

Final Report

On Systematic Internaliser notification (new ITS), on the volume cap and transparency calculations (RTS 3) and circuit breakers (new RTS 7a)

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List of abbreviations and legal acts

APA	Approved Publication Arrangement
ARM	Approved Reporting Mechanism
CDR 2017/565	Commission Delegated Regulation (EU) 2017/565
CDR 2017/567	Commission Delegated Regulation (EU) 2017/567
CP	Consultation Paper
CTP	Consolidated Tape Provider
DORA	Digital Operational Resilience Act
DPE	Designated Publishing Entity
DTO	Trading obligation for derivatives
DR	Depository receipt
DVC	Double Volume Cap
EC	European Commission
ESMA	European Securities and Markets Authority
ETF	Exchange Traded Funds
FIRDS	Financial Instruments Reference Data System
FITRS	Financial Instruments Transparency System
FR	Final report
ITS	Implementing Technical Standards
MIC	Market Identifier Code
MiFID	Markets in Financial Instruments Directive
MiFIR	Markets in Financial Instruments Regulation
MiFIR review	Regulation (EU) 2024/791 amending MiFIR
MTF	Multilateral Trading Facility
NCA	National Competent Authority
NT	Negotiated trade
OTC	Over-the-counter

OTF	Organised Trading Facility
PoC	Proof of Concept
RM	Regulated Market
RPW	Reference Price Waiver
RTS	Regulatory Technical Standards
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 4	Commission Delegated Regulation (EU) 2016/2020
RTS 7	Commission Delegated Regulation (EU) 2017/584
RTS 11	Commission Delegated Regulation (EU) 2017/588
RTS 22	Commission Delegated Regulation (EU) 2017/590
RTS 23	Commission Delegated Regulation (EU) 2017/585
SFP	Structured Finance Products
SI	Systematic Internaliser
SMSG	Securities and Markets Stakeholder Group
STO	Trading obligation for shares
SVC	Single Volume Cap

1 Executive Summary

Reasons for publication

The revised MIFIR and MiFID II were published in the Official Journal of the EU on 8 March 2024. In this context, ESMA has been empowered to develop various technical standards further specifying certain provisions.

This Final Report (FR) includes the proposals for i) a new ITS for the notification of investment firms acting as Systematic Internalisers (SIs) to competent authorities, ii) an amendment of the existing RTS on the volume cap and on transparency calculations and; (iii) a recast 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.

Contents

Following a general introduction (section 2), this FR summarises for each topic the proposals in the Consultation Paper, the feedback received, and ESMA's assessment and next steps. These next steps are reflected in the revised Technical Standards annexed in this Report, together with the summaries of questions (Annex I), legislative mandates (Annex II) and Cost-Benefit Analyses, where relevant (Annex III).

Section 3 focuses on the Implementing Technical Standards (ITS) on Systematic Internaliser (SI) notification defining a procedure to be followed by investment firms that act as SIs, and the template to be used for notifying a National Competent Authority.

Section 4 contains the proposed amendments to the existing RTS 3, reflecting the switch from Double to Single Volume Cap introduced by the MiFIR review, as well as the upcoming use of transaction reporting data for transparency calculations. ESMA confirms the phasing out of daily reporting requirements for data flowing into the FITRS and DVC systems, acting as a concrete and substantial contribution to the reduction of the overall reporting burden.

Section 5 presents the draft RTS 7a, specifying organisational requirements for trading venues. The RTS includes new provisions related to the establishments of circuit breakers and targeted amendments to provisions previously included in RTS 7, which have been revised due to the entry into application of the DORA framework.

Next Steps

ESMA submitted the final report to the European Commission on 10 April 2025. In accordance with Articles 10 and 15 of ESMA Regulation, the Commission has three months to decide whether to endorse the proposed amendments to the RTS and the proposed ITS.

2 Introduction

1. On 20 December 2022, the EC adopted two legislative proposals for the review of MiFIR and 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 of the EU reached political agreement on a compromise text. The final legislative amending texts of MiFIR and MiFID II were published in the Official Journal of the EU 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.
4. According to Articles 10 and 15 of the ESMA Regulation, ESMA has conducted a public consultation before submitting draft RTS and ITS to the EC. The MSG has been also consulted as per Article 37 of the ESMA Regulation and provided advice on new requirements on circuit breakers.
5. 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 to apply¹.

¹ Once RTS 7a starts applying the Guidelines will be repealed and the Supervisory Briefing amended to remove guidance that has been integrated into the RTS 7a requirements.

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

3.1 Introduction

6. 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).
7. The SI regime is a part of the MiFID II, the CDR 2017/565 and the transparency regime under Title III Articles 14 to 19 of MiFIR. The SI regime applies to investment firms that execute client orders over the counter (OTC) on an organised, frequent, and systematic basis or where the investment firm chooses to opt-in to the SI regime. Put differently, these firms are trading in financial instruments without the use of a formal trading venue, and they do so regularly and systematically.
8. Whether an investment firm executes orders on a frequent and systematic basis will be determined only by a qualitative assessment. Considering that MiFID II has been 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.

3.2 Proposal in the CP

9. In view of the MiFID II amendments and the mandate set out in Article 15(5) of MiFIR, ESMA's CP proposed a standard template to be used by firms for the notification to their NCA when they meet the definition of an SI or opt into the SI regime. The NCA shall transmit the respective notification to ESMA, which will maintain a register of all SIs established in the European Union. Thus, the proposed template includes content to be used for the purpose of ESMA's SI register.
10. The proposal indicated that a first notification shall be submitted to the NCA when a firm commences activities as an SI in one or more classes of financial instruments or decides to opt-in. Submission of notification should be preferably in an electronic format.
11. The proposed notification template covered 4 sections:

- a. An introductory part indicating the purpose of the submission (e.g. entity met the SI definition; decided to opt-in);
 - b. A section including information to be populated with the details of the Investment Firm 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;
 - d. Lastly, a section for the signature of the person authorised to represent the entity.
12. Regarding when such notifications should be submitted, ESMA proposed that, following the first notification, a new one should be submitted in case of any change in the contact details provided in the previous notification form or any change in the activities carried out as SIs. The latter includes cases when 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.
13. Finally, in the view of the changes and the need to create a new version of the SI register, ESMA suggested that all investment firms that intend to start or continue carrying out activities as SIs in any class of financial instruments submit a new notification in accordance with the new template. That requirement also refers to entities that are included in the current SI register.

3.3 Feedback from consultation

14. Overall, respondents did not oppose the proposed draft template and only suggested minor amendments. ESMA also took note of a few comments referring to additional guidance on the implementation side (e.g. which entity should be the recipient of the form in case of a firm operating a subsidiary in different jurisdictions, the consequences of delayed notification, etc.).
15. In addition, one respondent did not agree to the resubmission of the form by existing SIs stating that it would be an administrative burden for businesses that are known to their NCAs. Some other respondents suggested distinguishing between firms that opt in and those that qualify as SIs. Furthermore, some respondents proposed to include information regarding the governance of the SIs and their operational and digital resilience in the notification template.
16. As regards the proposed field for the APA MIC in the template, mixed feedback was received with most respondents suggesting to remove that field. In addition, a respondent questioned the inclusion of the fields for securitised derivatives and other

derivatives given the MiFIR review removes those instruments from the transparency regime.

17. Lastly, as regards the notification timeline (two weeks), some respondents considered it to be a short period for a firm to gather all the relevant information and to execute internal procedures for approval of submission.

3.4 ESMA's assessment and next steps

18. As compared to the proposal included in the CP, ESMA has reduced the number of fields in the template to ease the reporting, striking a balance between brevity and completeness, removing fields deemed less necessary while retaining essential information.
19. In particular, the contact details of the compliance officer, information as to whether the SI also acts as DPE as well as the description of the operated system have been removed. The information on the head office address and home member state has also been removed as that information can be derived from the LEI code.
20. At the same time, the granularity of asset classes included in the template has been maintained considering also the Level 1 provision allowing firms to opt-into the regime – i.e. including to execute orders in securitised derivatives and other derivatives that fall out of the scope of the transparency regime under MiFIR/D Furthermore, changes in the template to be able to clearly distinguish between new or previously notified instruments (for which the entity still acts as an SI) and for those instruments for which the reporting entity no longer intends to act as an SI, have been introduced. The addition will eliminate the need for multiple form submissions in case an SI becomes active in a new asset class while simultaneously becoming inactive in another one.
21. At the same time, ESMA supports stakeholders' proposal to prolong the period for notification from two weeks and hence extended it to 20 calendar days. This will provide SIs with sufficient time for internal procedures, while not overly impacting the need to have an up-to-date register.
22. All existing SIs will have to resubmit the notification as it is important that the new register does not contain outdated information in the context of the overhaul of the SI regime. This should result in only limited administrative burden as the template was shortened and mainly contains information that is readily available to entities.
23. Finally, ESMA will discuss with NCAs the areas where further guidance is required. Market participants are invited to contact their NCAs to request clarifications, this will serve as a source for determining the need for further guidance to the wider market.

4 Amendment to Commission Delegated Regulation 2017/577 (RTS 3): volume cap and transparency calculations

4.1 Proposal in the CP

24. 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. The MiFIR review introduced amendments to this 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 to 7% 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 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), by 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).

25. The reference to 'total trading volume in the Union' as denominator for the 7% threshold for the SVC should be understood as referring to 'total volume of trading in that financial instrument on all trading venues across the Union over the previous 12 months', as recital (6) of the MiFIR review expresses the co-legislators' clear intention to maintain the effectiveness of the volume cap.

26. In light of the specific transitional provision in Article 5(8) of MiFIR², the current DVC, as well as ongoing suspensions, continues applying until the start of publications and suspensions under the new single volume cap on 29 September 2025. ESMA is required to produce a yearly report to assess the threshold of the volume cap as of 29

² The period for the publication of trading data by ESMA, and the period for which trading in a financial instrument under the waiver is to be monitored, shall start on 29 September 2025.

