

Guidance on the annex to ESMA opinion determining third-country trading venues for the purpose of transparency under MiFIR

ESMA's [opinion](#) determining third-country trading venues for the purpose of transparency under MiFIR includes an [annex](#) with the list of venues which meet the relevant criteria defined in the opinion. This document provides guidance on the annex.

1 Overall description of the third-country trading venues' assessment

1.1 Trading venues on the list with a positive assessment

For some venues, the conditions referred to in paragraph 10 of the Opinion are met for all the asset classes available on the venue and listed in the field "Instruments in scope of the assessment".

In such cases, the field "Assessment" states 'Positive' and the field "Exemptions from the positive assessment" states 'none'.

Investment firms concluding transactions in ToTV instruments on those venues are not required to make those transactions post-trade transparent via an APA under Articles 20 and 21 of MiFIR.

1.2 Trading venues on the list with a partially positive assessment

For some venues, the conditions referred to in paragraph 10 of the Opinion are met only for a subset of the asset classes available on the venue.

In such cases, the field "Assessment" states 'Partially Positive' and the field "Exemptions from the positive assessment" describes the instruments for which the assessment is not positive.

With respect to instruments mentioned in the field "Exemptions from the positive assessment", investment firms concluding transactions in ToTV instruments on those venues are required to make those transactions post-trade transparent via an APA under Articles 20 and 21 of MiFIR from 3 October 2020.

With respect to instruments not mentioned in the field "Exemptions from the positive assessment", investment firms concluding transactions in ToTV instruments on those venues are not required to make those transactions post-trade transparent via an APA under Articles 20 and 21 of MiFIR.

1.3 Trading venues not on the list

Investment firms concluding transactions in ToTV instruments on venues not included on the list are required to make those transactions post-trade transparent via an APA under Articles 20 and 21 of MiFIR from 3 October 2020.

2 General Guidance

2.1 Updates to the list of venues

The list of venues will be updated periodically, on an ad-hoc basis, for example when new venues have been assessed and should be added to the list.

It is possible to receive a notification upon the publication of any new document published by ESMA. Please visit this [page](#) for more information. To receive email notifications regarding updates to the list of third-country venues, please tick the box “**MiFID - Secondary Markets**”.

2.2 Venue of execution in post-trade reports

When the post-trade transparency requirements pursuant to MiFIR apply to a transaction executed on a third-country trading venue, the field “venue of execution” in the published post-trade report (Table 2 of Annex II of RTS 2) should be populated with the value ‘XOFF’.

Indeed, as specified in RTS 2, ‘XOFF’ shall be used for ToTV instruments, where the transaction on that financial instrument is **not executed on a trading venue** or systematic internaliser or organised trading platform outside of the Union.

Indeed, in accordance with the Opinion, the transactions executed on TCTV not on the list (as well as those executed on TCTV on the list with a partially positive assessment, in instruments exempted from the positive assessment) shall be considered “not executed on a trading venue”.

Please also refer to Section 9 (third-country issues) of [ESMA’s Q&As](#) on MiFID II and MiFIR transparency topics¹.

3 Guidance related to specific fields

3.1 Market identifier codes (MIC)

The fields “Operating MIC” and “Segment MIC” have been filled on a best effort basis, with information provided by third-country venues as well as information publicly available ([ISO MIC List](#)).

¹ ESMA70-872942901-35

3.1.1 Cases where the MIC is not populated [updated 6 November 2020]

The field “Operating MIC” is populated with the value ‘N/A’ when the Operating MIC was not found or when it does not exist. In those cases, the field “Segment MIC” is also filled with the value ‘N/A’.

In the medium term, ESMA’s objective is that the large majority of venues on the list are identified with a MIC code (the number of venues not identified with a MIC has already been reduced since the first publication in June 2020).

Before this outcome is reached, stakeholders have the possibility to:

- identify the missing MIC by their own means and provide the MIC to ESMA (TCTV-Secondary-Markets@esma.europa.eu), so that ESMA can proceed with updating the table; or
- consider that venues not identified with a MIC are operationally subject to the same treatment as venues not featuring on the list.

3.1.2 Cases where the MIC is populated

When the field “Operating MIC” is populated, the field “Segment MIC” is also populated with one or more values. The table below explains how to identify the venues on the list based on the combination of Operating and Segment MICs.

Case	Operating MIC	Segment MIC	Venues covered by the assessment
1	‘ABCD’	‘ABCD’ (i.e. Operating MIC = Segment MIC)	The venue identified in the ISO MIC List with the combination Operating MIC = ‘ABCD’ and Segment MIC = ‘ABCD’
2	‘ABCD’	‘EFGH’ (i.e. Operating MIC <> Segment MIC)	The venue identified in the ISO MIC List with the combination Operating MIC = ‘ABCD’ and Segment MIC = ‘EFGH’
3	‘ABCD’	‘EFGH’;‘IJKL’;‘MNOP’	The venues identified in the ISO MIC List with the combination Operating MIC = ‘ABCD’ and [Segment MIC = ‘EFGH’ or ‘IJKL’ or ‘MNOP’]

4	'ABCD'	'PENDING' ²	The segment MIC of the venue is pending an attribution from ISO. This status is temporary, pending attribution of the MIC.
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3.2 Instruments in scope of the assessment

The field “Instruments in scope of the assessment” provides information on the instruments which are available on the venue and which have been considered for the assessment. For some venues that information was not provided to ESMA and the field is filled with the value ‘Not provided’. In such instances, all instruments traded on the venue are in scope of the positive assessment, except those mentioned in the column “Exemptions from the positive assessment”.

3.3 Partially positive assessments and exemptions from the positive assessments

3.3.1 Exclusion of bonds [\[updated 27 October 2020\]](#)

Some venues have a positive assessment which excludes bonds. In this case the field “Assessment” is filled with the value ‘Partially Positive’ and the field “Exemptions from the positive assessment” is filled with the value ‘Bonds’.

Bonds can be identified using the following reference data:

In FIRDS: RTS23 Field #3 Instrument Classification (CFI Code) = DB***, DC***, DD***, DM***, DN*** or DT*** or DW***

3.3.2 Exclusion of U.S. Treasury Securities [\[updated 27 October 2020\]](#)

Some venues have a positive assessment which excludes U.S. Treasury Securities. In this case the field “Assessment” is filled with the value ‘Partially Positive’ and the field “Exemptions from the positive assessment” is filled with the value ‘U.S. Treasury Securities’.

U.S. Treasury Securities can be identified using the following reference data:

In FIRDS: RTS23 Field #3 Instrument Classification (CFI Code) = DB***, DM*** or DT***; and
 In FIRDS: RTS23 Field #5 Issuer or operator of the trading venue identifier (LEI of issuer) = ‘254900HROIFWPRGM1V77’³.

² As of the 29 September 2020 publication there is no venue with a ‘PENDING’ MIC

³ This corresponds to the LEI of the United States Department of the Treasury



3.4 Active / Inactive venues [updated 14 March 2022]

When ESMA is made aware that a venue on the list is no longer active, it does not remove the record from the list. Instead, the record is updated as follows: the field “Active/Inactive” is populated with the value ‘Inactive’ and the field “Updated on” is updated.

In the context of the EU sanctions on Russia, trading venues established in Russia are considered inactive from 14 March 2022 and until further notice.