will be initially made available on ESMA’s website in XLSX format and should allow market participants to prepare for the effective start of application of the DPE regime. The XLSX register will be updated regularly.

In parallel, ESMA will work on integrating the register in its IT systems so that it can be accessed on a dedicated portal similarly to other registers of entities (e.g. [SI register](#)). Indicatively, the go-live of the DPE register integrated into the ESMA’s IT systems, and hence the discontinuation of the XLSX version, is planned for the end of 2025. Following the integration into the IT systems, the ESMA register will be automatically updated with new information as soon as the respective modifications are introduced in the register by the NCA.

Table 1: Classes of financial instruments to be included in the DPE register

Equity instruments	Non-equity instruments
Shares	Bonds
Depositary receipts	ETCs
ETFs	ETNs
Certificates	Interest rate derivatives
Other equity-like financial instruments	Credit derivatives
	Structured finance products
	Emission allowances

Background

Taking into account the feedback received from stakeholders requesting some time to prepare for the transition to the new DPE regime, ESMA clarified in its public statement on 27 March 2024 that, until further notice, the previous regime, relying on SIs, should continue applying.

Moreover, in line with the clarifications provided by the Commission interpretive notice ², the set of rules applicable to reference data reporting, and the requirements for DPE in this respect, should become applicable as soon as the revised RTS 23 starts applying and in the meantime the rules, both in Level 1 prior to the MiFIR review and in the current RTS 23 will continue to apply.

Figure 1: Go-live of DPE register and DPE regime for post-trade transparency



² https://finance.ec.europa.eu/news/commission-publishes-draft-interpretative-notice-transitional-provision-mifir-review-2024-03-27_en