September 2027, as well as a one-time report assessing the appropriateness of the volume cap by 29 March 2028.

27. 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.
28. To ease the transition from the current to the new reporting regime, ESMA proposed technical changes to Articles 1 and 5 of RTS 3 on the general principles applicable to the provision of information for the purposes of transparency and other calculations, including a lengthening of the obligation to maintain records from three years to five years and a change from XML to JSON to the format mandated in Article 4 of RTS 3.
29. In Articles 6 and 8 of RTS 3 on the reporting requirements for the volume cap, ESMA proposed to reflect the direct reporting from trading venues to ESMA implemented since 2021, together with technical amendments in line with the changes of the MiFIR review.
30. ESMA also proposed two options for reporting from trading venues and CTPs upon request to ESMA: a) continue to apply the existing bi-weekly reporting from trading venues, and b) decrease the frequency of reporting from bi-weekly to monthly, on the sixteenth day of each calendar month for the previous month.

4.2 Feedback to consultation

31. Overall, respondents unanimously agreed to the proposed amendments to RTS 3 and its Annex, recognising they stem directly from the changes introduced in the MiFIR review.
32. A few respondents shared their doubts on the requirement for trading venues to provide a sufficiently granular trading identifier to identify the volumes executed under a RPW in Article 6(3) of the RTS in force, noting that the identification of such volumes is done based on post-trade flags. These respondents used as an example a dark venue that would be using the same MIC as the lit book.
33. Other respondents called for an appropriate implementation timeline, and one respondent also called for statistics on the relative contribution of RPW and NT1 respectively to total dark trading and suspensions.
34. Respondents' views were mixed on the use of JSON format for reporting requirements in relation to transparency calculations. A few respondents explicitly supported the transition to JSON, and others opposed it due to the lack of clearly identified benefits.

A few respondents called for the temporary use of both XML and JSON, while one respondent rejected the idea of an interim phase.

35. Most respondents converged on the need for ESMA to articulate a clear and holistic approach on applicable formats across all reporting requirements and to provide an implementation period for market participants to adapt to newly prescribed formats.
36. A large majority of respondents were in favour of a switch to monthly reporting, with one respondent expressing a preference for maintaining the current bi-weekly frequency and another respondent staying neutral.
37. Some respondents highlighted the significant changes to the existing systems and processes linked to a switch to monthly reporting, calling for an implementation period to put in place these changes. A few respondents also asked for a clarification on whether they would need to resubmit the data of the 12 months before 29 September 2025, arguing that such a duplication of reporting with two different set of parameters may prove burdensome.

4.3 ESMA's assessment and next steps

38. As outlined in the Final Report on equity transparency³ published on 16 December 2024, ESMA has considered decommissioning FITRS and DVC systems and using transaction data reported under Article 26 of MiFIR for performing transparency calculations. More specifically, FITRS quantitative data will be decommissioned on 1 January 2026 and FITRS reference data will be decommissioned on 1 January 2027.
39. This change entails the phasing out of the daily reporting requirements for TVs, APAs and CTPs enabled by RTS 3, as the transparency calculations will be performed with data reported by Investment Firms and Approved Reporting Mechanisms (ARMs) under RTS 22. This simplified approach is a concrete and substantial contribution to ESMA's objective to reduce the overall reporting burden.
40. By design, this changed and simplified approach addresses comments expressed on the need for an appropriate implementation timeline, as the relevant calculations will be performed based on the current reporting framework for transaction data, with post-trade flags. In response to the comment on the sufficiently granular trading venue identifier, ESMA reminds market participants that the use of the segment MIC is

³ https://www.esma.europa.eu/sites/default/files/2024-12/ESMA74-2134169708-7636_MiFIR_Review_Final_Report_on_Equity_transparency.pdf

mandated for the 'venue' field in the MiFIR transaction reporting validation rules, and that the operating MIC should only be used where the segment MIC does not exist.

41. The amendments necessary to implement the discontinuation depends on whether the relevant provisions are specified in other delegated acts (RTS or CDR) or directly in RTS 3.
42. **Equity transparency:** As regards calculations for equity transparency, ESMA notes that the Final Report on equity transparency⁴ specifies the content of the data requests that are set to be discontinued with the decommissioning of FITRS quantitative data by 1 January 2026 and for FITRS reference data by 1 January 2027, both in the revised Article 20 in RTS 1. The Technical Advice on CDR 2017/567, included in the same Final Report, also recommends modifications to the content of the data to be provided for the purpose of determining a liquid market for equity and equity-like instruments, in light of the use of transaction reporting data to perform the transparency calculations from 1 January 2026.
43. While the cross-references to RTS 1 and CDR 2017/567 are maintained in Article 1 of RTS 3, to fulfil ESMA's empowerment in Article 22(3), the related reporting requirements for trading venues, APAs and CTPs will no longer be applicable in line with the timeline foreseen in RTS 1 and CDR 2017/567.
44. **Non-equity transparency:** the introduction of static thresholds for liquidity determination removes the need to perform transparency calculations for non-equity transparency, while the use of reference data may still be required for calculations related to derivatives. Similarly to equity transparency, the cross-reference to RTS 2 is maintained in RTS 3, but the relevant reporting requirements for TVs, APAs and CTPs will no longer applied as the revised provisions in RTS 2 become applicable.
45. **Volume cap:** ESMA has carried out a dedicated Proof of Concept (PoC) to assess whether transaction data reported as per Article 26 of MiFIR could be used to obtain sufficient information and perform the volume cap calculations. Thanks to positive results on data quality in this PoC, ESMA confirms the use of transaction data for the transparency calculations related to the volume cap, and the discontinuation of the DVCAP reporting.
46. This discontinuation renders obsolete the proposed switch from bi-weekly to monthly reporting and entails the removal of the related reporting requirements from RTS 3.

⁴ Ibid

47. ESMA intends to start performing calculations for volume cap publications using transaction data from 29 September 2025, for the first publication for the SVC results scheduled on 9 October 2025, (i.e. within seven working days of the end of September as per Article 4 of MiFIR)⁵. Should the revised RTS 3 not be in force at that time, ESMA intends to issue guidance clarifying that TVs would no longer be expected to report DVCAP data to ESMA under the current rules.
48. **SI calculations:** the MiFID II review removed the quantitative test for determining whether an investment firm qualifies as an SI, further specified in Articles 12 to 16 of CDR 2017/565. This change will only start applying once the changes to MiFID II are transposed into national law, by 29 September 2025. On 24 January 2025, ESMA has announced the discontinuation of the voluntary publication of quarterly SI publications⁶. The cross-reference to CDR 2017/565 in RTS 3 is deleted accordingly.
49. **Ad-hoc data requests:** the possibility for ESMA and NCAs to request additional information from TVs, APAs and CTPs is maintained as per the current Article 2(2) of RTS 3. Such ad-hoc data requests may for example be used for the report assessing the appropriateness of the volume cap mandated under Article 52(14c) of MiFIR, and more broadly to analyse unforeseeable developments impacting markets in the EU.
50. As part of its burden reduction efforts, ESMA will continue to rely as much as possible on existing datasets, including transaction reports, and to only explore ad-hoc data requests where necessary.
51. **Trading obligation for derivatives (DTO):** given no specific changes were introduced by the MiFIR review as regards the trading obligation for derivatives, further specified in RTS 4, the current reporting requirements under RTS 3 in relation to the DTO are maintained.
52. **Format of data requests:** the wording specifying the format of the data requests in Article 4 of RTS 3 is adapted to ensure that ESMA and NCAs can define such format flexibly for each ad-hoc request or requests in relation to the DTO. XML reporting will be maintained for transparency and other calculations until the end of the phasing out of daily reporting requirements. ESMA does not intend to use formats such as XML or JSON for ad-hoc or DTO requests.
53. **Sunset clause:** The current structure of RTS 3 is maintained as it is directly linked to the topics specified in the empowerment in Articles 5(4) and 22(3) of MiFIR. However, the content of the data to be reported by TVs, APAs and CTPs will be gradually phased

⁵ <https://www.esma.europa.eu/double-volume-cap-mechanism>

⁶ <https://www.esma.europa.eu/press-news/esma-news/start-dpe-regime-3-february-and-end-publication-systematic-internalisers-data>

out of RTS 1, RTS 2 and CDR 2017/567. To ensure clarity for market stakeholders, ESMA therefore includes a sunset clause deleting the relevant provisions in RTS 3 to reflect this changed and simplified approach.

54. Following the phasing-out of daily reporting requirements for trading venues, APAs and CTPs, the revised RTS 3 will focus on three remaining areas: a) content, response times and format of ad-hoc requests from ESMA and competent authorities (Articles 2(2), 3(2) and 4(2)) ; b) reporting from market participants to ESMA for the purposes of the DTO (Article 7(2)) and c) reporting from ESMA for the purposes of the SVC (Article 8).
55. **Monitoring and impact analysis:** ESMA will monitor and analyse the impact of the changes the MiFIR review introduced to the equity and non-equity transparency regime. This monitoring and impact analysis will cover not only the implementation of the single volume cap, in anticipation of the review reports on the threshold and on the appropriateness of the volume cap, but also the application of waivers and deferrals and the regular recalibration of the non-equity deferral regime, as part of a wider analysis on the impact of the MiFIR review on the EU's trading landscape and patterns.

5 Recast of RTS 7 - new requirements on Circuit Breakers and amendments due to DORA framework

5.1 Introduction

5.1.1 Mandate

56. 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.~~

5.1.2 Background

57. Circuit breakers have a key role in protecting markets and maintaining orderly trading in case of episodes of high volatility materialising affecting specific instruments or the whole market.

58. As per Article 48(13) of previous MiFID II, ESMA had developed Guidelines on the calibration of circuit breakers and publication of trading halts⁷ (hereafter 'Guidelines') to achieve common standards for the calibration of circuit breakers by trading venues⁸ and to ensure consistent application of the relevant provisions.

⁷ https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-63_mifid_ii_guidelines_on_trading_halts.pdf

⁸ 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.

59. Additionally, in October 2023 ESMA issued a Supervisory briefing on the calibration of circuit breakers⁹ (hereafter ‘Supervisory Briefing’) which clarified certain concepts used in the Guidelines on circuit breakers through principle-based guidance.
60. As a follow up to the 2022 energy crisis, 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.
61. Additionally, Article 48(12) of revised MiFID II has been amended to mandate ESMA to develop an 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.

5.1.3 Analysis and Proposals

62. In the CP ESMA noted that as the provisions in Article 48 of MiFID II related to organisational requirements of trading venues are specified in RTS 7, the new mandate on circuit breakers could be integrated in RTS 7 through its recast.
63. Additionally, considering that Directive 2022/2556¹⁰ amended Article 48 of MiFID II to ensure consistency with the DORA framework, in the CP ESMA noted that some provisions currently contained in RTS 7 have become duplicative or conflicting with the requirements which are contained in DORA¹¹ which started applying in January 2025. Hence, ESMA proposed the revision of some of the provisions in RTS 7 in the context of this recast.
64. The next sections detail further the proposed approach on each mandate, the feedback to the consultation and the proposed way forward. The proposals haven

⁹ https://www.esma.europa.eu/sites/default/files/2023-10/ESMA74-2134169708-6975_Supervisory_Briefing_Circuit_Breakers.pdf

¹⁰ 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 relevance)

¹¹ 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>

been developed taking into account responses from stakeholders' and the advice from the SMSG¹².

65. The drafting proposal for the recast of RTS 7 (i.e. RTS 7a) is presented in Annex VI, Section 6.4.3.

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

5.2.1 Proposal in CP

66. In the CP ESMA explained that the aim of mandating circuit breakers for EU trading venues is to ensure that short term high volatility episodes are adequately managed.

67. Article 1 of the draft RTS provided definitions of key terms in the context of circuit breakers.

68. Article 17 of the draft RTS set out the general principles for establishing circuit breakers and proposed 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 conditions¹³.

69. The draft RTS also proposed that trading venues, independently from their choice to deploy trading halts or price collars, establish both static and dynamic circuit breakers. More specifically, it was proposed 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.

70. The draft RTS further included a requirement for trading venues to periodically reassess the adequacy of the type of circuit breakers established. Additionally, ESMA proposed to maintain relevant requirements under Articles 18 and 19 of RTS 7.

5.2.2 Feedback to consultation

71. In the CP, ESMA asked feedback to stakeholders on the proposed Article 1 of RTS 7a including definitions relevant to the RTS and on Article 17 of RTS 7a, on the general

¹² https://www.esma.europa.eu/sites/default/files/2024-10/ESMA24-229244789-5168_SMSG_advice_on_MiFID-MiFIR_third_consultation_package.pdf

¹³ It should be noted that 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.

principles in the establishment of circuit breakers. This section summarises the feedback received from stakeholders.

Article 1 - Definitions

72. Overall respondents agreed with the proposed Article 1. Some respondents suggested targeted amendments.
73. Several respondents commented that the definition of “algorithmic trading systems” in Article 1(1)(a) of RTS 7a is not sufficiently precise. Respondents proposed a drafting amendment to specify that the definition of algorithmic trading system refers to “any trading systems of the trading venue that allow or enable algorithmic trading”.
74. Some respondents noted that the definitions of 'trading halt' and 'price collar' provided in the draft RTS are mostly relevant to central limit order books or auction-based systems but less relevant to other types of trading systems. In the respondents' view these definitions reduce the discretion of market operators which is envisaged in Article 48 of MiFID II in the choice and calibration of circuit breakers. Hence, respondents proposed a more general reference to ‘any mechanism that can halt or constrain trading’ to encompass a wider variety of mechanisms.
75. One respondent suggested keeping the subject matter and scope as included in the previous RTS 7 and specifying that the subject matter currently encompasses the principles for the establishment of circuit breakers. The same respondent proposed that in the definition of “trading halts” in Article 1(c), the term ‘call’ (in ‘call Auctions’) should be removed because not explicitly defined within the MIFID II / MiFIR regulatory framework.

Article 17 – General principles in the establishment of Circuit Breakers

76. Most respondents supported the proposed approach as it ensures sufficient flexibility. Nevertheless, respondents proposed some targeted amendments.
77. Some respondents stated that for fixed income financial instruments static or dynamic circuit breakers do not appear suited as they do not account for the specificity of this market. They explained that price formation for fixed income instruments is done off venue, hence on venue price movements for less liquid symbols can be large and this is often not a result of disorderly trading. The respondents explained that other types of arrangements are deployed for those instruments (for example, warnings). The respondents proposed to leave trading venues some margin of discretion in choosing the most appropriate mechanism.

78. Several respondents noted that the wording in Article 17(2) should refer to “characteristics and circumstances” rather than only to “circumstances”.
79. A few respondents suggested leaving trading venues discretion to deploy only one type of circuit breaker without the need of justifying the choice to the relevant NCA. They suggested to mandate trading venues to provide evidence on the suitability of a single mechanism if requested by the NCA. Additionally, one respondent asked to provide further clarity on the calibration of dynamic price collars when those are based on the EBBO.

5.2.3 ESMA’s assessment and next steps

80. ESMA acknowledges the views expressed by respondents. Considering the definition of “algorithmic trading systems” in Article 1(1)(a) of RTS 7a, ESMA included the reference to “any arrangements or system of the trading venue that allow or enable participants to use algorithms”. ESMA believes this addition provides further clarity.
81. Considering the definition of circuit breakers in Article 1(1)(b) of RTS 7a and the definitions of trading halts and price collars, respectively in Article 1(1)(c) and (d) of RTS 7a, ESMA acknowledges that stakeholders note that these definitions are mostly relevant to central limit order books or auction-based systems, but less relevant to other types of trading systems.
82. Taking additionally into account the feedback received regarding the suitability of trading halts and price collars for fixed income instruments, ESMA proposes to specify further the definition of circuit breakers. Hence the definition in Article 1(1)(b) of RTS 7a is amended to clarify that circuit breakers can take the form of (i) trading halts and price collars for trading venues operating a central limit order book or a periodic auction trading system and (ii) trading halts, price collars and ‘any other arrangement that can halt or constrain trading’ for trading venues operating other types of trading systems.
83. The requirements in Article 17 of RTS 7a have also been amended accordingly, prescribing the establishment of circuit breakers in the form of ‘trading halts, price collars’ only for trading venues operating a central limit order book or periodic auction trading system. Whilst all trading venues are subject to the requirement to establish circuit breakers, those who do not operate a central limit order book or a periodic auction trading system are granted some additional flexibility in the design of those mechanisms.
84. ESMA considered the suggestion to grant trading venues discretion to deploy only one type of circuit breaker (i.e. static or dynamic circuit breakers) and, on request, being able to provide evidence of the suitability of such choice. ESMA notes that the choice

to deploy only one type of circuit breakers should result only in case of specific market characteristics or circumstances. Hence, ESMA deems that on balance requiring trading venues to demonstrate to the NCA that the volatility is adequately managed deploying only one type of circuit breaker is not excessively burdensome. Hence, no change is proposed to the drafting.

85. Additionally, in light of the feedback received, ESMA deleted the reference to ‘call auctions’ in Article 1(1)(c) of RTS 7a, which refers now to ‘auctions’ and amended Article 17(2) of RTS 7a, which now refers to “market-specific characteristics and circumstances” rather than only to “circumstances”.

5.3 Article 18 – General principles in the establishment of the methodology for the calibration of circuit breakers

5.3.1 Proposal in CP

86. The appropriate calibration of circuit breakers is essential to ensure these mechanisms have an effective role in curbing market volatility. In line with Article 48(5) of revised MiFID II, the approach proposed in the CP mandated trading venues to consider the specificities of their markets and of the financial instruments traded on those markets to ensure appropriate calibration.
87. Article 18 of the draft RTS mandated trading venues to establish a methodology for the calibration of circuit breakers and further specified which elements the methodology should consider.
88. Firstly, in the CP ESMA proposed that the methodology to calibrate circuit breakers should be documented and periodically reviewed, at least on a yearly basis.
89. Regarding the elements to be taken into account when developing the methodology, it was 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.
90. Article 18 of the draft RTS additionally included a requirement that the methodology should specify (i) the planned intervals for updating the static and dynamic reference

price and (ii) a non-exhaustive list of circumstances in which extraordinary updates of the reference price could take place.

5.3.2 Feedback to consultation

91. In the CP, ESMA asked feedback to stakeholders on the proposed Article 18, on the general principles in the establishment of the methodology for the calibration of circuit breakers. This section summarises the main feedback received from stakeholders.

Article 18 - General principles in the establishment of the methodology for the calibration of circuit breakers.

92. The majority of respondents agreed with the proposed methodology. A number of respondents noted that the calibration methodology should be established at the asset class or sub asset class level as in their view it would not be possible to set a methodology for the calibration tailored to each specific financial instrument.

93. One respondent suggested revising the requirement included in Article 18(1) of RTS 7a to take into account statistical evidence for updates affecting the calibration of circuit breakers. The respondent deemed this requirement too broad and possibly subject to divergent interpretations.

5.3.3 ESMA's assessment and next steps

94. Some stakeholders noted that the methodology for the calibration of circuit breakers should be designed at the asset class or sub asset class level. ESMA notes that the requirement in Article 18 of RTS 7a establishing that the methodology should consider some characteristics of the financial instrument does not preclude trading venues from establishing a methodology at the asset class or sub asset class level.

95. ESMA considers that the requirements in Article 18 of RTS 7a are meant to ensure that in cases when a financial instrument requires a specific calibration due to its specific characteristics (i.e. liquidity, quotation level and volatility of the instrument), those are considered to ensure appropriate calibration of the mechanisms. Hence, on balance ESMA does not propose modifying the current draft of Article 18 of RTS 7a.

96. Considering the comments on the requirements to base updates of circuit breakers on statistical evidence, ESMA suggests amending the relevant provision requiring the use of statistical evidence in cases where the latter is available to the trading venue.

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

5.4.1 Proposal in CP

97. The draft RTS proposed that the information to be disclosed to market participants regarding circuit breakers should broadly encompass the design and functioning of the mechanisms deployed and the effects which would result from the triggering of such mechanisms. The draft RTS additionally mandated trading venues to disclose the range of price collars publicly (i.e. the allowed price deviation within which transactions will not be rejected).
98. Article 19 of the draft RTS further proposed 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 and include a specific mentioning of the type of financial instrument to which the circuit breaker applies. Additionally, Article 19 of the draft RTS stated that trading venues are expected to publish on a yearly basis information on the triggering of circuit breakers.
99. 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.
100. ESMA further developed a proposed template to report information on circuit breakers and any material changes to the parameters to underpinning such mechanisms to the competent authority in a consistent and comparable manner, in line with Article 48(5) of the revised MiFID II.

5.4.2 Feedback to consultation

101. In the CP ESMA asked feedback to stakeholders on the proposed Article 19, on the disclosure requirements regarding circuit breakers and on the proposed template to report information to NCAs. This section summarises the main feedback received from stakeholders.

Article 19 – Disclosure requirements regarding circuit breakers

102. Respondents overall acknowledged the benefits of disclosing publicly information on the functioning of circuit breakers. Nevertheless, some respondents

raised concerns about the disclosure of granular information regarding the triggering of these mechanisms.

103. Several respondents noted that providing too granular information to the public on the triggering of circuit breakers could have a negative impact on the market and even erode market confidence if the information was interpreted in a misleading manner. Some respondents suggested that the disclosure of too granular information could lead to possible manipulative trading strategies. Overall, respondents agreed that information on circuit breakers should be published, however suggesting that statistics on the triggering of circuit breakers should be shared only with NCAs and possibly disclosed by NCAs if deemed useful.
104. One respondent suggested that TVs should disclose on their website in real time the triggering of circuit breakers.

Article 19(4) – Proposed template to report information to NCAs

105. Most of the respondents agreed on the proposed template to report information to NCAs. Some respondents provided targeted comments.
106. Some participants suggested that there should be the possibility to have an optional field in cases where the requirement does not apply to an instrument or a venue.
107. A few respondents stressed the need to be able to group instruments. Furthermore, some respondents proposed to provide a single answer for the rationale for using only dynamic circuit breakers as it is considered impossible to provide the details for the mechanism for each instrument.
108. A few respondents also recommended to include the number of times trading halts were triggered in the previous year, without these being made public.
109. One respondent noted that RFQ systems could have difficulties to provide the information requested in the template proposed in Article 19(4) as this seems to be tailored to central limit order book systems.

5.4.3 ESMA's assessment and next steps

110. Regarding the information to be disclosed to the public on circuit breakers, ESMA takes note of stakeholders' concerns. Hence, ESMA proposes: (i) to remove the requirement in Article 19(1)(f) of RTS 7a which states that TV should disclose to the public 'information on the triggering of circuit breakers, with at least an annual

frequency' and (ii) to include the communication of qualitative information on the triggering of circuit breakers in the template for reporting to NCAs.

111. Regarding the template for the information to be reported to NCAs following the feedback to the consultation ESMA has simplified the template. The template has also been modified to ensure that TVs operating systems other than CLOB and periodic auctions have the possibility to include further info on the type of circuit breakers they deploy if not using trading halts or price collars.

5.5 Amendments to RTS 7 in light of DORA provisions

5.5.1 Proposal in CP

112. DORA, which started applying on 17 January 2025, is *lex specialis* and therefore supersedes all sectoral legislation in the domain of digital operational resilience. Directive 2022/2556 amended Article 48 of MiFID II to ensure consistency with the DORA framework.
113. 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.
114. In the CP ESMA proposed to revise the requirements in 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.
115. Hence, it was proposed to delete Article 15 of RTS 7 ('Business continuity arrangements') as those requirements are now encompassed by the DORA framework.
116. Additionally, ESMA 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'.
117. Considering Article 23 of RTS 7 ('Security and limits to access'), it was proposed 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.

118. Additionally, ESMA proposed to amend Article 6 ('Outsourcing and procurement'), Article 16 ('Business continuity plan') and Article 17 ('Periodic review of business continuity arrangements') of RTS 7.

5.5.2 Feedback to consultation

119. In the CP ESMA asked feedback to stakeholders on the proposed amendments to RTS 7 in light of the DORA provisions. This section summarises the main feedback received from stakeholders.

Proposal to delete Articles 15 of RTS 7 ('Business continuity arrangements').

120. The majority of respondents agreed with the proposed deletion of Article 15 of RTS 7 as they deemed it redundant in light of DORA provisions.
121. One respondent asked ESMA to clarify through a public statement as of January 2025 that DORA is *lex specialis* and therefore supersedes all sectoral legislation in the domain of digital operational resilience, including in case of possible overlaps between RTS 7 and DORA.
122. A few respondents proposed possible amendments to Article 14 of RTS 7a ('Business continuity plan'). One respondent acknowledged ESMA's intention to generally avoid duplicative requirements in RTS 7a and DORA. However, the stakeholder expressed concerns in case of outages, noting that the communication expectations of the public may not be encompassed by the current amendments to RTS 7a. The respondent proposed to amend Article 14 of RTS 7a to include requirements ensuring there are timely and clear communications on the status of the market after an incident.

Proposed amendments to Article 8 of RTS 7 ('Testing of trading systems').

123. The majority of respondents agreed with the proposed approach. One respondent reiterated the request for ESMA to publish a statement to clarify the interaction between RTS 7 and DORA requirements.

Proposed amendments to Article 23 of RTS 7 ('Security and limits to access').

124. A number of respondents agreed with the proposed approach. Some respondents proposed a complete deletion of Article 23 of RTS 7. Those respondents acknowledged that the DORA reporting requirements are applicable only to ICT related incidents whilst MIFID requirements might have a wider scope encompassing also other types of incidents. Nevertheless, in the respondents' view, provided that

market operators keep records of any incident, there is no objective reason to depart from the DORA approach in terms of reporting.

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').

125. The majority of respondents agreed with the proposed approach. Some specific considerations were raised.
126. Regarding Article 6 of RTS 7, two respondents noted that the obligation for trading venues to request prior authorisation from the NCA in the case of outsourcing of critical functions has been maintained. They noted that this requirement seems not in line with the approach taken in DORA where in relation to agreements with ICT service providers related to critical functions, there is only a requirement for a prior notification to NCAs. Hence, the respondents suggested to envisage a 'notification only approach' under Article 6 of RTS 7, especially when the trading venue and the service provider are members of the same group.
127. Some respondents suggested streamlining Article 6(2)(a) of RTS 7 with Article 40(b) of MiFID II, which refers to 'essential operating functions'. Respondents noted that the scope of the reporting obligations for non-essential outsourcing services is overly broad. This could imply a catch all reporting obligation for arrangements covering non-essential outsourced services regardless of their relevance to the operation of an exchange or monetary value (e.g. software commonly used by businesses as Microsoft Office, office cleaning services, office taxi services, etc.).
128. Additionally, two respondents noted that Article 6 of RTS 7 only refers to new outsourcing arrangements and not to existing contracts.
129. Regarding Article 16 of RTS 7, one respondent commented that some of the minimum content envisaged by the Article 16 of RTS 7 ("Business Continuity") are ICT related and, therefore, already covered by the scope of DORA's plan. More specifically, the respondent suggested not to include in draft RTS 7a the requirements in Article 16(2) letters (c) and (d) of RTS 7. The respondent suggested further guidelines in relations to supervisory expectations regarding the scope and content of the business continuity plan for trading venues under both RTS 7 and DORA jointly, following a holistic approach.
130. Some other respondents suggested to amend Article 14(2)(c) of draft RTS 7a by splitting the provision into a requirement to include in the business continuity plan (c) the maximum time expected to resume the trading activity in circumstances where

the trading venue is capable of dealing with the incident, and (d) the maximum amount of data that may be lost in the IT system.

131. Regarding Article 17 of RTS 7, one respondent acknowledged the rationale for the proposed amendments but suggested to further amend Article 2(1) of RTS 7 (Article 17(1) of RTS 7 refers to Article 2(1) of RTS 7) to require that trading venues carry out a self-assessment of their compliance with Article 48 of MiFID II every 3 years.

Suggestions of possible deletions / amendments to RTS 7 provisions in light of the amendments to Article 48 of MiFID II.

132. Respondents did not suggest any further deletion / amendment.

5.5.3 ESMA's assessment and next steps

Proposal to delete Articles 15 of RTS 7 ('Business continuity arrangements').

133. Considering the feedback received by stakeholders, ESMA supports the deletion of Article 15 of RTS 7 in the new RTS 7a.

Proposed amendments to Article 8 of RTS 7 ('Testing of trading systems').

134. Considering the feedback received by stakeholders, ESMA does not propose further amendments to Article 8 of RTS 7.

Proposed amendments to Article 23 of RTS 7 ('Security and limits to access').

135. In light of the feedback received from the consultation, to reduce burden for TV operators and to align the approaches in DORA and MiFID II / RTS 7a, ESMA proposes deleting Article 23 of RTS 7. ESMA notes that reporting of major ICT related incidents is already envisaged in Article 19 of DORA and for other ICT incidents there is a record keeping requirement. Hence, on balance the deletion of Article 23 of RTS 7a would contribute to burden reduction, while not reducing in a significant manner the information available to NCAs.

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').

136. Regarding Article 6 of RTS 7 ('Outsourcing and procurement'), ESMA notes that under the DORA framework planned outsourcing to third party service providers

supporting critical or important functions envisages a notification only approach (see Article 28(3) of DORA).

137. Envisaging a different approach for non-ICT critical operational functions would result in an approach which is unclear and would put on trading venues the burden of assessing on a case-by-case basis if the service outsourced is an ICT service or not. The latter would create uncertainty on the application of the relevant legal provisions.
138. In light of the above, ESMA proposes to align the requirements in DORA and RTS 7a by requesting trading venues to submit to NCAs a timely notification in case of outsourcing of non-ICT critical operational functions.
139. Additionally, DORA requires that financial entities only make use of the services of a critical third-party provider (CTPPs) established in a third country if the CTPPs have established a subsidiary in the Union within the 12 months following its designation as CTPP. In fact, the latter is required by DORA to establish a subsidiary in the Union due to its critical nature, to ensure it is possible to have a supervisory/oversight dialogue with CTPPs.
140. Considering the above, the proposed way forward would be to envisage a longer prior notification period (90 days) in case of outsourcing of critical operational functions to a third country service provider who has not established a subsidiary in the EU.
141. ESMA additionally deems relevant to reintroduce in Article 6 of RTS 7a the subparagraph previously included in Article 6 of RTS 7 regarding the elements the trading venue should ensure when outsourcing non-ICT operational functions to a service provider and the elements to be included in the outsourcing agreement.
142. Considering Article 16 of RTS 7 ('Business continuity plan'), ESMA notes that the requirements mandating trading venues to include in the business continuity plan the maximum time to resume the trading activity and the amount of data that may be lost in the IT system following a disruptive incident are duplicative and in contradiction of requirements imposed by the DORA framework. For this reason, those requirements have been deleted from Article 14 of RTS 7a.
143. ESMA does not propose to include further guidance on outages in RTS 7a as descriptive guidance on these events is provided in the Opinion on Market Outages published by ESMA, which has proven an appropriate tool to address the different practices in terms of communication of outages, we would be inclined to leave this guidance in the Opinion.

144. Considering Article 17 ('Periodic review of business continuity arrangements'), ESMA is not minded proposing amendments regarding the recurrence of the self-assessment to be carried out by TVs concerning their compliance with Article 48 of MiFID II. ESMA considers that the self-assessment is a meaningful exercise for trading venues and undertaking it on a yearly basis is proportionate to mitigate the risks that could arise from a lack of compliance with Article 48 of MiFID II. ESMA does not propose further amendments to Article 17.

6 Annexes

6.1 Annex I - Summary of questions

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

A few respondents agree on the proposed approach while some respondents requested guidance and clarification on some of the proposed points.

A respondent does not agree on the resubmission of the form by existing SIs stating that it will be an administrative burden for business that are known to their NCAs.

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.

Overall, respondents requested clarifications on a few fields of the proposed template. One respondent agrees on the field for the APA MIC. A few other stakeholders suggest to not include the field for the MIC of APA and to remove SI-APA dependency from ESMA validations given the DPE regime.

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.

Two weeks is deemed, by participants, to be a short period for a firm to gather all the relevant information and to execute internal procedures for approval for submission. Respondents suggest allowing more time for the notification.

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

Respondents did not provide additional suggestions.

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

Overall, respondents unanimously agreed to the proposed amendments to RTS 3 and its Annex, recognising they stem directly from the changes introduced in the MiFIR review.

A few respondents shared their doubts on the requirement for trading venues to provide a sufficiently granular trading identifier to identify the volumes executed under a RPW in Article 6(3) of the RTS in force, noting that the identification of such volumes is done based on post-trade flags. These respondents used as an example a dark venue that would be using the same MIC as the lit book.

Other respondents called for an appropriate implementation timeline, and one respondent also called for statistics on the relative contribution of RPW and NT1 respectively to total dark trading and suspensions.

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.

Respondents' views were mixed on the use of JSON format for reporting requirements in relation to transparency calculations. A few respondents explicitly supported the transition to JSON, and others opposed it due to the lack of clearly identified benefits. A few respondents called for the temporary use of both XML and JSON, while one respondent rejected the idea of an interim phase.

Most respondents converged on the need for ESMA to articulate a clear and holistic approach on applicable formats across all reporting requirements and to provide an implementation period for market participants to adapt to newly prescribed formats.

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.

A large majority of respondents were in favour of a switch to monthly reporting, with one respondent expressing a preference for maintaining the current bi-weekly frequency and another respondent staying neutral.

Some respondents highlighted the significant changes to the existing systems and processes linked to a switch to monthly reporting, calling for an implementation period to put in place these changes. A few respondents also asked for a clarification on whether they would need to resubmit the data of the 12 months before 29 September 2025, arguing that such a duplication of reporting with two different set of parameters may prove burdensome.

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

Overall respondents agree with the proposal. Several respondents suggested targeted amendments.

Some respondents commented that the definition of “algorithmic trading systems” in Article 1(1)(a) is not sufficiently precise and proposes a drafting amendment which specifies that the reference is to “ *any trading systems **of the trading venue that allow or enable algorithmic trading***”. One respondent suggests an amendment with similar wording.

The same respondents proposed to modify the definition in Article 1(2) by modifying the proposed provision to specify when a TV shall be “**considered to be using algorithmic trading systems**”.

Two respondents noted that the definitions of 'trading halt' and 'price collar' provided are mostly relevant to certain central limit order book (CLOB) or auction-based systems, where orders are 'matched' using an algorithm but less relevant to other types of trading systems. In the respondents view the definitions appear to reduce the discretion of market operators on the use and calibration of circuit breakers.

One respondent suggested to keep the subject matter and scope as included in the previous RTS 7 and proposed that in the definition of “trading halts” per Article 1(c), the term ‘call’ (in ‘call Auctions’) is removed because this is not explicitly defined within the MIFIR/D regulatory framework and removal would simplify the language. Additionally, the respondent notes that for some trading venues the current definition of circuit breakers, limited to trading halts and price collars, might be too restrictive. The respondent recommended to have a more general reference to ‘any mechanism that can halt or constrain trading’.

One respondent disagreed with the definition of Algorithmic trading as he believes this definition should be substantially narrowed.

One respondent opposes the proposal to disclose to the public statistics or information regarding the triggering of CB as they believe this would distort the views of the public and erode market confidence and might lead market operators to calibrate CBs to avoid frequent triggering, altering the function of the CB themselves.

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

One respondent fully agrees with the proposal, provided that the current flexibility is kept.

Few respondents stated that in some instances neither static nor dynamic circuit breakers appear to be the best mechanism and the RTS should be drafted in a way that allows trading venues freedom not only to set the relevant parameters but also to set the appropriate mechanism. Additionally, several respondents noted that the wording in Article 17(2) should refer to “characteristics and circumstances” rather than only to “circumstances”.

Some respondents stated that Article 17(1) is not appropriate for fixed income financial instruments. They noticed that for fixed income instrument price formation is done off venue in a number of markets. On venue, price movements for less liquid symbols can be large and could appear to be the result of disorderly trading, whilst being part of the price discovery process. In the view of the respondents trading halts and price collars would not be appropriate circuit breakers because they are not designed for the behaviour of the fixed income market, which rather deploys other types of mechanisms (for example, warnings) which tend to be less prescriptive than equity circuit breakers. Additionally, some respondents state that there might be instances where TVs do not rely neither on static nor on dynamic reference prices.

Two respondents suggested to ensure trading venues have discretion to deploy only one type of circuit breaker without the need of discussing this directly with the relevant NCA but being able to provide evidence of the suitability of a single mechanism if requested. Additionally, one respondent asks to provide further clarity on the calibration of dynamic price collars when based on the EBBO.

One respondent disagreed with the proposal, raising arguments related to the need for flexibility in deciding which type of mechanism should be deployed.

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.

Most respondents agreed with the proposed methodology. A number of respondents noted that calibration should be done at the asset class or sub asset class level as it is not realistic to do it for each specific financial instrument.

One respondent suggests revising the requirement to take statistical data into account for the calibration as this requirement is deemed too broad and might be interpreted differently from TVs and NCAs.

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

Overall respondents expressed broad agreement with the proposed Article 19. Some respondents further noted that:

- It would be beneficial for TVs to publish on their website information about the triggering of a CB when this occurs.
- TVs should be requested to make information on circuit breakers public but not necessarily on their website as they might use different channels to issue communications to the public.
- the number of times circuit breakers have been triggered should not be wrongly interpreted.
- flexibility should be kept if the TV decides to disclose the parameters underpinning CBs.
- In case of collars the TV should be allowed to provide collar ranges, rather than provide the exact parameters

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.

One respondent suggested that TV should disclose on their website the event of triggering of a CB in real time.

Several respondents noted that providing too granular information to the public with respect to the triggering of circuit breakers could have a negative impact on the market. This is because, in the view of the respondents, information about the number of times circuit breakers are triggered could erode market confidence as interpreted in a misleading manner from the market and additionally lead to possible manipulative trading strategies. Overall respondents agreed that information on CB should be published but stated that information on triggering should be shared with NCAs or otherwise disclosed by NCAs in the context of specific ad hoc disclosures.

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

Most of the respondents agreed with the proposed template to report information to NCAs.

Some respondents suggest that there should be the possibility to have optional field in cases where the requirement does not apply to an instrument or a venue.

A few respondents stressed the need to be able to group instruments. Furthermore, they proposed to provide a single answer for the rationale for using only dynamic circuit breakers as it is considered impossible to provide the details for the mechanism for each instrument. It was also recommended to include the number of times trading halts were triggered in the previous year, without being made public.

One respondent noted the difficulty for an RFQ system to complete the template proposed in Article 19(4) and the incomparability with other trading system types.

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

Ten respondents agreed with the proposed deletion of Article 15 of RTS 7 as this Article is deemed redundant due to the DORA provisions.

One respondent furthermore asked ESMA to clarify through a public statement as of January 2025 that as DORA is *lex specialis* and therefore supersedes all sectoral legislation in the domain of digital operational resilience, including in case of possible overlaps between RTS 7 and DORA.

Few respondents discussed and proposed possible amendments to Article 14 of RTS 7. One respondent acknowledged ESMA's intention to generally eliminate duplication between RTS 7 and DORA requirements. Nevertheless, the stakeholder was concerned that, in the event of an outage, the communication expectations of trading venues' members may not be met by the amendments made for new RTS 7a. Hence the respondent proposed to amend Article 14 of RTS 7a to include requirements that are aimed at ensuring there are timely and clear communications on market status after an incident. Some respondents suggested to amend Article 14 (2) (c) of draft RTS 7, by splitting the provision into a requirement to include in the business continuity plan (c) the maximum time expected to resume the trading activity in circumstances where the trading venue is capable of dealing with the incident, and (d) the maximum amount of data that may be lost in the IT system.

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

The majority of respondents agreed with the proposed approach.

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

Six respondents fully agreed with the proposed approach. Two respondents agreed with the proposal but suggested a complete deletion of Article 23 of RTS 7. Those respondents acknowledge that the DORA reporting requirements are applicable only to ICT related incidents whilst MIFID requirements might have wider scope encompassing also other types of incident. Nevertheless they explain that, provided that market operators keep records of any incident, there is no objective reason to depart from the DORA approach in terms of reporting.

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.

Six respondents agreed with the proposed approach. Additionally, the respondents raised some consideration in relation to the following provisions:

Article 6 of RTS 7:

Two respondents noted that the obligation for trading venues to request prior authorisation from the NCA in the case of outsourcing of critical functions has been maintained. This provision, however, seemed not in line with the approach taken in DORA where in relation to agreements with ICT service providers related to critical functions there is only a requirement for a prior notification to NCAs. In this sense the respondent asked to envisage a notification only approach under Article 6 of RTS 7, especially where the trading venue and service provider are members of the same group and under common control. In this sense the respondent provides a suggestion with respect to a definition of 'group'.

Three respondents suggested streamlining Article 6(2)(a) of RTS 7 with Article 40(b) of MiFID II, which refers to 'essential operating services' and notes that the current scope is too broad and could cover for example software commonly used by businesses as Microsoft office, office cleaning services or an office taxi service, if another exchange also uses such services.

Additionally, two respondents noted that Article 6 only refers to new outsourcing arrangements and not to existing contracts. The respondent further believes that the scope of the reporting obligation for non-essential outsourcing is overly broad as there would be a catch all reporting obligation for outsourcing arrangements which would cover non-essential outsourced services regardless of their relevance to the operation of an exchange or monetary value.

Article 16 of RTS 7:

One respondent noted that some of the minimum contents envisaged by the Article 16 of RTS 7 “Business Continuity” are ICT related and, therefore, already covered by the scope of DORA’s plan. More specifically the respondent suggests to delete new Article 14 letters (c) and (d) and provide further guidelines in relations to supervisory expectations regarding the scope and content of the business continuity plan for trading venues under both RTS 7 and DORA jointly, following a holistic approach.

Article 17:

One respondent acknowledged the rationale for the proposed amendments but suggested to further amend Article 2(1) of RTS 7 (note that Article 17(1) refers to Article 2(1)) to be in line with the DORA’s TLPT frequency and require that TVs trading venues shall carry out a self-assessment of their compliance with Article 48 of MiFID II every 3 years.

One respondent asks to further streamline MiFID requirements in terms of business continuity arrangements.

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

No further deletion was suggested.

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

No further amendment was suggested.

6.2 Annex II – Legislative mandates

6.2.1 New ITS on SI notification

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 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.

6.2.2 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.

6.2.3 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.

6.3 Annex III - Cost-benefit analysis

6.3.1 RTS 3 on volume cap and transparency calculations

This section provides a cost-benefit analysis (CBA) of the amendment to the RTS 3 on volume cap and transparency calculations.

The stakeholders identified are trading venues, APAs, ESMA, NCAs and the future CTPs.

The fundamental elements of the switch from Double Volume Cap (DVC) to Single Volume CAP (SVC) are defined in Article 5 of MiFIR as revised by the MiFIR review. This RTS is mandated in MiFIR (Level 1). The main costs that the stakeholders will have to bear, and benefits that they will accrue, are expected to be derived from the Level 1 framework, therefore, those from the RTS are minor and mainly concern the adaptation of the existing IT systems to the streamlined requirements.

The most significant change from the revised RTS 3 is the phasing-out of daily reporting requirements for trading venues and APAs. The analysis of the costs and benefits of this phasing-out was partially included in the Final Report on equity transparency¹⁴.

ESMA therefore does not provide a detailed analysis of the costs and benefits that could arise from the provisions in the amendment to RTS 3 in this Final Report.

6.3.2 RTS 7a on Circuit Breakers

This section provides a cost-benefit analysis (CBA) of the draft RTS 7a. The CBA will analyse the new provisions introduced for the purpose of fulfilling the mandate in Articles 48(12)(h) and (i) of MiFID II requiring ESMA to specify technical standards establishing: (i) the principles that regulated markets are to consider when establishing their mechanisms to halt or constrain trading and (ii) the information on these mechanisms that regulated markets are to disclose to the public and to report to competent authorities.

The current baseline or status quo are: (i) the Guidelines on Calibration of circuit breakers and publication of trading halts under MiFID II which ESMA published in 2017 and (ii) the Supervisory briefing on the calibration of circuit breakers which ESMA published in 2023. The provisions on circuit breakers in the proposed RTS 7a are based on the Guidelines and the

¹⁴p.137 https://www.esma.europa.eu/sites/default/files/2024-12/ESMA74-2134169708-7636_MiFIR_Review_Final_Report_on_Equity_transparency.pdf

Supervisory Briefing. Compared to the previous guidance the provisions in RTS 7a do not introduce any major change but transform current practices into legally binding regulation.

The stakeholders identified for the purpose of this CBA are: ESMA, NCAs, TVs and other market participants.

As the new RTS only marginally amend the existing guidance, ESMA believes that the costs associated with the implementation of the provisions on circuit breakers in RTS 7a will be very limited. TVs will not need to modify substantially current practices in the establishment of circuit breakers and in information disclosure to the public and NCAs. Any cost will be fully compensated by the benefits of establishing binding common standards across TVs. ESMA's cost benefit analysis remains qualitative in nature and aims at outlining major effects.

ESMA provides below an analysis of the costs and benefits that could arise from the provisions on circuit breakers in RTS 7a compared to the baseline, i.e. the Guidelines and Supervisory briefing on circuit breakers.

Provisions determining the principles that trading venues are to consider when establishing their mechanisms to halt or constrain trading.

<i>Policy Objective</i>	Establish the principles that TVs are to consider when establishing the main technical parameters for halting or constraining trading, allowing TVs to maintain broad discretion on which mechanisms to use and which parameters to set for those mechanisms.
<i>Technical Proposal</i>	ESMA proposes that TVs should deploy circuit breakers to ensure that short term high volatility episodes are adequately managed, in the form of trading halts, price collars or other arrangements which can halt or constrain trading to curb temporary increased market volatility and prevent dramatic price changes. ESMA further provides guidance on which variables the methodology for the calibration of circuit breakers should consider and which aspects should be included in such methodology. TVs have discretion on the specifics functioning of the established mechanisms.
<i>Benefits</i>	ESMA's proposal ensures that each TV has in place mechanisms to halt or constrain trading which are developed considering the specificities of each trading venue. Additionally, the proposal ensures that the calibration of these mechanism is based on common variables, whilst the development of a specific methodology for calibration is left to the discretion of each

	trading venue. The latter is necessary to account for differences amongst markets.
<i>Costs to regulator</i>	NCA's will be responsible for monitoring the use of those mechanisms by TV's and make use of their supervisory powers where appropriate. This task is already part of NCA's existing supervisory processes, hence ESMA believes that the cost to NCA's remains limited.
<i>Compliance costs</i>	TV's will need to ensure that the mechanisms established are appropriately tailored to the market model and the relevant variables. TV's will need to ensure that the methodology for the calibration of circuit breakers considers the relevant variables included in the RTS. As the RTS builds on the existing guidelines and introduces only limited changes, ESMA expects the burden on TV's to be limited.
<i>Costs to other stakeholders</i>	None identified.

Provisions on the information that regulated markets are to disclose to the public and to report to competent authorities.

<i>Policy Objective</i>	Establish the information on mechanisms to halt or constrain trading that TV's should disclose to the public and the information which should be reported to NCA's.
<i>Technical Proposal</i>	ESMA proposes a list of homogenous information which TV's should disclose to the public. ESMA also developed a standardised template to report information to NCA's.
<i>Benefits</i>	ESMA's proposal ensures that stakeholders have access to homogenous information across TV's regarding the mechanisms which have been established. Additionally, the template ensures that NCA's and ESMA receive standardised information concerning those mechanisms.
<i>Costs to regulator</i>	NCA's will be responsible for collecting information and monitoring the parameters underpinning circuit breakers and changes to those parameters. NCA's will be responsible for communicating this information to ESMA which will analyse practices in the establishment of circuit breakers. This task is already part of NCA's existing supervisory processes and ESMA practices, hence ESMA believes that the costs remain limited.
<i>Compliance costs</i>	

	<p>TVs will need to ensure that the information publicly disclosed on the established mechanisms includes the elements mandated by the RTS. TVs will also need to report to NCAs through the appropriate template the required information.</p> <p>As the RTS builds on the existing guidelines and introduces only limited changes, ESMA expects the burden on TVs to be limited.</p>
<i>Costs to other stakeholders</i>	None identified.

6.4 Annex VI - Draft technical standards

6.4.1 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 for the standard notification template for the purpose of the register of information in relation to all investment firms that intend to carry out Systematic Internaliser (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 a systematic internaliser or opt in to the systematic internaliser regime 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 National Competent Authority notification solutions that already exist or may be developed.
- (3) To ensure the consistent notification of the SI activities being carried out and the submission of good quality data, the template notification should identify which data fields need to be provided by investment firms when the firm initially notifies that it is carrying out SI activities, in case of any changes to SI activities or in case the firm ceases to carry out SI activities. It is important that information provided by firms in the above cases is presented in a way that gives an overview of the activity concerned. Therefore, there should be a single template which covers all necessary information

that should be used for the submission of the initial notification, the interim and final notification.

- (4) To keep competent authorities informed and be able to assess any changes in the activities of an SI that have 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 (ESMA) to the Commission.
- (6) ESMA 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 advice 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

Notification of the status of systematic internaliser

1. An investment firm shall notify the National Competent Authority, preferably via electronic means, when it gains the status of systematic internaliser, in the event of any changes in the activities carried out by the firm as a systematic internaliser, and in case the firm ceases to have the status of systematic internaliser. A notification shall be submitted also in case the investment firm decides to opt-in to the systematic internaliser regime.
2. The notification shall be made as soon as possible, and in any case no later than 20 calendar days after the change referred to in paragraph 1 has occurred.
3. The investment firm shall provide the information on the change by completing 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 ten calendar days of their receipt. 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 2025

For the Commission

The President

ANNEX

Notification Template

<i>Notification Type</i> – Please tick only one of the below alternatives.	
<input type="checkbox"/> First Notification – Meeting SI definition <input type="checkbox"/> First Notification – Opt-in <input type="checkbox"/> Updating previously submitted Notification <input type="checkbox"/> Ending all SIs activities	
<i>Details of the Investment Firm</i> – 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 alphanumeric character code
Head Office LEI (if different from the above)	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumeric character code
Legal Name of the Investment Firm	Free text
Name of the SI (if different from the Legal Name of the Firm)	Free text
Competent Authority	Free text
<i>Contact Details of a person authorised to represent the entity</i> – Please fill in all the below fields.	

Name and surname	Free text		
Professional email address and department email address	Free text		
Professional phone contact and department phone contact number	Free text		
<i>Details of the Classes of Financial Instruments</i> – Please fill in the below fields as appropriate.			
I hereby notify the Competent Authority that the following status applies to the investment firm (please tick as appropriate)			
Systematic Internaliser in the classes of financial instruments specified below as of (dd / mm / yyyy): _____ <i>In case of update of an existing notification this field shall be populated with the date as of which the change in the SI activities applies.</i>	<input type="checkbox"/>		
No longer acting as a Systematic Internaliser in any class of financial instrument	<input type="checkbox"/>		
Other Comments	Free Text		
The information provided in this form should reflect the status (continuing active or to be removed) of the Systematic Internaliser for all the asset classes for which it is active as of the submission date of the notification, unless no longer acting as a Systematic Internaliser in any class of financial instrument.			
<i>Equity and equity-like instruments</i>	New	Retain	Remove
Shares (SHRS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Exchange-traded funds (ETFS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Depository receipts (DPRS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Certificates (CRFT)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other equity-like financial instruments (OTHR)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Non-equity instruments</i>	New	Retain	Remove
Securitised derivatives (SDRV)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Structured finance products (SFPS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bonds (BOND)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exchange Traded Commodities (ETCS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exchange Traded Notes (ETNS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Emission allowances (EMAL)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interest Rate Derivatives (IRD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Credit Derivatives (CRD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other Derivatives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Declaration</i>			

By delivering this notification the below signed authorised person confirms that it has been completed in an accurate and complete manner and to the best of his/her knowledge.

Notwithstanding the above, the national competent authority shall be immediately notified in case of any changes to the information provided 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	

6.4.2 Consolidated version of RTS 3

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;
- (f) the standard market size applicable to systematic internalisers dealing in equity and equity-like 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 the reference price waiver across the Union 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 ESMA and 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.

2. Where ESMA and competent authorities request ad-hoc information for the purpose of Article 22(1) of Regulation (EU) No 600/2014, the content of such ad-hoc requests shall include at least the name of the reporting entity and details necessary for the purpose of the request.

3. ESMA and 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.

Article 4

Format of the data requests

1. Trading venues, APAs and CTPs shall submit the data referred to in Article 2(1) in a common XML format.
2. Trading venues, APAs and CTPs shall submit the data referred to in paragraphs 2 and 3 of Article 2 in a format defined to facilitate an efficient 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(1) regardless whether this information has been made public or not for at least five years.
2. Trading venues, APAs and CTPs shall store all data which may be required by ESMA or competent authorities in accordance with paragraphs 2 and 3 of Article 2 regardless whether this information has been made public or not for at least five years.

Article 7

Reporting requirements for trading venues, APAs and CTPs to ESMA for the purposes of the trading obligation for derivatives

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.

Article 8

Publication 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 reference price waiver across the Union in the previous 12 months, in accordance with paragraph 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.

Article 9

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 3 January 2018.

Article (1)(a), (b), (c),(d), (f) and (g), Article 2(1), Article 3(1), Article 4(1) and Article 5(1) shall cease to apply from 1 January 2027.

6.4.3 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. The definition of machine-readable format applicable to public sector bodies has also been specified in Directive (EU) 2019/1024. Therefore, Commission Delegated Regulation (EU) 2017/577 should take these changes into account.

(2) Directive (EU) 2024/790 replaces the quantitative criteria for assessing whether an investment firm should be considered to be a systematic internaliser by a qualitative assessment. It is therefore no longer necessary to specify the content of the data necessary to perform the relevant calculations pursuant to Articles 10 to 15 of Commission Delegated Regulation (EU) 2017/565.

(3) In order to reduce the reporting burden for market participants, ESMA will perform the calculations required to adjust the pre-trade and post-trade transparency and trading obligation regimes and the calculations required for the volume cap publications based on transaction data reported in accordance with Article 26 of Regulation (EU) No 600/2014 and with Commission Delegated Regulation (EU) 2017/590. It is therefore necessary to phase out the requirements for trading venues, APAs and CTPs to report data on an on-going basis in a common XML format separately for these purposes.

(4) ESMA and competent authorities may need to request additional data on an ad-hoc basis from trading venues, APAs and CTPs as part of their assessment of the pre-trade and post-trade transparency and the trading obligation regimes. It is therefore necessary to ensure that ESMA and NCAs are able to adapt the content and the format to the specific objectives of these ad-hoc requests. As part of its burden reduction efforts, ESMA will continue to rely as much as possible on existing datasets, including transaction reports, and only explore ad-hoc data requests where necessary

(5) Given Regulation (EU) 2024/791 has extended to five years the obligation to maintain records for operators of trading venues, approved publication arrangements and consolidated tapes providers, it is necessary to apply the same duration to the data storage requirements in this Regulation.

(6) Commission Delegated Regulation (EU) 2017/577 should therefore be amended accordingly.

(7) This Regulation is based on the draft regulatory technical standards submitted by European Securities and Markets Authority (ESMA) to the Commission.

(8) 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 by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council.

(9) In light of the transitional provision in Article 5(8) of Regulation (EU) No 600/2014, the current double volume cap and ongoing suspensions shall remain in effect until the commencement of publications and suspensions under the new single volume cap on 29 September 2025. Therefore, the date of application of this Regulation should be aligned. This will further allow sufficient time for market participants to prepare and for the necessary technical infrastructure to be established, the provisions of this Regulation shall apply from that date, in line with the publication requirements applicable to ESMA,

HAS ADOPTED THIS REGULATION:

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 deleted;

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) Article 2 is amended as follows:

a) Paragraph 1 is replaced by the following

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 ESMA and 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

b) Paragraph 2 is replaced by the following:

Where ESMA and competent authorities request ad-hoc information for the purpose of Article 22(1) of Regulation (EU) No 600/2014, the content of such ad-hoc requests shall include at least the name of the reporting entity and details necessary for the purpose of the request.

c) Paragraph 3 is replaced by the following:

ESMA and 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.

(3) Paragraph 3 of Article 3 is deleted.

(4) Article 4 is replaced by the following:

Format of the data requests

1. Trading venues, APAs and CTPs shall submit the data referred to in Article 2(1) in a common XML format.
2. Trading venues, APAs and CTPs shall submit the data referred to in paragraphs 2 and 3 of Article 2 in a format defined to facilitate an efficient process of data delivery as well as its consolidation with similar data from other sources.

(5) Article 5 is replaced by the following:

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(1) regardless whether this information has been made public or not for at least five years.
2. Trading venues, APAs and CTPs shall store all data which may be required by ESMA or competent authorities in accordance with paragraphs 2 and 3 of Article 2 regardless whether this information has been made public or not for at least five years.

(6) Article 6 is deleted.

(7) Article 7 is replaced by the following:

Reporting requirements for trading venues, APAs and CTPs to ESMA 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.

(8) Article 8 is replaced by the following:

Publication 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.

(9) Article 9 is amended as follows

a) the following subparagraph is inserted as the last subparagraph:

Article (1) (a), (b), (c), (d), (f) and (g), Article 2(1), Article 3(1), Article 4(1) and Article 5(1) shall cease to apply from 1 January 2027.

(10) the Annex is deleted

Article 2

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from 29 September 2025.

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

Done at Brussels, DD MM 2025

For the Commission

The President

6.4.4 Draft technical standards on the recast of RTS 7

COMMISSION DELEGATED REGULATION (EU) XXXX/XXX

of XX XXXX XXXX

repealing and replacing Regulation (EU) No 2017/584 of the European Parliament and of the Council 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) A number of amendments are required to be made to Regulation (EU) 2017/584. In order to improve clarity and ensure consistency with recent legal developments, that Regulation should be recast. The amendments introduced by Directive 2024/790/EU to Article 48 of Directive 2014/65/EU are reflected in this recast Regulation, which replaces and repeals Regulation (EU) No. 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 2022/2556¹⁵ 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. Therefore, this Regulation should take these amendments into account.

(7) Where a trading venue intends to outsource critical non-ICT functions it should notify its competent authority to enable the competent authority to review the notification, to assess the potential risks, to ensure that the outsourcing does not undermine the operational resilience and business continuity of non-ICT functions and, in particular, that the requirements on outsourcing agreements included in Article 6 of this Regulation are complied with. When reviewing such notification, the competent authority may make use of its supervisory powers as set out in Article 69 of Directive 2014/65/EU.

(8) In order to ensure the resilience of trading systems and the continuity of trading services, this regulation lays down requirements applicable to the systems of trading venues allowing or enabling algorithmic trading. This regulation defines what should be considered an algorithmic trading system to specify when trading venues are considered as 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.

(9) 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-

¹⁵ 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.

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.

(10) 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.

(11) 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/EU¹⁶.

(13) 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.

(14) 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.

(15) 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.

¹⁶ OJ L 173, 12.6.2014, p. 349.

(16) 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.

(17) 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.

(18) Trading venues and their members should be required to be adequately equipped to cancel unexecuted orders as an emergency measure if unexpected circumstances arise.

(19) Trading venues should deploy circuit breakers to ensure that short term high volatility episodes are adequately managed. This regulation defines what type of mechanisms are considered as circuit breakers, to enhance clarity in the expected functioning and purpose of the required mechanisms. Trading venues should deploy trading halts, price collars or other arrangements which can halt or constrain trading to curb temporary increased market volatility and prevent dramatic price changes. Trading venues should nevertheless be 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.

(20) 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 are not mandated to 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.

(21) 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.

(22) 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.

(23) 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.

(24) 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.

(25) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.

(26) 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 by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council,

HAS ADOPTED THIS REGULATION:

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 of the trading venue that allow or enable participants to engage in algorithmic trading.

(b) 'Circuit breakers' means:

i) for continuous order book trading systems and periodic auction trading systems, trading halts and price collars 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.

ii) for any other trading system, trading halts, price collars and other arrangements that can halt or constrain trading, 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 which either interrupt continuous trading when triggered or that extend the period of scheduled or unscheduled 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

(Article 48(1) of Directive 2014/65/EU)

1. For the purposes of this article, operational functions shall include all direct activities, other than activities that constitute ICT services as defined in Article 3, point (21) of Regulation (EU) 2022/2554, related to the performance and surveillance of the trading systems.

2. Trading venues outsourcing all or part of their operational functions in relation to the systems allowing or enabling algorithmic trading shall ensure that:

(a) the outsourcing agreement exclusively relates to operational functions and does not alter the responsibilities of the senior management and the management body;

(b) the relationship and obligations of the trading venue towards its members, competent authorities, or any third parties, such as clients of data feed services are not altered;

(c) they meet the requirements that they must comply with in order to be authorised in accordance with Title III of Directive 2014/65/EU.

3. Trading venues shall document the process of selecting the service provider to whom the operational functions are to be outsourced ('the service provider'). They shall take the necessary steps to ensure, before concluding the outsourcing agreement and throughout its duration, that the following conditions are satisfied:

(a) the service provider has the ability to perform the outsourced functions reliably and professionally and is the holder of any authorisations required by law for those purposes;

(b) the service provider properly supervises the carrying out of the outsourced functions and adequately manages risks associated with the outsourcing agreement;

- (c) the outsourced services are provided in accordance with the specifications of the outsourcing agreement, which are based on pre-determined methods for assessing the standard of performance of the service provider, including metrics to measure the service provided and specifications of the requirements that shall be met;
- (d) the trading venue has the necessary expertise to supervise the outsourced functions effectively and manage risks associated with the outsourcing agreement;
- (e) the trading venue has the ability to take swift action if the service provider does not carry out the functions effectively and in compliance with applicable laws and regulatory requirements;
- (f) the service provider discloses to the trading venue any fact that may have a material impact on its ability to carry out the outsourced functions effectively and in compliance with its legal obligations;
- (g) the trading venue is able to terminate the outsourcing agreement where necessary without detriment to the continuity and quality of its services to clients;
- (h) the service provider cooperates with the competent authorities of the trading venue in connection with the outsourced activities;
- (i) the trading venue has effective access to data related to the outsourced activities and to the business premises of the service provider, and auditors of the trading venue and competent authorities have effective access to data related to the outsourced activities;
- (j) the trading venue sets out requirements to be met by the service providers to protect confidential information relating to the trading venue and its members, and to the venue's proprietary information and software;
- (k) the service provider meets the requirements referred to in point (j);
- (l) the trading venue and the service provider establish, implement and maintain a contingency plan for disaster recovery and periodic testing of backup facilities, where that is necessary having regard to the operational function that has been outsourced;
- (m) the outsourcing agreement specifies the obligations of the service provider in case it cannot provide its services, including the provision of the service by a substituting firm;
- (n) the trading venue has access to information in relation to the business continuity arrangements referred to in Article 16 of the service provider.

4. Outsourcing agreements shall be concluded in writing and shall set out:

- (a) the assignment of rights and obligations between service provider and trading venue;
- (b) a clear description of:
 - (i) the operational functions that are outsourced;
 - (ii) the access of the trading venue to the books and records of the service provider;
 - (iii) the procedure to identify and address potential conflicts of interest;
 - (iv) the responsibility assumed by each party;
 - (v) the procedure for the amendment and termination of the agreement.
- (c) the means to ensure that both the trading venue and the service provider facilitate in any way necessary the exercise by the competent authority of its supervisory powers.

5. Trading venues shall notify 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.

6. For the purposes of point (b) in paragraphs 5, critical operational functions shall include those functions necessary to comply with the obligations referred to in Article 47(1)(b) and (e) of Directive 2014/65/EU.

7. For the purpose of paragraph 5 the notification shall take place at least sixty calendar days before the outsourcing agreement takes effect.

8. Trading venues intending to outsource critical operational functions to service providers established in a third country shall notify the competent authority at least ninety calendar days before the outsourcing agreement takes effect.

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) procedures for relocating the trading system to a back-up site and operating the trading system from that site.

(d) 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;

(e) staff training on the operation of the business continuity arrangements;

(f) assignment of tasks and establishment of a specific security operations team ready to react immediately after a disruptive incident;

(g) 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 operating a central limit order book or a periodic auction trading system 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 operating systems other than a central limit order book or a periodic auction trading system shall establish circuit breakers in the form of trading halts or price collars unless the trading venue demonstrates to its national competent authority that due to market-specific characteristics and circumstances other mechanisms are more suited to temporarily halt or constrain trading if there is a significant price movement in a financial instrument during a short period of time. Trading venues shall ensure that such mechanisms are operational at all times during trading hours.
3. 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 characteristics and circumstances volatility is adequately managed deploying only a static or a dynamic reference price.
4. 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.

5. 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:

- (a) the liquidity profile and the quotation level of the financial instrument;
- (b) the volatility profile of the financial instrument;
- (c) the trading venue system and rules;
- (d) internal references, intended as prices determined inside the venue which are then available to calibrate circuit breakers for the specific instrument;
- (e) any relevant external references where needed, intended/such as cross-asset and cross-market conditions; and
- (f) 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, when available to the venue, and evolving market conditions.

2. The methodology for the calibration of circuit breakers shall:

- (a) specify the ordinary frequency of updates of the static and dynamic reference price;
- (b) specify a non-exhaustive list of instances in which extraordinary updates might be carried out; and

(c) consider how 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 an order 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.

2. When trading venues apply diverse types of circuit breakers, the information should specify for which instruments or classes of 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. 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) 2017/589⁶.

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 600/2014⁷ and (EU) No 596/2014⁸ or the trading venue's internal rules.

Article 23

Repeal

Regulation (EU) 2017/584 is repealed. References shall be construed as references to this Regulation.

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) 2017/566¹⁷;
 - (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;
 - (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;

¹⁷ 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).

(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.

	FIELD	CONTENT TO BE REPORTED	FORMAT AND STANDARDS TO BE USED FOR REPORTING
1	Trading venue	Full legal name of the reporting venue	Free text
2	Operating MIC	Operating MIC code (ISO10383)	4-alpha-numeric characters (ISO 10383)
3	Segment MIC	[OPTIONAL] Segment MIC Code (ISO10383). If Circuit Breakers (CBs) are applied at Operating MIC level, this field can be left empty and is equal to field 2	4-alpha-numeric characters (ISO 10383)
4	Traded instruments	Type of financial instruments traded by the TV to which the described CBs apply.	[Shares], [Other equity], [Bonds], [Commodity derivatives], [Other non-equity], [All the above]

5a	Type of CBs	The type(s) of CBs that the reporting trading venue has implemented.	[Trading halt], [Price collars] and/or, [Other, specified in 5b]
5b	Other type of CBs	[OPTIONAL, if field 5a is Other] The 'other' type of CBs that the reporting trading venue has implemented.	Free text
5c	Appropriateness of implemented CBs	Briefly explain why the implemented CBs suits the operated trading system.	Free text
6a	Static and/or Dynamic CBs apply		[Static], [Dynamic], [Static and Dynamic]
6b	Explanation of why one of static or dynamic is applied	[OPTIONAL, if field 6a is static only or dynamic only] Brief explanation of why only static or only dynamic CBs are deployed.	Free text
7	Reference price used for the purpose of the 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
8	Minimum duration of the halt in seconds (if applicable)		Number

9	High-level description of CB calibration	All the variables considered in your calibration methodology such as: [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]	Free text
10	Special mechanisms/arrangements	[OPTIONAL] Exceptional market events that require special mechanism/arrangements. In case of a special mechanism or special arrangements, description to be provided about these mechanisms/arrangements and the market events which activate them (e.g., enhanced communication with the NCA; adaptation of the thresholds at more frequent intervals; enhanced communication with other functions within the entity).	Free text
11	Other mechanisms (applicable to systems other than Central Limit Order Book and Periodic Auction)	[OPTIONAL] Information on other mechanisms used by Central Limit Order Book (CLOB) and Periodic Auction (PATS) trading systems.	
12	Adjustments and/or recalibrations	Most relevant market events which have required substantial intervention from the TV in terms of calibration or adjustment of the mechanism.	Free text

13	Type of trading system	Explanation of how the type of trading system impacts the design of CBs.	Free text, Types of trading systems: [CLOB], [QDTS], [PATS], [RFQT], [HYBR], [OTHR]
14	Further relevant information	Brief description of the functioning of the CB and resumption of trading. 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
15	Main events that triggered CBs in the previous year	[Optional] Information on major relevant events that triggered CBs in the course of previous year.	Free text

